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COURT OF APPEALS

STATE OF ARIZONA, DIVISION ONE

Shirley D. Stone and John W. Stone

Appellants/Plaintiffs,

vs.

Kent and Christina Harding, Law Offices of
Scott M. Clark, Scott M. Clark and Paul A.
Henderson

Appellees/Defendants

Court of Appeals Division One –
Case No. 1 CA-CV 07-0770

Maricopa County Superior Court
Case No. CV2006-050748

**APPELLANTS' MOTION FOR
CONTEMPT AGAINST APPELLEES
AND NONPARTY PHOENIX FEDERAL
DISTRICT COURT JUDGE MARY H.
MURGUIA AS PER THIS COURT'S
INHERENT POWER AND IN THE
INTEREST OF JUSTICE**

Expedited Consideration Requested.

Comes Now the Appellants with their motion for contempt pursuant to this Court's inherent power and in the interest of justice and to prevent the furtherance of a miscarriage of justice, and request that this Court join this motion with the Appellants' motion requesting sanctions.

The appellants bring this motion under a hardship and severe emotional distress, the most recent of which caused by the outrageous and depraved conduct and aggravated assault committed against them by Federal District Court Judge Mary H. Murguia.

The appellants ask this Court to construe this pleading liberally to afford justice. The appellants have served Judge Mary H. Murguia a copy of this pleading and a copy of the appellants' motion for sanctions that is before this Court.

1 Judge Murguia's acts are acts in common and in concert with the appellees and contrary
2 to the law and in direct opposition to the Arizona and U.S. Constitution, the federal and state
3 rules of civil procedure, and the judicial oath.

4 The appellants are still in somewhat of a shock from Judge Murguia's depraved acts
5 committed against them. They are at this Court's disposal to furnish this Court with any further
6 evidence regarding this matter, and the appellants might be supplementing this motion with
7 further foreseeable and unforeseeable wrongdoing of the appellees and Judge Murguia.

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9 **As a nonparty to these proceedings, this Court nevertheless has the authority to**
10 **adjudge Judge Murguia as one aiding and abetting the appellees. See *Gemstar Ltd. V.***
***Ernst & Young*, 183 Ariz. 148, 159, 901 P.2d 1178, 1189 n.7 (App. 1995); *Gomez v. Hensley*,**
145 Ariz. 176, 178, 700 P.2d 874, 876 (App. 1984)

11 The record shows that on September 29, 2008, Judge Murguia rendered an order that she
12 intended to corruptly interfere, prejudice, and influence these proceedings to obstruct justice for
13 the benefit of the Appellees and that her gross misconduct is of paramount significance.

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15 **One who performs acts with intent to defraud government is guilty of act of "moral**
16 **turpitude", regardless whether there is a law prohibitory thereof. U.S. ex rel. *Berlandi v.***
***Reimer*, D.C.N.Y., 30 F.Supp. 767, 768, 769.**

17 That Judge Murguia is furthering the cover-up of the armed robbery of the Bankruptcy
18 Estate, by facilitating through the court the fraudulent scheme while defrauding the US
19 Government and causing further hatred against the Stones jeopardizing their well-being.

20 **Anything that tends to obstruct fixed course of justice is "contempt." *People v.***
21 ***Solomon*, 271 N.Y.S. 136, 150 Misc. 873.**

22 Furthermore, whenever a federal official conspires with state officials and or private
23 parties to violate state laws they are regarded as private actors and come under the jurisdiction of
24 the state.

25 **If the judge acts outside his or her judicial capacity or acted in the absence of all**

1 **jurisdiction, then the judge is not immune for that act. See Stump v. Sparkman, 435 US**
2 **349 (1978) and Mireles v. Waco, 502 US 9 (1991).**

3 These are serious charges and are fully evidenced by this pleading, the records before this
4 Court, and the records in Maricopa County Superior Court Criminal Case No. CR 2006-112683-
5 001 DT, Maricopa County Superior Court Case No. CV2006-050748, Manistee Justice Court
6 Case No. CC2007176431, and Federal District Court Case(s) No. CV 05-2626, CV 06-1324,
7 and CV 07-1801, and Phoenix Bankruptcy Court Case No. BK-05-12104.

8 Judge Murguia lies throughout her order; she knows that as a matter of law and fact that
9 the September 8, 2005 wrongs that transpired involving the (FED) action was not brought before
10 any Court as a civil action until March 2, 2006, which is now before this Court on appeal.

11 Judge Murguia knows that the Federal orders issued by Judge McNamee and Judge Bury
12 clearly and unequivocally set-forth the fact and law that they had no jurisdiction regarding the
13 forcible detainer actions because they were not before them and were unrelated to the Stones'
14 complaint filed on August 30, 2005, nine-days before the armed robbery took place.

15 The orders of Judges Bury and McNamee are before this Court and being used by the
16 appellees as their defense to res judicata and Judge Murguia rendered her order to aid the
17 appellees in their defense as well.

18 Judge Murguia knows that as a matter of law, res judicata cannot apply to a void order,
19 and that regardless of her order and the orders of Judges McNamee and Bury, they can never,
20 under any circumstances, lawfully validate the August 10, 2005, (FED) judgment of restitution.

21 Judge Murguia, with the knowledge of the crimes, crafts her order to conceal the
22 invalidity of the August 10, 2005 judgment of restitution and pass it through the record as being
23 valid to specifically further the fraudulent scheme and continue the assault of the Stones.
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1 **Phrase “due administration of justice,” as used in federal obstruction-of-justice**
2 **statute, is designed to provide protective cloak over all judicial proceedings from improper**
3 **influence or obstruction, irrespective of what stage in judicial process the improper**
4 **conduct occurs. 18 U.S.C.A. § 1503, U.S. v. Brenson, 104 F.3d 1267.**

5 The record also evidences that in December 2007 Judge Murguia ordered an abeyance on
6 the case before her, Federal District Court Case No. CV 07-1801. That Judge Murguia
7 intentionally withheld and concealed court records that evidence the crimes listed herein
8 allowing and assuring the defendants in the case, including the appellees, that they could file
9 pleadings in other state courts listed herein to tamper with the records to obstruct justice, block
10 criminal investigations, hinder their prosecution, harass the Stones, and other wrongdoing.

11 **JUDGE MURGUIA’S ORDER IS A PREDICATE OVERT ACT AND SHE**
12 **DELIBERATELY DISREGARDED THE STATE COURT ORDER VACATING THE**
13 **08/10/05 (FED) JUDGMENT OF RESTITUTION AS VOID FOR LACK OF**
14 **JURISDICTION AND CONSTITUTES A WILLFUL, FLAGRANT VIOLATION OF**
15 **THE FEDERAL STATUTE 11 U.S.C.A. § 362 TO OBSTRUCT JUSTICE.**

16 Judge Murguia was “judicially noticed” by the appellants that Manistee Justice Pro
17 Tempore Richard Haworth rendered an order on June 20, 2008, vacating the 8/10/05 judgment
18 of restitution as void for lack of jurisdiction because the automatic stay was in effect. (See
19 **Exhibit E filed with Appellants’ Motion for Sanctions.**)

20 **Courts do not sit for the idle ceremony of making orders and pronouncing**
21 **judgments, the enforcement of which may be flouted, obstructed, and violated with**
22 **impunity, with no power in the tribunal to punish the offender. [Federal] courts, equally**
23 **with those of the state, are possessed of ample power to protect the administration of**
24 **justice from being thus hampered or interfered with. Nor is this power in any wise limited**
25 **by [the predecessor to 18 U.S.C. Sec. 401].**

26 Judge Murguia knew that since the state court lacked jurisdiction so did every other court
27 that made a ruling regarding the 8/10/05 (FED) judgment of restitution. She also knew that as a
28 matter of law no further steps can be legally taken to enforce the vacated judgment.

1 Judge Murguia, in her own words, as pleaded below, had before her copies of the 8/10/05
2 judgment of restitution and knew that the judgment was void before reversal, yet she elected to
3 disregard it and Judge Haworth's valid order, the bankruptcy automatic stay pursuant to 11
4 U.S.C.A. § 362, and other state and federal statutes, laws, rules, and procedures.

5 That on September 29, 2008, Judge Murguia issued an order and admits on page 5 lines
6 19-27, that on August 2, 2005, the Appellants, the Stones, filed for Chapter 11 bankruptcy,
7 which automatically activated the bankruptcy stay pursuant to 11 U.S.C.A. § 362, and served a
8 copy upon the Justice Court Judge Lex Anderson. That Judge Anderson knowing the same, and
9 without jurisdiction, conducted a forcible entry detainer proceedings against the Stones, and in
10 violation of the stay, on August 4, 2005, and that he ruled against the Stones and in favor of
11 Appellees Kent and Kristina Harding. That from that hearing Judge Anderson rendered a
12 judgment of restitution and an order of writ of restitution against the Stones and in violation of
13 the automatic stay, on August 10, 2005. **(See Exhibit A, page 5 herein)**

14 Judge Murguia goes on in the order on page 6 lines 1-6 and admits that, on August 11,
15 2005, Judge Anderson acknowledged that as of "August 3, 2005 the stay was in effect" so he
16 vacated the writ of restitution but not the judgment of restitution rendered on the same day from
17 the same proceeding. That on August 12, 2005, the Hardings by and through their attorneys and
18 appellees in this action, Scott M. Clark and Paul A. Henderson, filed an emergency motion with
19 the bankruptcy court to lift the automatic stay to institute a new and lawful forcible detainer
20 action against the Stones. **(See Exhibit K in Appellants' Motion for Sanctions)**

21 Judge Murguia knows that as a matter of law Judge Anderson did not have to vacate the
22 08/10/05 (FED) judgment of restitution for it to be void, and she also knows that the Hardings
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1 believed the judgment of restitution was void proven by the fact they filed the lift the stay
2 motion the day after Judge Anderson vacated the writ of restitution.

3 **Automatic stay operates to deprive state court of jurisdiction over debtor in state**
4 **court proceedings against debtor. Graham v. Pazos De La Torre, Tex.App. Corpus**
5 **Christi 1991, 821 S.W.2d 162.**

6 Judge Murguia goes on in the order on page 6 lines 9-15 and admits that, on August 31,
7 2005 bankruptcy judge James Marlar held a hearing on the Harding's August 12, 2005
8 emergency motion to lift the stay and that the stay was lifted on September 6, 2005. That on
9 September 7, 2005, the Hardings were to follow Judge Marlar's order and their August 12, 2005
10 motion by "instituting a new forcible detainer action pursuant to state law" which includes filing
11 a new complaint that would give them the right to procure a new judgment of restitution and a
12 new writ of restitution. That on September 7, 2005, the Hardings did not file a new complaint or
13 procure a new judgment of restitution and that the Hardings did not serve the Stones with a
14 summons or any notice as to the new forcible detainer action. That Judge Anderson issued the
15 Hardings the Writ of Restitution without a new complaint which was in violation of Marlar's
16 order, automatic stay, A.R.S. §§ 33-1368 and 1377, and other federal and state statutes, laws,
17 rules, and procedures. That on September 8, 2005, Hardings, accompanied by Maricopa County
18 Constables and Peoria Police stormed the Stones' residence and used the August 10, 2005,
19 judgment of restitution, the September 7, 2005, writ of restitution, and the September 6, 2005,
20 order lifting the stay, and while being fully armed threatened the Stones to immediately vacate
21 the premises and leave their property behind or they would be physically removed. (See
22 **Exhibit A, page 6, B and C herein, the 08/10/05 judgment of restitution and the 09/07/05**
23 **writ of restitution)**
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1 Judge Murguia pleads in her order on page 7 lines 12-16, that the Stones' rights to expose
2 the automatic stay violations, and that their time to appeal the order lifting the automatic stay
3 had expired. (See Exhibit A, herein)

4 Judge Murguia knows that as a matter of law the fact that the underlying judgment, the
5 08/10/05 (FED) judgment of restitution was void for lack of jurisdiction pursuant to 11 U.S.C.A.
6 § 362, makes the appeal moot, since a void judgment can be attacked at any time in any court
7 and all proceedings based on or subsequent to the void judgment are themselves void, so
8 obviously Judge Murguia is guilty of obstruction of justice and misapplying the law to further
9 the fraudulent scheme.
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11 Although the rest of Judge Murguia's order is full of lies, and a smoke screen to reflect
12 the wrongdoing of the appellees on to the appellants, the appellants and proper authorities will
13 deal with that at a proper time.

14 Judge Murguia is committing fraud on the court, which is a scheme to interfere with
15 judicial machinery performing task of impartial adjudication, as by preventing opposing party
16 from fairly presenting his case or defense. Finding of fraud on the court is justified only by
17 most egregious misconduct directed to the court itself such as bribery of a judge or jury to
18 fabrication of evidence by counsel. It consists of conduct so egregious that it undermines the
19 integrity of the judicial process. *Black's Law Dictionary*
20

21 The conduct complained of is clearly aiding the appellees fraud before this Court.

22 **Acts that distort evidence to be presented or otherwise impede administration of**
23 **justice are violations of statute prohibiting obstruction of justice, and act of altering or**
24 **fabricating documents used or to be used in judicial proceeding would fall within statute.**
25 **18 U.S.C.A. § 1503, U.S. v. Craft, 105 F.3d 1123.**

