IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR

Complaintant,

vs.

CHARLES F. WISHART,

Respondent.

CASE NO. 70,584
TFB No. 85-13,803(13C)
(formerly 13C85100)

CHARLES' ANSWER AND CROSS-APPELLANT BRIEF

Respectfully submitted,

Charles F. Wishart

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished this the 14th day of November 1988 to **BONNIE L. MAHON**, Assistant Staff Counsel, and **DAVID R. RISTOFF**, Branch Staff Counsel, The Florida Bar; Suite C-49; Tampa, Airport, Marriott Hotel; Tampa, Florida 33607.
Delivery by-

HAND [ ]

MAIL [x]

Charles F. Wishart
CHARLES F. WISHART, Esquire

INDEX TO BRIEF

TABLE OF CONTENTS

TABLE OF CONTENTS

TABLE OF CONTENTS

TABLE OF CITATIONS

TABLE OF CITATIONS

TABLE OF CITATIONS

TABLE OF CITATIONS

STATEMENT OF THE CASE AND OF THE FACTS

PARTIES NAMED:

1. Persons who appeared or are mentioned in the pleadings shall be referred to as:

a. The Honorable Robert Batey (DEAN BATEY), Assistant Dean of the University of Stetson Law School, St. Petersburg, who functioned and testified as counsellor to Respondent Charles Wishart (CHARLES) during the protracted litigation from May 1985 to the present (A: pgs. 237- 253). He changed from dean back to professor recently.

b. Leslie M. Bates (LESLIE) is inter-alia, ex-wife of Randall A. Bates (RANDY), mother of Tiffany Michelle Bates (TIFFANY) the subject of the custody litigation, petitioner, counter-respondent in the civil matter entitled **Bates v. Bates & Wishart,** Circuit Court Number 83-7250, appellant or appellee, in various direct and collateral matters relating to either the civil suit, or criminal matters it spawned, and now LESLIE is complaintant herein.

c. RANDY, is inter-alia, son of Bobbie S. Wishart (BOBBIE), step-son of Charles F. Wishart (CHARLES), or with his wife BOBBIE, the WISHARTS or WISHART), is LESLIE'S ex-husband, father of TIFFANY, respondent, counter and cross-petitioner in the BATES CASE, and appellant and appellee, in various matters relating to the BATES CASE.

d. CHARLES, an attorney at law, the Appellee/ Cross-Appellant herein, is the respondent co-cross and counter petitioner in the civil suit and various other appeals, etc. sprouting from the civil litigation.

e. Bonnie L. Mahon (MAHON) and David R. Ristoff (RISTOFF) are trial and appeal counsel for the Florida Bar (BAR) before the referee and the Supreme Court.

f. The BAR Grievance Committee (COMMITTEE), Board of Governors (BOARD), Ben Hill, III (HILL) a member of the BOARD, and Rutledge R. Liles, BAR President (LILES) all participated in the process of this grievance matter and will so designated.

g. John Hoft (HOFT), was LESLIE'S first attorney through spring of 1984, when Paul Tabio (TABIO) replaced him through the "Final Judgement" and thereafter LESLIE has represented herself or had other counsel as the case progressed.

h. Carole Priede (PRIEDE), Court Counsellor wrote various reports.

i. HCSO Deputy Robert H. Cooke.

JUDGES NAMED, IN THIS PLEADING:

2. The Honorable Donald C. Evans (JUDGE D. EVANS), The Honorable Vernon W. Evans, Jr. (JUDGE V. EVANS), The Honorable Philip L. Knowles (JUDGE KNOWLES), and, The Honorable Manuel Menendez, Jr. (JUDGE MENENDEZ), The Honorable Robert W. Rawlins, Jr. (JUDGE RAWLINS), and, The Honorable Ralph Steinberg (JUDGE STEINBERG), are all Circuit Judges of the 13th Judicial Circuit, and who all appeared as trial judge in the BATES CASE; and, The Honorable William A. Norris, Jr. (JUDGE NORRIS), is, Chairman of the Judges Conference, Chief Judge of the 10th Judicial Circuit, and Referee in the above styled cause.

CITATIONS:

3. It should be noted that CHARLES appendix and the transcripts of the final hearings are indexed to both the page and exhibit number wherein the exhibit is entered so as to allow quick reference to at least the first mention of the exhibit in the transcripts and thereby its significance as first mentioned. Citations shall be to CHARLES five volume Appendix as (AI pg. 100) and to the five volumes of transcripts as TR1 Vol. I pgs. 1-165, & Vol. 2 pgs. 166-323, March 10, 1988; TR2 pgs. 1-151, March 25, 1988 &, TR3 pgs. 1-193, April 4, 1988; and, TR4 May 9, 1988, as was used by the BAR. Note also that with certain anomalies, CHARLES appendix in the above styled cause is identical to the case of **Wishart v. Bates e al.** Case No. 71,370, the Supreme Court of the State of Florida currently before the Supreme Court.

FORMAT:

4. Since the Florida Bar cites no law in their brief beyond the rules they allege CHARLES abused, and since the factual cites leave much to be desired, since they are mostly to JUDGE NORRIS'S report, which in turn has no cites of law beyond the rules alleged to be violated, it becomes necessary to outline the errors and admissions will first be noted briefly and then proven in argument.

5. To facilitate a clear and detailed discussion of the Referee's Report so as to clarify the facts, the law, so as to correct and impeach the report, the entire report has been reproduced into this pleading in a double indented and bolded format.

6. In fact the material is an adaptation of the Motion for Rehearing wherein the record refutes the allegations of fact and law as would show wrongdoing, and should raise a serious question as to where our law has come to a point wheein an attorney can be tried for withstanding tyranny, for refusing to obey void orders, and for following the settled law of our land aginst great opposition.

ERRORS AND ADMISSIONS IN THE BAR BRIEF:

7. Since the Motion for Rehearing was well documented from the record, The statement of errors and omissions will be without detailed cites but rather synoptic in nature, with the proofs of law and fact to follow in the argument after leaving a guide of legal and factual "issues" issues for the Court to be on the lookout for.

8. The WISHARTS began with not only physical custody, but also legal guardianship pursuant to **Section 39.01(23), Fla. Stats. (1977).**

9. The case was not a grandparents rights case for their standing was based upon **Section 61.131, Fla. Stats. (1983)** which required them to be joined as necessary parties due to their having physical custody when the suit was filed.

10. The WISHARTS were not given the opportunity to present evidence on June 1, 1983 and certainly their witnesses did not testify.

11. Since **Section 61.131, Fla. Stats. (1983)** required the WISHARTS to be given an opportunity to be heard before a decree is made the 2 June 1983 order is as a matter of law void ab initio and can have no effect whatsoever and no Judge may declare a void order void valid when on the record it is void.

12. The WISHARTS waited from 1 June to 10 December 1983, after Judge Knowles de nova'd his 2 June order and after they learned surgery was scheduled before they moved to protect TIFFANY from unnecessary surgery by the simple expedient of keeping her pursuant to their lawful guardianship since the Order was void ab-initio and now voided by JUDGE KNOWLES thus restoring them to the lawful guardianship status they never lost.

13. The rule regarding letters simply requires the letter not to be ex parte, but that a copy be sent to opposing counsel which was done by the WISHARTS, and so the BAR corruted the law by changing the purpose of the rule, that no ex-parte letters be sent to a judge, by the simple expedient of striking out the portion of the rule which spoke of writing exparte letters, and then by finding CHARLES guilty of writing letters to JUDGE KNOWLES, effectively changing the rule.

14. As to the temporary restraining order, it was issued to enforce the void and voided 2 June 1983 order, and in fact it was not sealed by the Clerk of the Court as required by law and the Sheriff delegated to serve it refused to serve the Order on CHARLES for that reason, said so before JUDGE RAWLINS and to deny that is fraud.

15. The "final judgement" was void ab initio since it was put to trial over WISHARTS' objections that there was a motion to strike WISHARTS' last pleading, that the matter could not be tried until the matter was at issue, that the rules and case law forbade the trial, and subsequently WISHART reversed that void judgement in the 2d DCA on the very same grounds.

16. Before the 2d DCA reversed the judgement JUDGE V. EVANS found that the WISHATS were not in contempt for ignoring the final judgement and standing on BOBBIE'S primary residency status she entered the illegal trial with since during the period in question the judgement was not rendered and could not be enforced.

17. The BAR failed to note that the final judgement held that the WISHARTS' conduct had been in TIFFANY'S best interest.

18. The idea that a trial can be held illegally in violation of a rule, that the judgement can be reversed and remanded based upon that rule violation and that the parties prevailing cannot therefore be restored to their status before the illegal trial is an abomination, but that is what happened, the trial judges perverted the 2d DCA opinion from a reversal due to a rule violation into the concept that the WISHARTS had appealed on the grounds that they never had a hearing rather than that the judgement was based upon a mistrial, and that is a lie, concocted by the trial and appellate judges, as the trial and appellate records clearly show.

19. There was a mistrial.

20. The BAR is in violation of it's duty to not allow misrepresentation to the Courts, yet that is what they are doing when they allege the WISHARTS lied to the 2d DCA, as had JUDGE V. EVANS and his predecessors, wherein he granted a motion for involuntary dismissal on the grounds of that lie, and then backed down when confronted with the WISHARTS brief grounded on the rule violation.

21. The BAR lied, a number of the judges lied, and the record proves it.

22. There is a great deal of evidence presented by the WISHARTS at the first final hearing that was reversed.

23. The record reflects WISHART appealed and won on the rule violation.

24. The lie was concocted by the judges at both the trial and appellate level.

25. The BAR knows this and the other abuses of the truth yet they have now taken these manifest lies as their own.

26. The BAR has proved nothing of their allegations, and some of their allegations would not state a cause of action against CHARLES were there evidence for the BAR has perverted the DR'S.

27. There never was grounds for finding even probable cause to believe CHARLES guilty of any wrongdoing but on the contrary he has acted with exemplary courage in protecting TIFFANY and exposing the collapse of our family law system which is motivated by the desire to protect and conceal its corruption rather than in protecting TIFFANY, who should be the focus of the Court's attention.

STATEMENT OF THE CASE AND OF THE FACTS RELATING TO THE GRIEVANCE COMMITTEES' FINDING OF PROBABLE CAUSE:

28. CHARLES is both charged and convicted of refusing to obey two void orders.

29. The other collateral charges have no evibence to prove the elements required to show violations of the DR'S alleged and will be addressed after this present focus.

30. CHARLES challenges the finding by the COMMITTEE of probable cause to show that in order to find probable cause to try CHARLES the COMMITTEE deliberately refuseds to allow CHARLES to show the orders were void as a matter of fact and settled law, and that the finding of probable cause was made by refusing to allow CHARLES to "go behind the order" to show it to be void (A: pg. 426 l. 1 to pg. 428 l. 25; pg. 429 lns. 1-7; pg. 430 lns. 1-7) and that in spite of the fact that TIFFANY was removed from the WISHARTS lawful custody/guardianship without their being heard (A: pg. 431 lns. 14-24).

31. JUDGE NORRIS has followed the same practice by refuting the same facts and law presented by CHARLES in order to find CHARLES violated "valid" orders.

SUMMARY OF ARGUMENT

To facilitate this summary the questions I through XIII from the table of contents will be answered, even though the questions tend to answer themselves.

ANSWER TO QUESTION I

WISHART began with physical custody and as legal guardians of TIFFANY, were denied a hearing on 1 June 1983 in violation of the due process hearing afforded them by **Section 61.131, Fla. Stats.(1983)** making the decree issued on 2 June 1983, and the various orders enforcing it void ab-initio.

ANSWER TO QUESTION II

JUDGE MENENDEZ put the "final hearing" to trial while there was a motion to strike WISHARTS' last pleading, and as such was a violation of **Rule 1.440, Fla. R. Civ. P.**, and **Ellis v. Ellis,** 242 So.2d 745 (Fla. 4th DCA 1971), **Leeds v. C. C. Chemical Corp.,** 280 So.2d 718, 719 (Fla. 3d DCA 1973), **Sheffey v. Futch,** 250 So.2d 907 (Fla. 4th DCA 1971) **State v. Battle,** 302 So.2d 782 (Fla. 3d DCA 1974), **Art. I, Decl. of Rts., § 9. Due Process, Fla. Const.,** and the **U. S. Const. amends. V, and XIV, Due process** which made the JUDGEMENT void ab initio, a usurpation of jurisdiction or power denied to the courts wherein they did not follow the rules of procedure.

ANSWER TO QUESTION III

Clealy, the BAR has stood on the proposition that the only way to void an order or judgement is to overturn it by motion or appeal, and CHARLES was denied the opportunity to show the order and judgement in question, with their spawn, were void ab-initio and subject to no credibility at all, since the COMMITTEE refused to even show these defaults, saying he could not go behind any order published in the record.

That caused probable cause to be found since CHARLES could not raise his defenses to the void order and judgement and their spawn.

ANSWER TO QUESTION IV

Section 39.01(27), Fla. Stat. (1983) clearly allowed RANDY to give guardianship status to the WISHARTS and that is what was accomplished.

ANSWER TO QUESTION V

JUDGE KNOWLES, the trial judge at the 1 June 1983 hearing said that the WISHARTS did not get a hearing and the record substantiates that conclusion.

ANSWER TO QUESTION VI

Violating a void order is always an option and the 2 June 1983 order was void.

ANSWER TO QUESTION VII

Fla. Bar Code of Prof. Resp., DR 7-110(B)(2) clearly allows writing to a judge, and most certainly allows a person to respond to a letter containing material errors of fact, to answer the errors, so long as the letter is not ex-parte, that a copy is sent to each of the paties or their attorneys.

WISHARTS letters were relevant to the corespondence he had received from JUDGE KNOWLES, they were not ex-parte, and it is an outrage that the BAR should be so brazen as to strike the ex-parte prohibition and then charge that CHARLES violated his ethics by writing letters to JUDGE KNOWLES.

ANSWER TO QUESTION VIII

Not according to the law defined in Blacks Law Dictionary, 4th Ed. pg. 1745, **VOID JUDGEMENTS** (AIII: pg. 600), or stated in **46 Am Jur 2d Judgements, D. Effect of Invalidity, § 49 Void judgements** (AIII: pg. 519) and **46 Am Jur 2d Judgements, D. Effect of Invalidity, § 50 Validation of judgements.** (AIII: pg. 521) and **Johnson et al. v. McKinnon,** 54 Fla. 221, 45 So. 23 (1907) (AIII: pg. 513) which holds once void always void and having no effect whatsoever.

ANSWER TO QUESTION IX

HCSO Deputy by His testimony refutes what JUDGE RAWLINS stated he said and corroborated what CHARLES testified the import of which was that the Clerk's Seal required by **Section 28.071, Clerk's Seal, Florida Statutes (1983)** was not impressed of the Temporary Restraining Order of JUDGE RAWLINS and he would not serve it.

ANSWER TO QUESTION X

Tyranny, the arbitrary use of power is the enemy and must be attacked whereever it rears it's head, and since CHARLES predecessors found it easier to go along they left the job for CHARLES to do, and he has not failed in his duty.

ANSWER TO QUESTION XI

No says CHARLES, No say BOBBIE, yes said HOFT who lied, JUDGE RAWLINS who lied, and there is no evidence presented to show CHARLES lied, including the fact that the BAR did not call BOBBIE who knew where she was and who knew it.

To the same end the WISHARTS did not lie about not having a hearing on their appeal as is proven by the facts and law their brief was based upon.

Many others did in fact lie as is documented.

ANSWER TO QUESTION XII

A void order cannot be enforced in any fashion under any circumstances.

ANSWER TO QUESTION XIII

Unless CHARLES was allowed to avail himself, along with BOBBIE of all the rights and privileges afforded a party to a suit, including presenting evidence, testifying, arguing the law and facts, and impeaching others by their deceit, etc., and by refusing to obey orders that are on the face of the record void ab-initio, then CHARLES would be denied his constitutional rights to a fair trial.

ARGUMENT

32. CHARLES will show the finding of probable cause was invalid since the order and judgement in question were void, voided, and in one case unrendered when CHARLES initially contested and disobeyed them, as is his right to the present, and that these and all other charges are a sham, fo there is no justicable question of either fact or law as could convict CHALES of any wrongdoing, that is is there is any law, and it has been seen that that is a relevant question once again as it was before wherein we find in **The Holy Bible, K.J.V., Habakkuk, 1:2-4** the Prophet Habakkuk crying:

> 2 O Lord, how long shall I cry, and thou wilt not hear! even cry out unto thee of violence, and thou wilt not save!
>
> 3 Why dost thou show me iniquity, and cause me to behold grievance? for spoiling and grievance are before me: and there are they that raise up strife and contention.
>
> 4. Therefore the law is slacked, and judgement doth neever go forth: for the wicked doth compass about the righteous; therefore wrong judgement proceedeth.

QUESTION I

IS NOT A DECREE ISSUED IN VIOLATION OF SECTION 61.131, FLA. STATS. (1983) DEPRIVING THE WISHARTS' OF THEIR LAWFUL GUARDIANSHIP AND PHYSICAL CUSTODY OF TIFFANY BEFORE THEY ARE GIVEN THE OPPORTUNITY TO BE HEARD VOID AB INITIO?

33. The first order, by JUDGE KNOWLES, was the "Temporary Order" (A: pgs. 12-13) dated 2 June 1983 which was entered in violation of **§ 61.131, Fla. Stat. (1983)** (A: pg. 17 ¶ 6, ¶ 1 to pg. 19 ¶ 6) wherein the statute reads in relevant part:

> **61.131 Notice and opportunity to be heard.**-Before a decree is made under this act, reasonable notice and opportunity to be heard shall be given to ...any person who has physical custody of the child....

34. Clearly there were shortcomings in the short notice the WISHARTS received of the 1 June 1983 hearing but WISHARTS' protest was barred (A: pgs. 14-16).

35. Since the law required the joinder of the WISHARTS who had physical custody of TIFFANY (A: pg. 6 ¶ 7) and as well a letter of guardianship from RANDY (A: pg. 18 ¶

2 and pg. 20) and since the WISHARTS were denied the opportunity to be heard, as required by the statute, the attempt to issue a decree depriving them of the physical and legal custody of TIFFANY was a violation of the statute and of their right to constitutional due process of law under the State and Federal Constitutions.

36. The special circumstances that caused the WISHARTS to disobey the 2 June 1983 Order in December 1983, developed below and incorporated herein by reference is unnecessary to justify CHARLES since the Order was void ab initio.

37. Both the records of that hearing (A: pgs. 52-64, see pg. 59 lns. 8-9, and pg. 61 lns. 2-3) and the records before the COMMITTEE (A: pg. 431 lns. 14-24) prove that TIFFANY was taken from the WISHARTS without due process of law and that therefore the "Temporary Order" was void ab initio and as well voided on the same grounds by the finding by JUDGE KNOWLES (A: pg. 93) that read in relevant part:

> The undersigned believes that the ends of justice would be best served if the case were to be tried de nova before a different judge.

QUESTION II

WAS THE CAUSE AT ISSUE SO AS TO ALLOW THE COURT TO SET IT FOR PRETRIAL OR TRIAL PURSUANT TO RULE 1.440 OF THE FLORIDA RULES OF CIVIL PROCEDURE SO LONG AS THERE WAS INTERALIA A MOTION TO STRIKE WISHARTS' LAST PLEADING?

38. The second order CHARLES found it necessary to challenge the validity of was the "Final Judgement of Dissolution of Marriage" (JUDGEMENT) of JUDGE MENENDEZ dated 26 February 4, 1985, nunc pro tunc, December 4, 1984 (A: pgs. 211-218).

39. The record (A: pg. 245 ¶ 3, pgs. 248-253, 258-259, pg. 324 ¶ f)- 325, pg. 212 ¶ f)- pg. 213 ¶ 5) shows that **§ 1.440, Fla. R. Civ. P.** (A: pg. 952) were flagrently violated.

40. In construing the aforesaid **Rule 1.440, State v. Battle,** 302 So.2d. 782, 783 (Fla. 3d DCA 1973) reads in relevant part:

> ...The plain language of the rules promulgated by the Supreme Court of Florida are binding upon the trial and appellate courts.

41. In applying **Rule 1.440** to similiar but weaker facts than existed in the MENENDEZ trial, namely a motion to strike (A: pgs. 252-253) the WISHARTS' Affirmative Defense (A: pgs. 248-251) was not disposed of (A: pgs. 256-260) , and the court in **Leeds v. C. C. Chemical Corp.**, 280 So.2d 718, 719 (Fla. 3d DCA 1973) (A: pg. 613), citing **Ellis v. Ellis**, 242 So.2d 745 (Fla. 4th DCA 1971) (A: pg. 608) said:

> The determinative question is whether a case is at issue, when the last responsive pleading required under the rules, there also is simltaneously filed a motion to strike all or part of the pleadings to which such pleading is directed. Upon resolving the arguments of the parties relating thereto, we hold that the cause is not at issue while such motions directed to pleadings remain undisposed of. In holding to the contrary the trial court was in error.
>
> Until the case is at issue it may not be set for pretrial conference or for trial. See Rule 1.440 F.R.Civ.P., 30 F.S.A.; Ellis v. Ellis, Fla.App.-1971, 242 So.2d 745.

42. **Esch et al. v. Forester et al.**, 127 So. 336 (Fla. 1930) shows the principle in **Rule 1.440** is hardly new, for how can one try a case with the pleadings not at issue?

43. With or without extraordinary circumstances or equitable grounds, the MENENDEZ JUDGEMENT was void ab-initio, and that fact is manifest, not only on the face of the record in general, but on the face of the JUDGEMENT wherein it reads:

> f) The Court finds that the wife's Motion to Strike the grandparents' Amended Answer shold be denied and instead, treated as a denial of the allegations contained in the Affirmative Defense filed by the WISHARTS (A: pg. 212) .
>
> 5. That the Wife's Motion to Strike the grandparent's Amended Answer be and the same is hereby denied and instead, it is treated as a denial of the allegations contained in the Affirmative Defenses filed by the WISHARTS (A: pgs. 213-214) .

QUESTION III

IS IT NOT A VIOLATION OF FLORIDA BAR DISCIPLINARY RULE 3-7.3 FOR THE FLORIDA BAR COMMITTEE TO CHARGE AN ATTORNEY WITH VIOLATING AN EXPRESS ORDER OR JUDGEMENT WITHOUT ALLOWING THAT ATTORNEY TO SHOW THAT THE DECREES WERE VOID AB-INITIO AND WERE SUBSEQUENTLY VOIDED?

44. The alleged finding of probable cause rests upon a refusal by the COMMITTEE to allow CHARLES the rights granted under **Fla. Bar Disc. R., Rule 3-7.3** to refute the alleged violations wherein the rule it reads in relevant part:

> **Rights and responsibilities of the Respondent....**The respondent shall be given an opportunity to make a statement personally...verbally or in writing, sworn or unsworn, explaining,...(or) refuting...the alleged misconduct. The respondent shall be granted the right to be present at any grievance committee hearing when evidence is to be presented to the committee, to face the accuser, and to call witnesses or present evidence and to cross-examine, subject to reasonable limitation.

45. Clearly CHARLES had an absolute right denied, the opportunity to show his right to treat the orders in question as void ab-initio by the rational of **Johnson et al. v. McKinnon,** 54 Fla. 221, 45 So. 23 (1907) (A: pgs. 513-518) and **46 Am. Jur. 2d Judgements, § 49 Void Judgements. pgs. 347-350** (A: pgs. 519 -521), and therefore to have a perfect defense to a charge of a breach of ethics, namely that he followed the law, in resisting ond overturning the void order and JUDGEMENT, and that the COMMITTEE erred by holding that until an appellate court reversed the orders and judgements WISHART was required to obey them.

46. JUDGE KNOWLES refuted his Order of June 1, 1983 (A: pgs. 93 and 431 lns. 13-24), and JUDGE MENENDEZ' JUDGEMENT was reversed by the 2d DCA (A: pgs. 219-222) yet these orders are still being enforced against the WISHARTS.

47. The Order and JUDGEMENT were both void and voided and could not be enforced by any collateral or direct action against the WISHART and that includes a charge of a breach of ethics for refusing to obey, resisting and overturning void orders.

48. By refusing to allow CHARLES to "go behind the order" (A: pg. 427 l. 9 pg. to pg. 428 l. 10, and pg. 428 l. 23 to pg. 429 l. 7) violated his due process right to present evidence and be heard as defined by **Sheffey v. Futch,** 20 So.2d 907, 910 (Fla. 4th DCA 1971) which defines civil due process as:

> ...(D)ue process has been defined in non-criminal sitations as contemplating reasonable notice and an opportunity to appear and be heard.

49. CHARLES had and has an absolute defense to the charge of refusing to obey the void orders and any orders directed to enforcing them, he was denied this right before the COMMITTEE, and that finding is also therefore void as a violation of CHARLES right to due process.

50. The other findings are as fatally flawed and in effect as CHARLES pretrial motions reflect, the entire finding of the COMMITTEE is a sham as contemplated by **§ 57.105, Fla. Stat. (1987).**

51. The proofs, being better developed by specific line item response to JUDGE NORRIS' "Referee's Report" (REPORT), shall be given hereafter as that REPORT is examined and refuted with the understanding that if the REPORT is refuted, then so are the COMMITTEE'S findings of probable cause.

ARGUMENT RELATING TO THE REFEREE'S REPORT:

52. The style of the case, being identical to the above style is deleted.

53. The report begins:

REPORT OF REFEREE

A. Summary of Proceedings

> **Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Article XI of the Integration Rule of the Florida Bar, and Rule 3-7.5, Rules of Discipline, a final hearing was held on March 10, March 25, April 4, and May 9, 1988. The enclosed pleadings, orders, transcripts, and exhibits are forwarded to the Supreme Court of Florida with this report, and constitute the record in this case.**

54. Assuming that the list of items forwarded as the record includes all of the documents received in JUDGE NORRIS' hands including one of WISHARTS' pleadings which was not accepted by JUDGE NORRIS, and further assuming that the transcripts of the preliminary hearings leading up to the final hearing are included so that the record is

exhaustive, then CHARLES will admit that JUDGE NORRIS was appointed and that the final hearing was held on the dates stated.

The following attorneys appeared as counsel for the parties:

For the Florida Bar: Bonnie L. Mahon and David R. Ristoff

For the Respondent: Pro Se

55. Admitted.

B. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged:

After considering all the pleadings and evidence before me, I find as follows:

56. CHARLES charges and has and will again prove the COMMITTEE'S alleged finding of probable cause are a sham, specifically as regards the void orders, and as well the other collateral findings, such that, the referee's report is ipso facto a sham, unfounded, refuted by the facts and law since all of the facts and law will be shown to both exonerate and justify CHARLES, so that at this point it becomes necessary for CHARLES to challenge whether JUDGE NORRIS did in fact "...considering all the pleadings and evidence...." for if he were properly familiar with the law and facts, as he alleges and CHARLES generally believes as regards the law at least, then JUDGE NORRIS has placed himself above the law, and that is tyranny, and CHARLES is compelled to deny that JUDGE NORRIS did in fact consider the law, pleadings and evidence as he is required to do pursuant to **Fla. Bar Code of Jud. Conduct, Canon 2(A)** wherein it reads:

A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF HIS ACTIVITIES

A. A judge shall respect and comply with the law....

1. In May 1983, respondent became involved in a bitterly contested, and extremely protracted, child custody dispute,...

57. Since JUDGE NORRIS' findings failed to cite to both the law and the record upon which he made his findings, makes it imperative therefore to correct and add both

the true facts and the applicable law, in order to provide a proper showing to refute his findings, and CHARLES will do so, requesting the patience and understanding of the reader.

58. The WISHARTS peaceably received TIFFANY physically into their care, custody and control on May 11, 1983 by the hand of RANDY (A: pgs. 5-6 ¶ 6 & 7, pg. 14 prologue, pg. 17 First Affirmative Defense ¶ 1, pg. 18-19 Conterclaim, pg. 55 lns. 17-18, pg. 58 lns. 20-25), with a letter of guardianship (A: pg. 20) as contemplated by **§ 39.01(27), Fla. Stat. (1983)** (A: pg. 510, 511-512) which letter reads:

> I Randy Bates, Father of Tiffany Bates give her in Custody of my parents Charles F. and Bobbie Wishart with full authority to provide for her health and welfare.
>
> Randy A. Bates
> May 11, 1983 (A: pg. 20)

while **§ 39.01(27), Fla. Stat. (1983)** reads in relevant part:

> **JUDICIAL BRANCH**
>
> **39.01 Definitions**
>
> When used in this chapter.
>
> (23) "Legal custody" means a legal status created by Court Order or letter of guardianship which vests in a custodian of the person..., the right to have physical custody of the child and the right and duty to protect, train, and discipline him to provide him with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

59. Clearly the WISHARTS were given authority and responsibility to care for TIFFANY and undertook and have exercised their responsibility on behalf of TIFFANY to the present but not as grandparents step or otherwise as noted below.

> **both as a named party and as attorney for himself and his wife, Bobbie Sue Wishart, the paternal grandmother of the minor child, Tiffany Michelle Bates. It is important to understand that respondent is <u>only</u> Tiffany's step-grandfather.**

60. CHARLES is TIFFANY'S guardian and happens to be her "granddaddy".

> **2. On June 1, 1983, Circuit Judge Phillip L. Knowles, Thirteenth Judicial Circuit, conducted a hearing to determine, among other things, who**

should receive temporary custody of then nine month old Tiffany. Contrary to his assertions, at this proceeding respondent was indeed given an opportunity to be heard, although he was not given an opportunity to present witnesses.

QUESTION IV

DID RANDY'S GRANTING OF A LETTER OF GUARDIANSHIP, GRANT THEREBY GUARDIANSHIP STATUS OVER TIFFANY TO THE WISHARTS AS CONTEMPLATED BY SECTION 39.01(27), FLA. STAT. (1983) RAISEING THEIR STATUS ABOVE THAT OF MERE GRANDPARENTS OR ONLY A STEP-GRANDPARENT AS JUDGE NORRIS IMPLIED?

61. The WISHARTS peaceably received TIFFANY physically into their care, custody and control on May 11, 1983 by the hand of RANDY (A: pgs. 5-6 ¶ 6 & 7, pg. 14 prologue, pg. 17 First Affirmative Defense ¶ 1, pg. 18-19 Conterclaim, pg. 55 lns. 17-18, pg. 58 lns. 20-25), with a letter of guardianship (A: pg. 20) as contemplated by **§ 39.01(27), Fla. Stat. (1983)** (A: pg. 510, 511-512) which letter reads:

> I Randy Bates, Father of Tiffany Bates give her in Custody of my parents Charles F. and Bobbie Wishart with fll authority to provide for her health and welfare.
>
> Randy A. Bates
> May 11, 1983 (A: pg. 20)

while **§ 39.01(27), Fla. Stat. (1983)** reads in relevant part:

> **JUDICIAL BRANCH**
>
> **39.01 Definitions**
>
> When used in this chapter.
>
> (23) "Legal custody" means a legal status created by Court Order or letter of guardianship which vests in a custodian of the person..., the right to have physical custody of the child and the right and duty to protect, train, and discipline him to provide him with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

62. Clearly the WISHARTS were given authority and responsibility to care for TIFFANY and undertook and have exercised their responsibility on behalf of TIFFANY to the present, and with a certain skill in light of the state of the family law courts.

> **...both as a named party and as attorney for himself and his wife, Bobbie Sue Wishart,...**

63. It is a fact that CHARLES signed the pleadings for himself and his wife, and as well included his title, as he is entitled to use, but considering, he is more a skilled co-respondent with BOBBIE his wife that an attorney for her in this suit.

64. **Fla. Bar Rules of Prof. Conduct, Ch. 4** anticipates some client-lawyer relationship after BOBBIE asked CHARLES to represent her but that never happened.

65. It should be obvious that everyone understood the real relationship of the WISHARTS in that CHARLES "paid the bills" and did all of the legal work free, with no contract and yet no one ever thought to charge CHARLES with a violation in that area.

66. Clearly, WISHART were husband and wife, grandparents, guardians of TIFFANY, etc., and the fact as far as CHARLES attorney role was that he just happened to be one.

67. No one ever asked to see the contract between CHARLES and BOBBIE for the simple reason that everyone knew their contract was one of marriage and they shared a common duty in their respective roles to protect TIFFANY.

68. CHARLES will leave it up to the court to determine how this relationship can lawfully hinder CHARLES from acting as a party and guardian of TIFFANY within the bounds of the law, whether he was attorney at law or not since he is a party and what duty he owed as an attorney was incorporated into his oath of office.

> **...Bobbie Sue Wishart, the paternal grandmother of the minor child, Tiffany Michelle Bates. It is important to understand that respondent is <u>only</u> Tiffany's step-grandfather.**

69. Here we have one on the many crucial errors which greatly complicated the legal snarl CHARLES is now trying once again to unravel, namely that he is "only" TIFFANY'S step-grandfather.

70. What shall we understand JUDGE NORRIS has inferred by this distinction?

71. Surely, not that CHARLES is not allowed to love nor to act protect TIFFANY.

72. An examination of the record will not find one question from JUDGE NORRIS as to the wellbeing of TIFFANY, or her relationship to the WISHARTS, yet that would ap-

pear relevant to the central issue of TIFFANY'S wellbeing, that is if the COURT, MAHON or RISTOFF cared, which would be hard to prove from this record.

73. We must conclude that JUDGE NORRIS intended to make CHARLES "...only TIFFANY'S step-grandparent...." so as to imply CHARLES never had standing since he was not a blood relative to TIFFANY, and that without citing law, for the law in this case is contrary to that position.

74. CHARLES did not receive standing from his step-grandparent status, but from the fact he was made co-guardian of TIFFANY, along with BOBBIE, such that he stood in the shoes of RANDY, and was made a necessary party pursuant to **§ 61.131, Fla. Stat. (1983)** which statute gave him all the standing he would ever need.

75. **In the Interest of K.S.K., A Minor Child,** 294 So.2d 50, 51 (Fla. 1st DCA 1974) (A: pg. 614) holds that where even strangers have physical possession, peaceable received, they may not lose their "gardianship/ possession" status without due process, with the test being the usual best interest of the child/ fitness of the parents issues.

76. CHARLES relationship is much closer in reality, but the courts were blinded by the "step-grandparent" label and lost sight of CHARLES true standing.

77. JUDGE STEINBERG made this error while correctly awarding BOBBIE temporary primary residency to her (A: pgs. 201-202).

78. WISHART protested this during their appeal of the JUDGEMENT (A: pgs. 586-594) wherein he protested his losing his status of guardian when WISHART argued:

> ...(A) trial de nova is mandatory and particlarly since WISHART, and then BOBBIE have been deprived of the custody of TIFFANY contrary to **Florida Statute § 61.131.**

79. Here we have CHARLES, who was included in the WISHART who was deprived by JUDGE STEINBERG, while BOBBIE was distingished as grandmother as is the erroneous practice of the courts which weakens the purpose of **§ 61.131, Fla. Stat. (1983)** unless a real hearing is held on the distinction which is otherwise made automatically.

80. CHARLES would call the Courts attention to the language utilized by the 2d DCA in reversing the JUDGEMENT, noting the simularity of the language with the WISHARTS protest over distinguishing CHARLES from BOBBIE.

81. The Opinion reads in relevant part:

> The Court having reviewed the record finds that appellants should have been afforded an opportunity to be heard and present evidence at the custody hearing.

82. Here we see no distinction between CHARLES and BOBBIE, and reflects that they both in effect did not receive due process of law in the mistried final hearing.

83. CHARLES may well argue that he was restored to BOBBIE'S status.

84. If not, then why not, for he has certainly earned his spurs by showing his willingness to risk his freedom, his wealth, his reputation and now his licence to protect TIFFANY and as well to attempt to correct the flaws of the family law practice.

QUESTION V

DID JUDGE NORRIS ERR IN REPORTING THAT CHARLES...WAS INDEED GIVEN AN OPPORTUNITY TO BE HEARD....?

> **2. On June 1, 1983, Circuit Judge Phillip L. Knowles, Thirteenth Judicial Circuit, conducted a hearing to determine, among other things, who should receive temporary custody of then nine month old Tiffany. Contrary to his assertions, at this proceeding respondent was indeed given an opportunity to be heard, although he was not given an opportunity to present witnesses.**

85. It is true that CHARLES was heard for the transcript (A: pgs. 52-64) reflects that he was in deed "heard" speaking such words as:

> MR. WISHART: Your Honor --
>
> THE COURT: We might be able to hear the mother and father. In fact you're over your time now, bt that's because I'm running a little bit late, but the rest of these witnesses will have to wait. (A: pg. 58 lns. 6-11)
>
> MR. WISHART: Your Honor, may I --
>
> THE COURT: Speak through your attorney.

We have the conter-claim.

MR. HOFT: This is Mr. Wishart and he's representing himself, and I served him as a party, because at the time he was the one that had the child,

MR. WISHART: My wife and I are both defendants and parties to his suit. (A: pg. 58 lns. 16-25)

MR. WISHART: Judge, do I get my turn?

THE COURT: Not this morning. (A: pg. 61 lns. 2-3)

MR. WISHART: Your Honor --

The Court: Okay. Temporary custody of the child is granted to the mother.

86. But your honor!?!

87. JUDGE KNOWLES testified that the WISHARTS did not get a hearing before the COMMITTEE (A: pg. 431 lns. 14-24) and the transcripts thereof was admitted into evidence for that purpose (VI: pg. 36 l. 13-21, and pg. 42 l. 22 to pg. 43 l. 20) as the samples above show ratify that the WISHARTS were not heard in the meaning on due process and yet they lost their custody of TIFFANY from 1 June to December 10, 1983.

88. CHARLES denied JUDGE NORRIS' finding that the WISHARTS or even CHARLES was heard as that word is used in the law.

89. Your Honor --

3. On June 2, 1983, Judge Knowles entered a Temporary Order awarding the temporary care, custody, control and primary place of residence of Tiffany to her mother, Leslie M. Bates.

90. CHARLES admits that in the proper sense that the Order was entered into the records of the court but denied that it other than a void order.

QUESTION VI

WAS JUDGE KNOWLES ORDER OF 2 JUNE 1983 VOID AB-INITIO AND VOIDED BY JUDGE KNOWLES RECUSAL ORDER OF 29 NOVEMBER 1983 SUCH THAT IT COULD BE DISOBEYED AS VOID?

Respondent unjustifiably refused to recognize the presumptive validity of this order,

91. WISHART recognized that due process of law had failed as addressed by Question I above, but honored the order looking forward to their day in Court as promised by JUDGE KNOWLES as he said:

> MR. WISHART: Your Honor --
>
> THE COURT: We might be able to hear the mother and the father ...but the rest of the witnesses will have to wait.
>
> Now there is some time in the middle of the next week. I think my secretary said 2:30 Wednesday afternoon, 2:30 till the end of the day.
>
> MR. HOFT: All right.
>
> MR. WISHART: Your Honor, may I -- (A: pg. 58 lns. 6-16)
>
> THE COURT: ...the case is continued and, I believe it's Wednesday afternoon. Check with my secretary, either Tuesday or Wednesday....(A: pg. 63 lns. 23-25).

92. The attorneys calandars conflicted and the continuance wherein the WISHARTS were promised a hearing was set for August 3, 1983 (A: pgs. 21 and 22).

93. Note that JUDGE KNOWLES still did not know that the WISHARTS were contesting to keep TIFFANY (A: pgs. 21-22) wherein he had to amend the order to include them in the ordered investigation on WISHARTS protest.

> **Respondent unjustifiably refused to recognize the presumptive validity of this order, setting in motion a continuing pattern of conduct which ultimately gave rise to these disciplinary proceedings.**

94. The record quickly disposes of the presumption that JUDGE KNOWLES Order is valid, and particularly after he included in his recusal Order (A: pg. 93) his finding that:

> ...the ends of justice would be best served if the case were tried de nova before a different judge. (A: pg. 93)

95. The plain meaning of "De Nova" needs no explanation. (A: pg. 597)

96. Neither does the testimony of JUDGE KNOWLES where in response to CHARLES' question as to his use of the term, he answered:

> ...(Y)ou hadn't had your say....(A: pg. 431 lns. 19-20)...you hadn't been heard out with all those witnesses. (A: pg. 431 ln. 24)

97. Of course the WISHARTS were not allowed a hearing, except perhaps by JUDGE NORRIS' definition of a hearing (A: pgs. 65-72), for LESLIE'S attorney HOFT told JUDGE KNOWLES that the hearing was not a continuation of the 1 June 1983 he had agreed to before JUDGE KNOWLES (A: pg. 58 lns. 6-16) but a hearing set on a counterclaim (A: pg. 67 ln. 21 to pg. 68 ln. 20 and, pgs. 34-51) which could not therefore be heard.

98. TIFFANY was being ill treated and medically neglected (A: pgs. 88-91) yet the WISHARTS had lost the capacity to protect her or even get the promised hearing.

Thereafter, further hearings were held before Judge Knowles on August 3, 1983, and November 4, 1983.

99. There was no substantive hearing on August 3, 1983 (AI: pgs. 65-72) and the hearing on November 4, 1983 was a motion for default (AI: pgs. 73-76) and it was not until unnecessary surgery was scheduled, a direct and proximate result of having lost custody, and of LESLIE'S known lack of inclination to treat her that motivated CHARLES to began to prompt JUDGE KNOWLES to protect TIFFANY (A: pg. 73-76).

100. JUDGE KNOWLES then ordered PRIEDE to investigate TIFFANY'S situation but she never spoke with the WISHARTS who had the evidence (A: pgs. 82-83).

101. WISHART tried to tell JUDGE KNOWLES that PRIEDE'S report was erroneous as not having been properly investigated , but rather than protect TIFFANY, by whatever means he chose, including giving the WISHARTS their first hearing to make their claim to be restored to their lawful guardianship of TIFFANY, JUDGE KNOWLES recused himself, leaving TIFFANY and the WISHARTS, by their duty, at hazard (A: pgs. 86-92).

102. The petition to JUDGE RAWLINS (A: pgs. 96-99) who succeeded Judge Knowles was not even read (A: pg. 443 lns. 19-23) and a petition to the 2d DCA was turned away (A: pg. 363) yet the surgery was scheduled (A: pgs. 92, 94, 99 ¶ 12) as the WISHARTS had been warned and they could do nothing to protect TIFFANY (A: pgs. 100-121).

103. Then TIFFANY was given into their hands by RANDY (A: pg. 141 ln. 19 to pg. 142 ln. 17) and having made their position clear, both of the invalidity of the June 1, 1983 Order due to the violations of due process, as well because of the De Nova finding in support of the WISHARTS due process claims, the clean hands defense, and also, the hazard to TIFFANY which it was their duty to prevent, hopefully with the Courts help.

104. On Saturday the 10th of December 1983 RANDY delivered TIFFANY to the WISHARTS home, she was ill and the WISHARTS kept her, began medical treatment and awaited further developments, 192 days after the order was executed.

105. The transcript of the 3 August 1983 shows the denial of the WISHARTS' long awaited hearing was due to HOFT'S lies (A: pgs. 34-51 and 65-72).

106. The transcript of 4 November 1983 showed HOFT using a lie to avoid a default (A: pgs. 23-24, 26, 27-30, 34-51, 73-90, and 96-99), while CHARLES was diverted by his efforts to obtain protection for TIFFANY.

107. After all of the above, now we have JUDGE NORRIS saying CHARLES was unjustified in refusing to consider the void and voided 2 June 1983 Order which took TIFFANY from their protection, left her medically neglected and ill, uncared for and in danger of receiving unnecessary surgery if they did not act.

108. Some continuing pattern, but the pattern that needs to be changed is that of the Courts which will not respond to imminent dangers.

109. The WISHARTS had a duty and given the opportunity they met it.

QUESTION VII

CAN THE BAR CHANGE THE MEANING OF FLA. BAR CODE PROF. RESP., DR 7-110(B)(2) BY DELETING THE WORDS FOUND IN SUBPARAGRAPH 2 WHICH ALLOW COMMUNICATION BY MAIL WITH A JUDGE SO LONG AS A COPY IS MAILED TO OPPOSING COUNSEL AND THEN FIND CHARLES VIOLATING THAT DR BY WRITING MERITS OF HIS CAUSE TO THE JUDGE WITH COPIES TO OPPOSING COUNSEL AS REQUIRED BY THE DR?

4. On November 18, 22 & 23, 1983, respondent sent letters to Judge Knowles, with copies to opposing counsel.

110. Having laid the predicate above, it may be seen that the WISHARTS were in each instance responding with factual data, in response to letters from HOFT, and from JUDGE KNOWLES as allowed by **Fla. Bar Code Prof. Resp., DR 7-110(B)(2).**

Each of these letters contained information which was beyond the scope of the evidence and testimony at the three previous hearings.

111. As was pointed out, each letter contained direct responses to previous letters.

112. HOFT'S letter to Judge Knowles dated 16 November 1983 (A: pgs. 77 & 85) was answered by CHARLES letter to JUDGE KNOWLES dated the 18th of November 1983 (A: pgs. 78-80). It was predicated upon the transcripts (A: pgs. 52-76), CHARLES Affadavit (A: pgs. 34-51), CHARLES Motion for Default (A: pgs. 23-24) and HOFT'S response thereto (A: pg. 26) and spoke to the illegal loss by the WISHARTS of their custody of TIFFANY, of the lie HOFT devised to deny he knew of the existence of the WISHARTS' Counterclaim (A: pgs. 17-19) when he had argued it's purported effect so well at the 3 August 1983 hearing (A: pg. 68 lns. 1-20) to prevent that lawful hearing.

113. The result was one lie barred the WISHARTS from being heard, and the second was used of all things as a predicate for an excusable neglect defense to a default.

114. WISHART of course would suggest that under the **Ryan v. Ryan,** 277 So.2d 266, 272-273 (Fla. 1973) case (A: pgs. 476), which reads in relevant part, as regards the application of the clean hands in dissolution of marriage litigation:

FRAUD

> Now we find...that by virtue of the new legislative action that the clean hands principle has been eliminated in marriage dissolution except for fraud and deceit which are always available in our courts. Pg. 272
>
> The foregoing remaining intolerance of fraud and deceit is a judicial perogative, to protect against fraud by a party and misuse of the courts and which we view as legally consistent with the new law. Pg. 273

115. By this alone, LESLIE should have been thrown out of the Chancery Court after TIFFANY was restored to the WISHARTS.

116. But that has not happened.

117. It is the WISHARTS that are being abused and that without recourse.

118. Curiously, JUDGE KNOWLES responded to the WISHARTS 18 November 1983 letter by his letter dated 21 November 1983 which erroneously cited the 1 June and 3 August 1983 as two hearings he stated the WISHARTS had been heard in effect, when the record reflects they had not been given those hearings (A: pg. 84) and CHARLES communications were attempts to correct the Judges errors and to attempt to motivate him to protect TIFFANY whom he had placed in danger.

119. By this time CHARLES responded to JUDGE KNOWLES letter of 18 November 1983 setting forth PRIEDE'S report as authority that TIFFANY is well cared for, yet the report shows PRIEDE did not talk to the WISHARTS and her report shows a number of medicine bottles for TIFFANY that were never given which was the very cause of TIFFANY'S diagnosed chronic ear problems, the WISHART knew LESLIE did not give the medicine, so the WISHARTS were forced to respond to JUDGE KNOWLES with their letter dated 22 November 1983 (A: pgs. 86-87). Note the buildup as the threat to TIFFANY grows, and also note on pg. 87 ¶ 6 the WISHARTS invoking the clean hands doctrine as a jurisdictional issue, which is the ultimate voiding gambit, leaving TIFFANY with the WISHARTS and the case out of court entirely.

120. By the 23rd day of November 1983, when the WISHARTS responded to JUDGE KNOWLES letter dated 21 November 1983 (A: pg. 84), the WISHARTS knew the surgery they had been trying to prevent was imminent (A: pg. 16) and strong medicine was necessary to stop the surgery, and that would require the WISHARTS regaining TIFFANY.

121. Each letter was truthful, written in response to HOFT and then subsequently in response to JUDGE KNOWLES, to the end of correcting the factual errors they contained, or clarifying the true import of the matter they contained.

The letters contained matters which were potentially extremely detrimental to the other parties to the cause.

122. Isn't it obvious that the materials in HOFT'S and JUDGE KNOWLES erroneous and fraudulent letters were detrimental to WISHART, they became part of the record, and would be cited for proof that the WISHARTS had received two hearings with many witnesses when they had not as the record shows.

123. HOFT'S lies needed to be exposed as well, for how can one practice law honestly if the opponent has a license to lie, and clean hands is the only remedy to deceit.

124. The very effect of being denied a hearing extended this case for over 5 years, it has been in many courts, before many judges, including the Supreme Court which is now simultaneously addressing both the civil abuses of the WISHARTS and as well this attempt to disbar CHARLES for standing for the law on behalf of TIFFANY, himself, and for the legal system's integrity as well, for what shall it look like for an attorney to be disbarred for refusing to obey void orders.

125. It was imperative that CHARLES refuted the errors with the truth, as CHARLES is trying to do now, and to try to bring the Court into the role of protector of TIFFANY and the law of our State.

126. It is interesting to note that the DR that controls the writing of letters to judges as to the merits of the cause does not go beyond the necessity that the letters be served on opposing attorneys so they may respond as WISHART has properly done.

127. Clearly CHARLES complied with **Fla. Bar. Code Prof. Resp., DR 7-110(B)(2)** controls wherein it provides:

> **DR 7-110. Contact with Officials**
>
> (B) In an adversary proceeding, a lawyer shall not communicate, or cause another to communicate, as to the merits of the cause with a judge ...except:
>
> (2) In writing if he promptly delivers a copy of the writings to opposing counsel....

128. The entire discussion as regards the letters is a sham, for the specific rule controls over a more abstract rule, and the controling rule certainly allows WISHART to answer correspondence to JUDGE KNOWLES from HOFT (HOFT'S letter anticipated a reply), and as well allowed a reply to correct errors in fact or perception by JUDGE KNOWLES that would be harmful to either the WISHARTS or TIFFANY.

129. That is the very reason for requiring copies to go to all parties or their attorneys, to allow a corrective response.

130. WISHART met the obligation by sending the copies, and it is worthy of note that HOFT never replied nor protested.

131. This issue is without merit or substance and no probable cause could be found.

As a direct result of these materials Judge Knowles very properly, and on his own motion, recused himself.

132. As to the propriety, JUDGE KNOWLES received the truth of his errors, of the hazard to TIFFANY caused by them, of the abuses by HOFT, PRIEDE and others.

133. CHARLES intent was to get a hearing, to get discipline for the abuses, and as time went on to see that TIFFANY was protected by what means were lawfully at hand.

134. CHARLES was trying to cause JUDGE KNOWLES to either restore TIFFANY to the WISHARTS who would nurse her to health, or to protect her himself.

135. His recusal put her in greater jeopardy, but he had that option and he used it.

136. Notwithstanding the reason for his recusal, in the interest of evenhandedness perhaps, except for TIFFANY who needed a strong hand at that particular time, which was supplied by the WISHARTS, nevertheless JUDGE KNOWLES did correct the error caused by the WISHARTS loss of TIFFANY by due process, by finding for a trial de nova.

The November 29, 1983, Order of Recusal did not operate to Vacate the Temporary Custody Order dated June 2, 1983, and that order remained as a presumptively valid order.

137. Having shown that the presumption was gone when the WISHARTS lost TIFFANY contrary to **§ 61.131, Fla. Stat. 1983)** and that the Courts must follow the law, then by

the law, the Order was void ab initio, and the WISHARTS were entitled to be reinstated to their initial guardianship status as **Johnson et al. v. McKinnon,** 54 Fla. 221, 45 So. 23, 28 (A: pg. 518 ¶ 2) dictates until a lawful hearing changes that status.

135. As it turned out of course, and excluding the erroneous step-grandfather distinction that deprived CHARLES of his initial status contrary to law, the WISHARTS prevailed (A: pgs. 201-202) and BOBBIE has never lost her temporary primary residency even to the present date.

QUESTION VIII

MAY A VOID ORDER BE ENFORCED BY ANOTHER ORDER?

5. Notwithstanding the June 2, 1983, Temporary Custody Order, on December 10, 1983, respondent and his wife took possession of Tiffany and refused to return her to her mother.

136. Admitted, but the complete story is that TIFFANY was ill due to medical neglect (A: pgs. 16, 203-210), specifically an inclination to not give TIFFANY medicines that always got and kept her well when administered by the WISHARTS, and when the WISHARTS found her ill and with unnecessary surgery scheduled, they kept her, awaiting further developments as would hopefully give them a hearing to overturn the void order.

137. When JUDGE RAWLINS entertained an ex-parte motion hearing (A: pgs. 125-126) and issued a Temporary Restraining Order (TRO) (A: pgs. 127-128) for the HCSO to pick up TIFFANY and return her to LESLIE, God intervened, for the TRO was not authenticated, it did not have the Clerk of the Circuit Court's seal affixed to it as required by **§ 28.071, Fla. Stat. (1983)** (A: pg. 944) which reads:

> **28.071 Clerk's seal.** - Each clerk shall provide a seal which shall have inscribed thereon sbstantially the words:
>
> "Circuit Court"
>
> "Clerk," "(Name of county)"
>
> which shall be the official seal of the clerk of the circuit court in that county for authentication of all documents or instruments. It may be an

imprint or impression type seal and shall be registered with the Department of State.

138. As a result of the seal not being imprinted upon the TRO the Deputy would not enforce it without first correcting the oversight (A: pg. 168 lns. 12-18).

139. The WISHARTS immediately telephoned JUDGE RAWLINS office to inquire as to the use of such a practice on an attorney, and CHARLES, being made aware that he had reserved time that was open the following day, the 14th of December 1983, CHARLES informed the Secretary that he would be there the following morning at the set time.

140. CHARLES has a duty to submit to the Courts, that is appear and put his person at the disposition of the Courts, but that duty does not extend to surrendering his responsibilities that might well conflict with a judge, and certainly submission to tyranny, the arbitrary (unlawful) use of power (A: pg. 598) must not be required of an attorney.

141. The only hearing for that day was the one CHARLES set (A: pg. 163 lns. 4-7).

142. After spending the night and following morning trying to find an appellate remedy (A: pgs. 129-134), CHARLES appeared before JUDGE RAWLINS at the set time.

143. CHARLES position was and is that the 2 June 1983 order was both void and voided, not to mention the defenses regarding the clean hands doctrine, but at the same time an accomodation was in order so, without a duty to do so, CHARLES offered to give TIFFANY to the Court if she would be protected, and a hearing could be had as would allow the WISHARTS to show why they should retain the custody and guardianship status they began with, and which had given them their standing in the first place.

144. JUDGE RAWLINS of course saw someone refusing to do exactly what he wanted, to return TIFFANY to LESLIE with no conditions.

145. CHARLES would not turn TIFFANY over to the hazard of unnecessary surgery.

146. Therefore, in those circumstances, CHARLES admits that TIFFANY was taken into their hands and the WISHARTS refused to return her to LESLIE.

Respondent's affirmative defense that the June 2, 1983, Temporary Custody Order was "void" and, therefore, he was justified in refusing to recognize that order, is specifically rejected in its entirety.

147. JUDGE NORRIS is certainly politically and administratively oriented, that is he likes things to go smoothly, and no doubt prides himself in getting things done.

148. After all, he is the Chairman of the Judges Council statewide, as well as Chief Circuit Judge of Polk County.

149. Politics is commendable, in it's place.

150. However, and notwithstanding an industrial engineering degree which focused on management, systems, organiations, etc., CHARLES was trained and believes that in effect the legal system is to function as the antithesis of the politics of the legislative and executive branches, the tyranny of the majority, politics if you will.

151. In other words, the courts are there to keep the majority from using their political powers to overrun the minorities or the individual.

152. Overunning, as used in this sense occurs when the safeguards of due process of law is set aside for expediency, or personal ends.

153. The administration of huge dockets, and small budgets, thwarts the time to determine the truth to which the law is to be applied.

154. Small wonder that JUDGE NORRIS has reacted so to CHARLES, for JUDGE NORRIS has learned how to streamline administration, while CHARLES loves the law which digs out the facts carefully and often laborously, and to that end, he has been forced to know how to jam JUDGE NORRIS' smooth administration when it violates the law or rules significantly to the harm of an interest he serves.

155. The whole purpose of due process is to prevent the runaway destruction of the law and justice in the name of efficiency in administration.

156. The horror of our present crop of lawyers coming into the bar is a brilliant set of legal technicians with a shortage of moral values to provide the necessary self restraint as will direct that great technical skill to moral service.

157. The WISHARTS were denied due process of law, and the 2 June 1983 Order is void-ab-initio, and cannot be enforced by the TRO.

158. There is no lawful way for CHARLES to be disbarred for resisting such abuses, but of course there may of course be a political way, for why else is this case here, while the Supreme Court is entertaining the civil abuses?

6. On December 13, 1983, Circuit Judge Robert W. Rawlins, Jr., entered a Temporary Restraining Order ordering respondent and his wife to return Tiffany to her mother.

159. The facts stated are admitted but with the recommendation that the law regarding the validity of a void order as set forth in **46 Am. Jur 2d Judgements, D. Effect of Invalidity, § 49 Void Judgements (A: pg. 519), and § 50 Validations of judgements (A: pg. 521)** ., citing **Johnson et al. v. McKinnon,** 54 Fla. 221, 45 So. 23 (1907) be considered carefully wherein Am Jur reads:

§49. Void judgements.

A void judgement is not entitled to the respect accorded to, and is attended by none of the consequences of, a valid adjudication. Indeed, a void judgement need not be recognized by anyone, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It has no legal or binding force of efficacy for any purpose or at any place. It cannot affect, impair, or create rights, nor can any rights be based thereon.

Although it is not necessary to take any steps to have a void judgement reversed or vacated, it is open to attack or impeachment in any proceeding, direct or collateral, and at any time or place, at least where the invalidity appears upon the face of the record. It is not entitled to enforcement and is, ordinarily, no protection to those who seek to enforce it. All proceedings founded on the void judgement are themselves regarded as invalid and ineffective for any purpose.

In short, a void judgement is regarded as a nullity, and the situation is the same as it would be if there were no judgement. It accordingly leaves the parties litigant in the same position they were in before the trial.

§ 50. Validation of judgements.

The general Rule is that a judgement which is void cannot be cured by subsequent proceedings. Such a judgement cannot be validated by citing the parties against whom it was rendered, to show case why it should not be declared valid, or by an affirmance by an appellate court, at least if such affirmance is put upon grounds not touching the validity of the judgement. It is worthy of notice that even the legislature may not ratify a judgement which is void for want of jurisdiction, so as to impart validity to it. (Cites in appendix)

QUESTION IX

DID THE SHERIFF IN FACT ATTEMPT TO SERVE JUDGE RAWLINS TEMPORARY RESTRAINING ORDER OR DID HE DECLINE ON HIS OWN INITIATIVE SINCE THERE WAS NO SEAL AFFIXED?

A Hillsborough County Deputy Sheriff went to the respondent's home and attempted to serve the Temporary Restraining Order on respondent. Respondent would not comply with the Temporary Restraining Order

160. As has been shown, the Deputy perceived that the TRO was not sealed, was not therefore authenticated, and he therefore told CHARLES that he would not enforce it, and so the WISHARTS did not have to face the issue of refusing to comply.

because he asserted that it, too, was "void" because it was not certified,

161. It was the deputy that declared the TRO to be unenforceable, until it was properly sealed that is, for the WISHARTS position was that it was void-ab-initio and voided by JUDGE KNOWLES de nova recusal order.

and because he still refused to recognize the presumptive validity of the June 2, 1983, Temporary Custody Order.

162. JUDGE NORRIS undertands what WISHARTS' position is, but they disagree on the proposition that no decree may be issued until the WISHARTS who had custody and physical possession of TIFFANY are heard as required by **§ 61.131, Fla. Stat. (1983).**

163. CHARLES would suggest that the presumption of validity would never have come out of the COMMITTEE had CHARLES been allowed to go behind the order.

It does appear to me that the order was indeed certified

164. There was never a seal on the copy the Sheriff brought to CHARLES and declined to serve without that seal the TRO was not authenticated.

QUESTION X

MUST AN ATTORNEY SUBMIT TO THE TYRANNY OF OBEYING AN ORDER THAT WAS VOID AB-INITIO AND IS BEING ENFORCED AFTER THE JUDGE ISSUED IT HAD DE NOVA'D IT OR BE GUILTY OF VIOLATING HIS ETHICAL AND LEGAL DUTY?

however, I specifically find that an attorney, and a party, respondent was ethically and legally required to comply with the December 13, 1983, Temporary Restraining Order by immediately delivering Tiffany to her mother, whether the order was certified or not. His affirmative defenses that his conduct was justified becase the December 13, 1983 order was not certified, and the June 2, 1983 order was "void" are specifically rejected in their entirety.

165. An attorney is required to abide by the law, as are the courts, but when the Judges go beyond it's scope of discretion, it's jurisdiction, it's power, and begins to violate rules and statutes, it is the duty of an attorney to fulfill his duty as his conscience dictates, in a lawful manner, and if that duty requires him to resist and overturn void orders, to compel the Courts to follow the law, then God speed.

166. An attorney has no duty to submit to tyranny.

167. A corrolary of that is that one cannot be disciplined for a breach of ethics for demanding the law be followed, for resisting tyranny, for doing his duty, for note that CHARLES is not contending for some new and arguable position, but is citing well settled law as a defense to the allegations against him.

7. On December 13, 14, & 15, 1983, respondent actively participated in a course of conduct deliberately calculated to conceal Tiffany's whereabouts, to conceal his wife's whereabouts, and to thwart the lawful orders of this Court, in that:

168. The key words are lawful order based upon a presumptive validity that is false.

169. Note that for over 6 months the WISHARTS had waited for the system to respond to their pleas for TIFFANY'S wellfare, but to no avail.

170. Without reiterating all of the horrors, it suffices to say that there was no manifest interest in TIFFANY'S wellbeing shown by any part of the system, and there was very much reason not to trust JUDGE RAWLINS who was aware of the WISHARTS position but did nothing for them, but rather summarily issued the TRO against an attorney who would have responded immediately to a phone call, for after all the WISHARTS were trying to get a hearing, and were made fugitives and outlaws.

171. WISHART did not trust JUDGE RAWLINS for good reason.

172. BOBBIE trusted him less, for it was assumed that he was aware of the WISHARTS position (A: pgs. 96-99, and 130-134) yet he enforced a manifestly void order with the TRO, without allowing again the WISHARTS to be heard.

173. CHARLES set and attended the hearing on the fourteenth, knowing full well that jail might be before him, which would of course give him a quick appellate remedy, Habeas Corpus, for since the TRO was enforcing a void order, it was void as well, and could not be used as a predicate to jail and keep him.

174. If the hearing had not gone well, CHARLES next step was Federal Court.

175. Practically, the WISHARTS had been mugged, TIFFANY had been kidnapped illegally, and was being held hostage and threatened with irreparable damage to her health, and as a result the WISHARTS were becoming fugitives, not from but to justice.

176. It was clear that had TIFFANY been returned to LESLIE a wall of injunctions would have gone up as would have made it imposible to live in the same State with TIFFANY (A: pg. 144 lns. 1-12) , for consider the savage treatment and anguish the WISHARTS had suffered while waiting for a broken system to protect TIFFANY.

177. There was no way that BOBBIE would give TIFFANY to LESLIE, and she refused to go with CHARLES to the hearing.

178. **DR 4-101. Preservation of Confidences and Secrets of a Client** reads:

(D) A lawyer shall reveal:

(1) Confidences or secrets when required by law, provided that a lawyer required by a tribunal to make such a disclosure may first avail himself of all appellate remedies available to him.

179. **DR 7-106(A). Trial Conduct** reads:

(A) A lawyer shall not disregard or advise his client to disregard a ...ruling of a tribunal made in the course of a proceeding, but he may take appropriate steps in good faith to test the validity of such rule or ruling.

180. CHARLES became the lightning rod, and had TIFFANY been found, the courts would have enjoined the WISHART and declared the WISHARTS claims moot.

181. It was necessary to use desperate measures as would force either a quick resolution, or a quick appellate remedy, for TIFFANY'S situation could not wait the years the appellate process takes.

182. In short terms CHARLES had not even begun to fight to overturn the void judgement, and therefore had no duty to disclose where TIFFANY was, and particularly in a proceeding that was predicated upon a void order since with the order being void, the WISHARTS were entitled to their prior status as legal guardians of TIFFANY with no outstanding legal orders, the clean hands challenged the Courts jurisdiction to do more that return TIFFANY to the WISHARTS and discharge LESLIE'S suit, and in any case CHARLES had not nearly exhausted his appellate remedies.

183. The concealment such as it was was lawful because the proceedings and orders weren't and so no duty could accrue so long as the WISHARTS were denied the opportunity to be heard for due process and equal protection must be afforded them as a right.

(a) On December 14, 1983, respondent drove himself and his wife to a store owned by his wife's cousin. After his wife departed the automobile respondent drove to the Hillsborough County Court House in order to appear before Judge Rawlins in response to the December 13 Temporary Restraining Order. Mrs. Wishart thereafter concealed herself and Tiffany.

184. This is technically accurate except before dropping off BOBBIE CHARLES had driven to the Court House, stopped, and asked BOBBIE whether she wanted to attend the

hearing and she said no, and when asked where she wanted to go she asked CHARLES to take her to her Aunt's place of business.

185. The WISHARTS had a single minded purpose, not to hide, but to protect TIFFANY, to overturn the void order, and to get the case back within the law.

186. All of the other activity was designed to facilitate those lawful ends (A: pg. 144 lns. 14-22), so the concealment to prevent a showdown outside the Courts seemed wise.

187. After all, it was not the WISHARTS' fault they did not get a hearing.

At two hearings that day before Judge Rawlins, respondent refused direct orders from Judge Rawlins to reveal the whereabouts of Tiffany.

188. Fugitive tactics take a while to develop.

189. The only conduct calculated to conceal came in the form of a decision to not take TIFFANY to court or give her up until some form of justice could be assured, and that decision was made by BOBBIE unilaterally.

190. CHARLES went to JUDGE RAWLINS to clear the matter up while JUDGE RAWLINS wanted to know nothing but where TIFFANY was and what it would take to get her returned to LESLIE (A: pg. 140 lns. 4-7 and pg. 150 ln. 21 to pg. 151 ln. 14), which of course the WISHARTS would not do, thus creating an impasse.

191. Since CHARLES had not discussed tactics, and had left BOBBIE where she asked to be taken, and since CHARLES assumed she had enough sense to move and leave no trail, CHARLES could truthfully answer he did not know where TIFFANY was (A: pg. 139 lns. 22-25), that he thought he could find TIFFANY (or BOBBIE wold find him for the purpose was to get back into court and undo the damage done) and would hand TIFFANY into the hands of the Court (A: pg. 155 ln. 1-18, pg. 158 lns. 18-22, pg. 159 lns. 9-25, pg. 175 ln. 18 to pg. 176 ln. 21, pg. 182 ln. 12-23, pg. 187 ln. 4 to pg. 189 ln. 1) if the Court would protect her and give the WISHARTS their long delayed hearing.

192. WISHART prevailed, a hearing was held and BOBBIE was given temporary primary residency, and that on the morals issue since HRS had withheld WISHARTS evidence

of medical abuse from the doctor who examined TIFFANY (Cf. A: pg. 203 with pg. 204) pursuant to JUDGE RAWLINS order (A: pgs. 199-200), and the contempt charges were declared moot), for inter-alia the reason that TIFFANY got well and stayed that way throughout 1984 until LESLIE regained control under the void JUDGEMENT.

He was commited to the Hillsborough County Jail with a condition that he could be released by either revealing the whereabouts of the child or producing her before the Court. He remained in jail overnight.

193. That is a hard way to get a hearing, but it was necessary.

194. Afterwards CHARLES spoke with his mother of what had happened.

195. Her response was "We aren't the kind of people who go to jail."

196. To which CHARLES answered, "There are times where it is appropriate, and this was one of those times."

197. Would you give up a child to unnecessary surgery to avoid going to jail?

198. Of what value is a law license that cannot function to compel the Courts to do justice, to follow the law, to correct it's mistakes quickly?

199. Of what value is an attorney who will not resist tyranny and insist on justice?

(b) On december 15, 1983, respondent again appeared before Judge Rawlins. He again refused to disclose the whereabouts of Tiffany unless the Court agreed not to deliver the child to her mother. Ultimately, respondent contacted his wife and Tiffany was taken into HRS custody. She remained in HRS custody for a short time and was then returned to her mother.

200. CHARLES could not disclose the whereabouts of BOBBIE, since he did not know where she was (A: pg. 561 ln. 18 to pg. 567 ln. 2), his offer was to try to help find her if TIFFANY'S interest was foremost.

201. TIFFANY remained in HRS hands and was delivered to JUDGE STEINBERG'S chambers on December 20, 1983 pursuant to JUDGE RAWLINS order (A: pg. 199-200).

8. Respondent's conduct before Judge Rawlins on December 14 & 15, when viewed as a whole, was part of a continuing pattern of conduct knowingly designed to thwart the lawful orders and processes of the Court.

202. CHARLES' conduct before Judge Rawlins on December 14 & 15, when viewed as a whole, was part of a continuing pattern of conduct knowingly designed to thwart the unlawful orders and processes of the Court, and directed to bring the Court back within it's jurisdiction, and to try to enlist it in the protection of TIFFANY.

QUESTION XI

DID CHARLES LIE TO JUDGE RAWLINS AS TO WHERE BOBBIE WAS OR TO THE 2D DCA THAT HE HAD NOT HAD A HEARING WHEN HE HAD?

Respondent's testimony that he did not know of Tiffany's whereabouts, or his wife's whereabouts, was either untrue, deceitful, or both.

203. Had CHARLES known where TIFFANY was, he could have invoked the attorney/client privilege if he was in fact BOBBIE'S attorney, or husband/wife privilege, while he continued to pursue the appellate remedies, so why should he lie.

204. Before CHARLES is called a liar it would appear appropriate to produce facts to prove it and there are none for CHARLES did not lie, there are no prior inconsistent statements, nor proof that any material facts are not as testified to by CHARLES and corroborated by BOBBIE.

205. Before addressing the record for the roots of the allegation regarding lying, let us examine a common practice among men.

206. When one observes a certain conduct they impose their own values onto that conduct, presuming that the conduct was done for the same reasons they would have done the same thing for, and that principle is stated by Jesus Christ in **The Holy Bible, K.J.V., Matt. 7: 1-2** wherein it reads:

> Judge not, that ye be not judged.
>
> 2 For what judgement ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again.

207. Therefore, when one has judged another's conduct we know more about the man making the judgement than the person judged for as an example liars presume that everyone else lies as they do, etc..

208. Following that reasoning, the initiation of the allegation that CHARLES lied was made by HOFT before JUDGE RAWLINS (A: pg. 153 lns. 13-25).

209. HOFT had been documented as being careless with the truth (A: pgs. 48-50 ¶ 138 and pg. 149 lns. 5-13) so he of course was not called as a witness to his allegation that CHARLES and BOBBIE conspired to lie.

210. CHARLES was naieve enough to expect to set up some process to be heard and did not expect to find himself and JUDGE RAWLINS talking at cross purposes.

211. JUDGE RAWLINS did in fact testify before the bar, and said he thought that CHARLES had lied about not knowing where BOBBIE was (A: pg. 444 lns. 8-16) but what evidence did he have to enforce his mindset? Hoft's suggestion.

212. An examination of the record (A: pg. 146 l. 14 to pg. 147 l. 6) reflects what CHARLES and the HCSO deputy talked about, and what JUDGE RAWLINS said the deputy told him namely:

> THE COURT: ...I Want to know why that child was not picked up when he tried to serve Mr. Wishart at that time.
>
> MR. WISHART: I can tell the Judge.
>
> THE COURT: Why?
>
> MR. WISHART: Exactly why.
>
> Because the sheriff appeared, and on his own initiative, not by any device of mine, informed me he did not have a certified copy and would not serve it then.
>
> THE COURT: Well thats not the same thing the deputy told me. He said he was threatened by you with all kinds of lawsuits and he was then concerned about it and came back to my office.
>
> MR. WISHART: That's not true, your Honor.

THE COURT: Well I'm just telling you what the deputy told me....

213. The record goes on to show that Deputy Sheriff Robert H. Cooke (COOKE) confirmed CHARLES story, thus impeaching JUDGE RAWLINS (A: pg. 168 lns. 10-18) wherein he testified before JUDGE RAWLINS on the 14th day of December 1983 saying:

> THE COURT: And then did anything else transpire between you and Mr. Wishart?
>
> THE WITNESS: Well, I advised him that I didn't know at that particular time that it was a true copy and I would have to verify it and that the -- I would -- I told him I was going to get in touch with Leslie Bates and explain that to her, that we'd have to get it verified before we actually did the serving and -- to pick up the child.

214. WISHART had long argued in motions and with bar counsul that they had no evidence to prove CHARLES knew where BOBBIE was after he dropped her off, that he could impeach both HOFT and JUDGE RAWLINS, and that with no proofs, such as prior inconsistent statements, or impeaching witnesses, there was no proof to refute the presumption and fact that both CHARLES and BOBBIE were telling the truth.

215. The deceit issue is a sham, based on the statements that known liars would have lied in the same circumstances so CHARLES must be a liar as well.

216. CHARLES did not know where BOBBIE was.

217. He did expect to either find her, or be found by her, for the WISHARTS were seeking a resolution to the problem they were facing which would leave TIFFANY safe.

218. Having failed to present an honest witness who could prove WISHART "lied", the BAR brought in JUDGE V. EVANS to show CHARLES had lied to the 2d DCA in the case of **WISHART v. BATES,** 487 So.2d 342 (Fla. 2d DCA 1986) by telling the 2d DCA they had not been given a hearing before JUDGE MENENDEZ when the record shows evidence presented to JUDGE MENENDEZ by the WISHARTS at the "final hearing" so it is obvious that the WISHARTS had a hearing, and someone lied.

219. Since that is a very serious lie, we ought to determine whether a lie was told, trace it to it's source, attach the blame and punish the perpetrator.

220. WISHART appealed JUDGE MENENDEZ'S JUDGEMENT to the 2d DCA and caused the JUDGEMENT to be reversed and remanded in **Wishart v. Bates,** 487 So. 2d 342 (AII: pg. 219) wherein the opinion reads:

> The court having reviewed the record finds that...(the WISHARTS) should have been afforded an opportunity to be heard and present evidence at the custody hearing.
>
> We therefore reverse and remand for further proceedings consistent herewith.

221. JUDGE TAYLOR, construed that opinion (AII: pg. 224 ¶ 6) as follows:

> The Court finds that the opinion of the Second District Court of Appeal dated the 2d day of April 1986, mandate issued the 16th day of April 1986, did not completely reverse the Final Judgement dated the 25th day of February 1985, nunc pro tunc, December 4, 1984, and therefore did not require a return to the temporary primary residence and/or custody status enjoyed by the WISHARTS immediately prior to the Final Judgement dated 2-26-85 and that the WISHARTS are not entitled to the restoration of either temporary custody or primary residency to either or both of them, but only the opportunity to be heard on their Petition for Custody of their granddaughter.

222. By this the WISHARTS lost their temporary primary status they had immediately prior to the "Final Hearing" and had regained by the **Wishart v. Bates,** Ibib., case.

223. Clearly to put a matter to trial when the matter is not at issue (AII: pgs. 244-253) is beyond the jurisdiction or power of JUDGE MENENDEZ **Ellis v. Ellis,** 242 So.2d 745 (Fla. 4th DCA 1971)(AIV: pg. 608), **Leeds v. C. C. Chemical Corp.,** 280 So.2d 718 (Fla. 3d. DCA 1973)(AIV: pg. 613), **State v. Battle,** 302 So.2d 50, 51 (Fla. 3d DCA 1974) (AIV: pg. 618), **Wishart v. Bates,** 487 So.2d 342 (Fla. 2d DCA 1986)(AII: pg. 219) Cf. **Bates v. Wishart,** 512 So.2d 977 (Fla. 2d DCA 1987)(AII: pg. 226), and **Fla. R. Civ. P. 1.440** (AIV: pg. 952) and we must begin to question why the WISHARTS were never reinstated after the JUDGEMENT was reversed and whether the lie was the cause.

224. Note that there were many other errors committed (AII: pgs. 304-342) and perhaps we may find the reason for the 2d DCA'S cryptic opinion in the **Wishart v. Bates,** Id, case to be an abstraction of the rule violation, to the due process of law violation definition to include all of the other errors.

225. **Sheffey v. Futch,** 250 So.2d 907, 910 (Fla. 4th DCA 1971)(AIV- pg. 610) defines due process of law as:

> ...(D)ue process has been defined in non-criminal situations as contemplating reasonable notice and an opportunity to appear and be heard. (Cites deleted).

226. Now that is the language in the **Wishart v. Bates,** Ibid., opinion, so in effect the opinion held the WISHARTS were denied due process of law as required by **Article I, Decl. of Rts., § 9. Due process, Fla. Const.** and **U. S. Const. amend. V & XIV, Due Process** and was reversed and remanded on that specific ground.

227. So the WISHARTS were denied due process of law, the matter was reversed or voided as defined in **Black's Law Dictionary, 4th Ed. pg. 1482, REVERSE,** and **Securities and Exchange Commission v. C. M. Joiner Leasing Corporation et al,** 53 F.Supp. 714 (D. C. N.D. Tex. 1944) which reads:

> "Reversed" means "setting aside, annuling, [or] vacating." Laithe v. McDonald, 7 Kan. 254, 268.
>
> Where a cause is reversed and the cause remanded, the effect of the reversal is only to set aside the judgement, unless it is apparent from the opinion of the court that the adjudication was intended to be a final disposition. Ryan v. Tomlinson, 39 Cal. 639, 646. When the words "reversed" and "remanded" are used, it would be error, was said in Myers v. McDonald, 68 Cal. 162, 18 P. 809, for the court below not to award a new trial. To the same effect is a direction by the appellate court that the cause is "reversed for proceedings consistent with this opinion."

228. The WISHARTS were entitled to be reinstated to the status they held before JUDGE MENENDEZ violated **Rule 1.440, F. R. Civ. P.** by putting the matter to trial while the pleadings were not settled, and the matter was not at issue.

229. **Johnson et al. v. McKinnon,** 54 Fla. 221, 45 So. 23 (1907)(AIII: pg. 513) stands for the same proposition and effect of a rule violation wherein it reads in relevant part:

> The objection to the introduction of this decree is that it is void, not authorized by law and that the court was without authority or jurisdiction to render a deficiency decree in the cause wherein it was rendered.
>
> A decree rendered by a court having jurisdiction of the parties and the subject matter, unless revesed or annuled in some proper proceeding, is not open to contradiction or impeachment in respect to its validity, verity, or binding effect, by parties or privies in any collateral action or proceeding. 23 Cyc. 1055; Rushing v. Thompson's Executors, 20 Fla. 583, text 596.
>
> Where the decree is such a one as the court has jurisdiction to render, the presumptions are all in favor of its regularity and validity until vacated by some proper proceeding instituted directly for the purpose of correcting erors therein, and cannot be attacked collaterally. Lee v. Patten, 34 Fla. 149, 15 South. 775; Finley v. Chamberlin, 46 Fla. 581, 35 South. 1. A decree that is absolutely null and void, however may be collaterally assailed. But the decree that is voidable only, because irregular or erroneous, must be moved against in time by motion to vacate, or by resort to an appellate tribunal; otherwise it becomes an absolute verity. Einstein v. Davidson, 35 Fla. 342, text 355, 17 South 563; Lord v. Dowling, 52 Fla. 313, 42 South. 585.
>
> Jurisdiction is simply power. Any power possessed by the judicial tribunal, either affirmative or negative, is jurisdiction. This is the definition of jurisiction given by Chief Justice Green of New Jersey; and Van Fleet, in his work on Collateral Attack (Section 58), says it is the best he has ever seen. And this is the meaning given to the word "jurisdiction" by this court. In Garvin v. Watkins, 29 Fla. 151, text 165, 10 South. 818, text 821, this court said: "Did the court have jurisdiction to render the decree....In Rushing v. Thompson's Executors, 20 Fla. 583, text 596, it is declared: "It is a well settled rule that, jurisdiction being obtained over the person and the subject matter, no error in its exercise can make the judgement void. The authority to decide being shown, it cannot be divested by being improperly or incorrectly employed."....The Supreme Court of the United States, in the case of Windsor v. McVeigh, 93 U. S. 274, text 282, 23 L. Ed. 914, say: "The doctrine envoked by counsel - that, where a court has once acquired jurisdiction, it has a right to decide every question which arises in the cause, and its judgement, however erroneous, cannot be collaterally assailed - is undoubtedly correct as a general proposition; but like all general propositions, is subject to many qualifications in its application. All courts, even the highest, are more or less limited in their jurisdiction. They are limited to particular classes of actions, such as civil or criminal; or to particular modes of administering relief, such as legal or equitable; or to transactions of a special character, such

> as arise on navigable waters, or relate to the testamentary disposition of estates; or to the use of particulae process in the enforcement of their judgements. Norton v. Meader, Fed. Cas. No. 10,351 (Circuit Court for California). Though the court may possess jurisdiction of a cause, of the subject-matter, and of the parties, it is still limited in its modes of procedure and in the extent and character of its judgements. It must act judicially in all things, and cannot then transcend the power conferred by the law. If for instance, the action be upon a money demand, the court, notwithstanding its complete jurisdiction over the subject and parties, has no power to pass judgement of imprisonment in the penitentiary upon the defendant. If the action be for a libel or personal tort, the court cannot order in the case a specific performance of a contract. If the action be for possession of real property, the court is powerless to admit in the case the probate of a will. Instances of this kind show that the general doctrine stated by counsel is subject to many qualifications. The judgements mentioned, given in the cases supposed, would not be merely erroneous. They would be absolutely void, because the court in rendering them would transcend the limits of its authority in those cases."

230. The court found, that a rule was violated wherein the court granted a deficiency decree which was not granted by either statute or rule of court, and rather was contrary to an express rule of procedure as in the present case, and then said:

> ...We must hold, therefore, that this decree was absolutely void, not simply erroneous, irregular, or voidable, and that it was subject to collateral attack herein. It was not erroneously made in the exercise of jurisdiction. It was rendered without power, without authority, without jurisdiction....
>
> Now the rule is that, when a judgement or decree is revesed, the defendant is entitled to be restored to all things which he has lost thereby.

231. The WISHARTS entered the final hearing with temporary primary residency status over TIFFANY, objected to the trial while the pleadings were not settled, a violation of **Rule 1.440, Fla. R. Civ. P.** and a usurpation of power forbidden to JUDGE MENENDEZ by that rule, the case was reversed by the 2d DCA and yet TIFFANY was never returned to the WISHARTS.

232. To accomplish this it will soon be apparent that certain of the trial and appellate court judges had to conspire together after the **WISHART v. BATES** mandate to pervert the opinion and deny the WISHARTS their victory, by the simple expedient of con-

struing the opinion to mean the WISHARTS had won, not on a denial of due process of law, but by showing they were entitled to a hearing they were due and never had.

233. The flaw of that position is that the files of both appellate and trial courts show the voluminous record which includes the exhibits presented by the WISHARTS at the mistrial before JUDGE MENENDEZ.

234. Having recognized this error in the judges position, they had to explain the existence of the exhibits, and they did so by inferring that the WISHARTS had lied to the 2d DCA by telling them they were not afforded a hearing at the "final hearing" when the record clearly showed they had presented evidence.

235. The fact that various of the judges were talking among themselves concerning CHARLES tactics is by this time documented, and the reason is that the errors WISHART was forced to in order to protect TIFFANY angered certain judges who set out to teach CHARLES a lesson as to who had the power.

236. JUDGE V. EVANS put the matter to trial, complained throughout the trial that since the evidence the WISHARTS were the same exhibits they had presented at the mistrial before JUDGE MENENDEZ why was the matter being tried again before him.

237. At the end of WISHARTS' case in chief, JUDGE V. EVANS granted a motion for involuntary dismissal (AV: pgs. 925-927, cf. pgs. 928-943 and TR1 VI pg. 203 l. 1 to pg. 207 l. 15) and the only basis stated in his judgement was that the many exhibits stamped by JUDGE MENENDEZ showed that the WISHARTS had in fact had a trial while they had appealed on the grounds that they had not.

238. The lie about not having had a hearing came either from the WISHARTS or the judges, but we only need to look at WISHARTS appeal brief to determine the grounds on which the WISHARTS appealed, and who fostered the lie to prevent the WISHARTS being reinstated to the temporary primary residency status they claimed as of right.

239. All that is needed to resolve who lied is to compare WISHARTS' initial brief in the **WISHART v. BATES,** Ibib, case, relevant portions of which may be found on the Appendix Volume IV pages 737 to 751 which shows the scope of the appellate record the 2d DCA examined in making it's ruling, and Volume III, pages 586 to 594 which shows the grounds for reversal was the violation of **Rule 1.440, Florida Rules of Civil Procedure.**

240. The WISHARTS did not lie, but merely trusted that the truth and the law would out if they hung in long enough.

241. The lie spread through out the Hillsborough County Court House, with a few honorable exceptions also spread to the 2d DCA who obviously did not consider WISHARTS' pleadings in the case of **BATES v. WISHART,** 512 So.2d 977 (Fla. 2d DCA 1986) wherein they parrot the same lie without bothering to look at WISHARTS initial brief or his pleadings.

242. When the judges care nothing for the truth much less the law, and will swallow gossip so readily, to the point that one judge covers another's back even when they are wrong, where are the WISHARTS to go for justice?

243. These matters have now been raised before the Supreme Court in the Case of **Wishart v. Bates,** case no. 71,370, and it appears from the first opinion that the WISHARTS will not be restored to their initial status as the law clearly requires.

244. Where does one go for justice when the wicked encompass the righteous?

> **9. On December 3 & 4, 1984, a final hearing was held before Circuit Judge Manuel Menendez, Jr. Respondent actively participated in that hearing as a party and as an attorney. Thereafter, a Final Judgement was entered wherein shared parental responsibility was ordered with the primary residence of the child being with her mother. Again, respondent refused to recognize the presumptive validity of the Final Judgement because he claimed that the case was not at issue when the final hearing was held.**

245. The record and JUDGEMENT reflects that the matter was not at issue, could not be tried, and was therefore the JUDGEMENT void ab-initio.

246. Thats the law WISHART used to reverse the JUDGEMENT in **WISHART et ux. v. Bates, et al.**, 487 So.2d 342 (Fla. 2d DCA 1986).

> **10. On February 7, 1985, respondent again gained possession of Tiffany and again wrongfully refused to return her to her mother. Respondent's affirmative defense that he was justified in ignoring the Final Judgement becase it was "void" because the case had been forced to trial when not at issue, is specifically rejected in its entirety.**

247. BOBBIE had the lawful temporary primary residency with authority over the medical care of TIFFANY so when she came home sick, the WISHARTS kept her.

248. The JUDGEMENT was void ab-initio, had not been rendered as required by **Rule 9.020(g), Fla. R. App. P.** since inter-alia WISHARTS' motions were not disposed of including their **LETTER TO JUDGE MENENDEZ** (AII: pgs. 304-347), and their **MOTION FOR NEW TRIAL AND REHEARING,, and/or RELIEF FROM JUDGEMENT** (AII: pgs. 354-360), for, and TIFFANY was ill and in need of the WISHARTS protection and they could not get a hearing as was the usual pattern.

249. To reject that position is to reject the law of the land and JUDGE NORRIS and the BAR are doing that with great alacrity without bothering to cite any law or facts to refute WISHARTS law and facts to the contrary.

250. Shades of star chambers.

251. JUDGE NORRIS repeatedly finds a presumptive validity for orders that are manifestly issued in violation of settled case law, rules and statutes.

QUESTION XII

MUST A WRIT PURPORTING TO BE A WRIT OF HABEAS CORPUS BUT HAS NO RETURN OR RULE TO SHOW CAUSE, WHICH IS ENFORCING A FINAL JUDGEMENT WHICH IS BOTH VOID AB INITIO ON THE FACE OF THE RECORD AND UNRENDERED BE GIVEN ANY CONSIDERATION?

> **11. On March 1, 1985, a Writ of Habeas Corpus was entered by Circuit Judge Donald C. Evans ordering respondent and/or his wife to immediately deliver Tiffany to her mother. Respondent refused to comply with the Writ because he asserted that it, too, was "void" because: (1) there was no return date in the body of the writ: and, (2) the writ was predica-**

ted on the "void" Final Judgement. I Specifically find that the Final Judgement was presumptively valid and that respondent, as an attorney and a party, improperly refused to honor the Writ of Habeas Corpus issued by Judge Evans. Respondent's defense that the writ was "void" because it did not contain a return date is specifically rejected as constituting an after-the-fact excuse for his unethical and perhaps illegal conduct.

252. JUDGE NORRIS is specifically ignoring the law by finding presumptions of validity where the law denies him that right, jurisdiction, power, which brings into question whether JUDGE NORRIS'S report is not void ab-initio as a willful usurpation of power and a manifest work of a tyrant, the arbitrary use of power.

253. CHARLES anticipated problems and had already set a hearing to address the status of the JUDGEMENT, so a the writ was unnecessary. (AII: pgs. 361-362)

254. CHARLES appeared before JUDGE D. EVANS to protest the form of the Writ (AII: pg. 352) since it did not contain a rule to show cause nor a return date, and to demand a lawful writ and an opportunity to show cause (AIII: pgs. 448-462) but JUDGE D. EVANS left the court room without giving CHARLES a hearing leaving CHARLES standing there with the Courts door closed to him while the SHERIFF was ordered to take TIFFANY from BOBBIE and give her to LESLIE all in violation of due process of law, and the law regarding the use of writs of habeas corpus (AII: pgs. 364-367 & AIII: pgs. 413-421).

255. The WISHARTS were faced with obeying a void JUDGEMENT, which was unrendered, and was being enforced by a purported Writ of Habeas Corpus which, contrary to law, had no return or rule to show cause and thus cutting off the WISHARTS from overturning and retrying the entire custody matter de-nova.

256. The WISHARTS were again fugitives to justice, because the Courts kept refusing to give them lawful hearings to overturn a void judgement and to that end they passed through the 2d DCA (AII: pg. 363), the Florida Supreme Court, and the U. S. District

Court, Fla. M. D., Tampa Division (AIII: pg. 584 (Exhibits 120 & 120-A), all with the specific intent to force a lawful hearing to once and for all obtain an order reversing the void JUDGEMENT, which JUDGE D. EVANS denied the WISHARTS.

257. As to the question of CHARLES conduct being unethical and perhaps illegal, JUDGE V. EVANS did not think so for he ratified CHARLES argument that the JUDGEMENT could not be enforced until it was rendered as required by **Fla. R. App. P. 9.020(g)** (AII: pgs. 369-370, AIII: pgs. 408-410, VII pg. 195 lns. 5-22) and once it was "rendered" by JUDGE MENENDEZ (AIII: pgs. 410-411) WISHART returned a well TIFFANY to LESLIE, filed their appeal (AIII: pg. 412) and in due course reversed the void JUDGEMENT.

QUESTION XIII

DOES NOT THE FACT THAT CHARLES IS A PARTY JOINED BY LESLIE ENTITLE HIM TO TESTIFY, TO ARGUE THE LAW AND FACTS AND TO OTHERWISE PARTICIPATE IN THE PROCESS OF THE CASE?

> **12. On numerous occasions (too numerous to count) during the tortuous history of the custody dispute respondent asserted his personal opinions and/or feelings about the justness of court rulings, the truthfulness of witnesses, opposing counsel and reports of court conselors (as he continued to do during this disciplinary proceedings).**

258. **DR 7-106(C)(4). Trial Conduct** covers and refutes this allegation.

259. It is important to note JUDGE NORRIS gave no examples nor law.

260. However the rule allows CHARLES to do the following as a lawyer:

> ...A lawyer...may argue, on his analysis of the evidence, for any position or conclusion with respect to the matters stated therein.

261. Add to that the fact that CHARLES is a party to the suit and there would appear to be great latitude in both arguing and testifying.

262. As to what CHARLES did before JUDGE NORRIS, we have a lawyer/party being asked in effect what he did, why he did it, and his justification for doing it, so it would be difficult for example to not show from the record and personal testimony that CHARLES was jailed for contempt because TABIO lied to JUDGE V. EVANS (Note ano-

ther relevant lie against and not by the WISHARTS, proof again of the "Judge not" principle) about the motions directed against the JUDGEMENT having already been disposed of so that the JUDGEMENT was rendered when it was not so that CHARLES once again went to jail without cause and was then released (TR1 VII pg. 196 l. 22 to pg. 197 l. 15).

263. There really has been a great deal of abuse of the truth in this case, but when a lie sends you to jail, as has happened twice, then it is the explanation of why you went to jail and then were released and exonerated that makes the telling important.

264. CHARLES works hard to get the facts straight, and as well the law as the record should show, and it is improper to call a man a liar unless it is provable and relevant, and in this case the allegations made by CHARLES are both.

13. Throughout the entire time-frame encompassed by the Bar's Complaint respondent deliberately, wilfully and knowingly disobeyed, and counseled others to disobey, orders, and judgements of the Circuit Court of the Thirteenth Judicial Circuit.

265. The two orders are the 2 June 1983 Temporary Order the JUDGEMENT, and the orders and "writs" they spawned, both of which were beyond the Courts jurisdiction or power to issue and are therefore void as a matter of law.

266. Yet the WISHARTS were slow to act each time, and the trigger each time was an inability to be heard to attack the void, voided, unrendered, etc. orders in an orderly manner combined with a medical problem manifesting with TIFFANY.

267. WISHART was given authority and responsibility over TIFFANY in that area (AII: pgs. 201-202) which they have never lawfully lost, and met and are meeting their obligation with whatever the situation required and requires.

268. It is as if the Courts are trying to show how callous they can be as regards TIFFANY and yet prevent the WISHARTS from acting, and now CHARLES is threatened with disbarment for refusing to obey void orders that threaten TIFFANY.

269. It is further suggested that the Court should clean up it's own house so no one will have such difficulty in protecting a child, much less fear of the Courts retaliation.

270. As to the question of counseling "others", it is assumed that great crowd means CHARLES told BOBBIE what his analysis of the legal situation was, but be assured that BOBBIE could not have been dragged before JUDGE RAWLINS and if the law presumes that she was under CHARLES control so as to cause her to give up TIFFANY to LESLIE and the unnecessary surgury, then Shakespeare was right, the law is indeed an ass!

271. Actually CHARLES general advice was to treat the court as it professes to be, even in spite of what was occuring, and trust the Lord to make a way in spite of what the system was doing, for we must follow the law, and resist tyranny.

272. BOBBIE'S attitude is less refined for to quote her is:

> With rare exception the lawyers and judges are crooked as hell, the courts do not serve the best interests of the child, and there is no law.

273. She arrived at this opinion on her own after being subject to the courts personally for the last 5 years, and noting the exceptions, CHARLES must agree in light of the conduct of the Judges from the trial to the Supreme Court to deny that right to protect TIFFANY as the law and facts demand.

> **Respondent pursued a course of conduct knowingly designed to disrupt the orderly process of the judicial system in order to serve his own ends, as he alone defined them.**

274. The orderliness of the system has been discussed, but how is CHARLES serving his own ends, a charge of selfishness, for wherein is CHARLES profited?

275. CHARLES of course does see a need for people everywhere to stand up to tyranny, but there is seldom profit to the martyrs, for this case has gone on for over 5 years at great expense, stress, abuse and the like and that with little redress.

276. Where is the profit?

Whenever confronted with an adverse judicial determination, respondent invented reasons to classify the adverse ruling, order, or judgement as "void" thereby permitting him, in his own mind, to ignore the ruling, order, or judgement with impunity.

277. CHARLES would show that every order, or it's spawn, that was declared void by him, was eventually overturned, reversed, or supplanted as being contrary to law.

278. That left a large number of orders intact that were not attacked.

279. CHARLES would suggest that perhaps more study as to the limits on to the civil suit which is now before the Supreme Court of Florida, Case No. 71,370 wherein the abuses in the Family Law are documented with suggestions as how to fix them.

280. CHARLES would also point out that the oath was to

> ...support the Constitution of the United States and the Constitution of the State of Florida.

281. If refusing to give up a child placed in their care by the father for safekeeping without so much as an opportunity to speak for that child is an abuse of CHARLES oath, perhaps that oath should be reexamined, for I think here we have the difference between THE BAR, JUDGE NORRIS and CHARLES.

282. CHARLES main thrust has been that the Constitutions were violated, that procedural due process of law failed, and rather than correct the problem as soon as CHARLES complained, the Courts rallied to thwart WISHART in attempts to be heard.

283. CHARLES and BOBBIE as well would suggest having been through this process, time and again, but with the skill to survive time after time, they are in an excellent position to determine how the system works and where and why it fails.

284. The pleadings are repleat with CHARLES suggestions to improve the system, and CHARLES would suggest that rather than defending a system that is in trouble, it would be better to examine its victims, including the WISHARTS and TIFFANY, to try to fix it, before others less civilized and disciplined than CHARLES comes along and we have total

anachy in our streets and the findings reported in The Fla. Bar Jour. Vol. LXI, No. 10, November 1987, page 11, article entitled **"Family Law Judicial System, Indictment from within"**, (AIII: pg. 464) for clearly the system is broken, and resistance to WISHART who is trying to help, by defending TIFFANY and the law is counter productive for tyranny is destroying our homes, our children, and slowly our society, and only Courts of the highest intgrity can reverse the problem, wherein citizens know they have recourse to justice for the redress of wrong.

His overall defense that he was only motivated by the necessity to protect Tiffany from harm, real or imagined, is rejected in its entirety.

285. The WISHARTS' duty was to TIFFANY and they meet it as well as they can.

286. TIFFANY was and is in trouble, and the Courts will not help.

287. I would suggest that JUDGE NORRIS has very little understanding of what it is that motivates CHARLES, but has shown what drives him, to be found a faithful defender of his fellow judges who have made mistakes, and that to the destruction of the law.

288. CHARLES is determined to protect TIFFANY.

289. CHARLES is also curious to learn whether there is any law left, for this proceeding is making CHARLES understanding of the law relating to the limits of the Courts power, which the people trying CHARLES have probably never studied in depth, a matter for disbarment, because CHARLES does not agree with them or JUDGE NORRIS.

290. How can a difference as to what the law is, especially since CHARLES has won each round but the last, be grounds for his disbarment, and how can his defense of the Constitutions and their limits on the Judges, be a violation of his oath?

291. Shades of Star Chambers indeed with a smattering of Alice in Wonderland:

Off with his head!

292. CHARLES is well aware that covering things up rather than making them work is a waste of time, and he is well aware of what his actions are directed to do, to ex-

pose, so far only within the system, the abuses with the end of correcting them before more families and children in particular are hurt.

> **14. Respondent's attitude toward the law and toward the judicial system generally can be gleaned from an examination of just one of his 185 exhibits, Respondent's 121-A, an amazing 246 page document entitled "Complaint for Declaratory Judgement, Equitable, and other Appellate Relief, " Charles E. (Sic) Wishart et al v. The Honorable Joseph A. Boyd, Jr., et al, Case No. 85-603-Civ-T-13, United States District Court, Middle District. I, of course, do not expect the Court to plow through all of the respondent's 185 exhibits (consisting of 1,471 pages) or to read the 994 page transcript, however, I urge the Court to review Respondnent's 121-A in order to fully understand the recommended discipline contained in paragraph D below. This exhibit alone demonstrates respondent's unfitness to continue as a member of the Florida Bar.**

293. It is interesting to compare CHARLES attitude, his respect for law and disdain for the present system, as against the BAR'S, and JUDGE NORRIS' attitude which is the reveerse, hatred for the law and love of the system of which he is a principle officer, so that he can unashamedly recommend CHARLES should be disbarred because of the attitude reflected in the above cited pleading proves he is unfit.

294. That document came into being over a period from the 5th day of March 1985 to the 5th day of April 1985 when that suit was filed and had one end, to allow the WISHARTS to stand before a court and be heard, to give testimony, law and evidence as would overturn JUDGE MENENDEZ' JUDGEMENT and the orders and writ it spawned.

295. The JUDGEMENT had been entered into the record but was not rendered, and more importantly, it was void ab-initio since the matter was tried while the pleadings were not at issue.

296. Forget that a major witness who had written several social reports was in a hospital under subpoena and could not come, the JUDGEMENT was void.

297. Such a fact has little practical value until it can be implemented and CHARLES set a hearing to address his motions against the JUDGEMENT.

298. When JUDGE D. EVANS walked out of his courtroom on the 5th of March (A: pgs. 445-463) BOBBIE was entitled to the primary residency of TIFFANY since the JUDGEMENT was void and could not effect her temporary primary residency status.

299. But JUDGE D. EVANS served CHARLES with a writ with no return or rule to show cause ordering the HCSO to enforce the void and unrendered JUDGEMENT as though it were valid, while refusing to hear the WISHARTS.

300. It is like shutting the door and turning the dogs loose (no disrespect to the HCSO who were respectful and courteous), you don't exactly feel welcome.

301. It was a clear option, submit to tyranny or run the appellate process.

302. The 2d DCA denied WISHARTS petition for a common law certioari writ with no opinion, which costs 10 days of work.

303. An attempt to invoke the inherent powers vested in the Supreme Court failed.

304. Having exhausted the workable appellate remedies in the State, CHARLES turned to the Federal Civil Rights Actions.

305. The entire thrust was that you cannot take a child away unlawfully and then enforce the void order with the Sheriff who has a duty to take the child by force and put her back into a harmful environment, and then close the Courts doors, on the premise that the void JUDGEMENT is valid, and thereby cause the WISHARTS in this case to become fugitives, searching for a court that would open it's doors to the WISHARTS so that then could be heard and be officially restored to their lawful status.

306. By the time CHARLES filed this suit, he had gotten his research done well enough that it has stood up to the present, so CHARLES was confident enough to walk through the Hillsborough County Court House, dealing with a clients matters when he was served with of all things but a rule to show cause for contempt (AII: pg. 368).

307. Happily he accepted it, went to the hearing it provided before JUDGE V. EVANS, and was exonerated, since inter-alia the JUDGEMENT was not rendered.

308. Thereafter, WISHART filed their appeal and reversed the JUDGEMENT.

309. CHARLES attitude is no doubt manifest in all of his pleadings but what is it that JUDGE NORRIS would have us find.

310. CHARLES sues judges.

311. The first suit CHARLES ever filed was in the 60's against JUDGE CALHOUN, then in City Traffic Court, Tampa, for failing to grant a suppression motion.

312. CHARLES won, and he and the Judge became good friends.

313. There were extenuating circumstances in that suit as well that we won't go into in this pleading, but CHARLES was simply practicing law and defending and protecting his client and the constitutions.

314. Perhaps CHARLES has sued Judges who have violated the law and they are afraid of a law suit, for why else will they not acknowledge that CHARLES is right, they made a mistake, and that mistake should be corrected?

315. The suit in question was for equitable relief to reopen the Court.

316. Perhaps it is a fact that JUDGE NORRIS feels that his judges should be allowed to do anything they want, and CHARLES tactics, in requiring them to follow the procedural and substantive aspects of the law, at least where TIFFANY is concerned is too much a burden for the Courts, where quick administration and disposition of large dockets is the measure of a good judge and not the quality of decisions.

317. Perhaps, the activities of the Courts cannot stand too much scrutiny and CHARLES is exposing the judges feet of clay, just perhaps.

318. To all of that CHARLES would say, adherance to finding the truth, applying the law wisely on a case by case basis, by restoring the respect for the ethical values our

law is based upon as stated in **Treaty of Amity, Settlement and Limits, Article V,** between the United States of America and His Catholic Majesty, dated February 22, 1822 (AIII: pg. 507), **Treaty of Friendship and General Relations, Article IV,** between the United States and Spain, dated July 3, 1982 (AIII: pg. 508), the **U. S. Const. Article VI, Treaties- Supreme Law of Land** (AIV: pg. 951), **King v. Daniel,** 11 Fla. 91, 99 (1864-5) (AIII: pgs. 484-488), **Randolph v. Randolph,** 1 So.2d 480, 481 (Fla. 1941)(AIII: pgs. 489-490) and, **State ex rel. Singleton v. Woodruff,** 13 So.2d 704, 705, (Fla. 1943)(AIII: pg. 491 -494), by stopping the court and running to the front steps when someone even whispers that a child is at hazard would do wonders for the Courts image and would preserve our freedom as well.

319. CHARLES loves the law, and the Christian ethical values underlying that law, and these abusive practices contrary to that law and those values have to stop.

320. Handling rather than serving people has produced the anarchy in our streets.

321. It is after all CHARLES that is contending for the law not the BAR, nor JUDGE NORRIS, for his very allegation above was that CHARLES had sworn to uphold the "system", rather than the Constitution showing the difference between them.

322. At least CHARLES tried.

323. Where are the others?

C. Recommendation as to Whether or Not the Respondent should be found Guilty:

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility:

DR 1-102(A)(4) (Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation);

324. There is no evidence as to what CHARLES knew as to the where BOBBIE and TIFFANY were, the evidence shows he did not know, and the presumption is that

CHARLES is truthful until proven otherwise, and since all of his accusers have lied that may take some doing.

325. Presumption without proof is rather thin ice to call a CHARLES a liar.

DR 1-102(A)(5) (Engage in conduct which is prejudicial to the administration of justice);

326. If it is prejudicial to justice to compel the Courts to follow the law and rules then CHARLES needs to be directed to the Court of Law for he has apparently fallen in among brigands and not a system of justice.

DR 7-102(A)(1) (File a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another);

327. The invocation of this DR smells a sham, and while the Bar's complaint is a sham, notwithstanding the outcome, nevertheless, it appears that CHARLES has prevailed in each endeavor but as always the last for he has been right all along.

DR 7-102(A)(3) (Conceal or knowingly fail to disclose that which he is required by law to reveal);

328. As has been discussed, CHARLES had no duty to disclose, as he was still pursuing his appellate remedies when he was before JUDGE RAWLINS, and in any case he did not know where BOBBIE and TIFFANY were, but only where he left her and had no reason to believe she would still be at the store, or would allow herself to be found until her due process right to be heard was assured, so not only would he not but he could not disclose their location.

DR 7-102(A)(7) (Counsel or assist his client in conduct that a lawyer knows to be illegal or fraudulent);

329. JUDGE KNOWLES de nova'd his order, JUDGE STEINBERG gave TIFFANY to BOBBIE at the first heaing they were allowed to participate in over the custody ques-

tion, JUDGE V. EVANS released CHARLES from the contempt charges while he was refusing to obey the void JUDGEMENT on the ground that it was not rendered and was thus unenforceable, and the 2d DCA reversed the JUDGEMENT, which is rather good ratification of what CHARLES was "counseling" to whoever would listen.

> **DR 7-106(C)(4) (Assert his personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocense of an accused; but he may argue, on his analysis of the evidence, for any position or conclusion with respect to the matter stated herein);**

330. CHARLES was a party, so that what the lawyer could not do, the party could.

> **DR 7-106(C)(6) (Engage in undignified or discourteous conduct which is degrading to a tribunal); and**

331. JUDGE V. EVANS testified as to CHARLES demeanor (VII: pg. 183 l. 1 to pg. 184 l. 6, and pg. 212 l. 23 to pg. 214 l. 1).

332. JUDGE RAWLINS also testified as to CHARLES demeanor (VI: pg. 120 l. 16 to pg. 124).

333. From the two it would appear that CHARLES shows proper courtesy to the Judges but contends strongly for his position as is his right.

334. The DR would be more directed to cursing a judge, or other rude or threatening conduct for CHARLES is allowed to argue and prove his case.

> **DR 7-106(C)(7) (Intentionally or habitally violate any established rule of procedure or of evidence.**

335. It is the Judges who have violated the rules and not CHARLES.

D. Recommendation as to Disciplinary Measures to be Applied:

I recommend that respondent be disbarred.

336. If this license does not allow this attorney to compel the Courts to follow the law, the rules, and to inter-alia protect a granddaughter then there is no more law left and this attorney may as well be disbarred for the license is useless, other than as a

means to make money while telling your clients "It is wrong but there is nothing you can do about it."

337. However, with the civil side and this matter both before the Supreme Court we will soon learn whether there is law or tyranny ruling this land and CHARLES would say that the outcome is far from clear, since at this stage the Supreme Court is attempting to restore visitation rather than temporary primary residency, has ignored the conflict between **Ryan v. Ryan,** 277 So.2d 266 (Fla. 1973)(AIII: pgs. 476-482) and **Johnson v. Johnson,** 284 So.2d 231 (Fla. 2d DCA 1973)(AIV: pg. 734) over the clean hands doctrine regarding fraud and deceit, which would have long ago had LESLIE expelled from CHANCERY with the WISHARTS having full custody.

338. Again, it is imposible to prove LESLIE unfit, not for want of evidence, but rather because HRS declines to make moral judgements in their reports because that would be "...imposing religion on people in violation of separation of Church and State."

339. If as is now apparent, there are no moral value left, contrary to law, and with no moral yardstick left to judge wisely, there is no law, and that is the root of this protracted litigation the courts have subjected the WISHARTS to, and one might well speculate how many have given up in despair.

E. Personal History and Past Disciplinary Record:

After finding of guilt and prior to recommending discipline, pursuant to Integration Rule 11.06(9)(a)(4), and Rule 3-7.5(k)(4), Rules of Discipline, I considered the following personal history and prior disciplinary record of the respondent, to wit:

(1) Age: 52 years old

(2) Date Admitted to Bar: May 23, 1966

(3) Prior Disciplinary Record: None

(4) Mitigating Factors: No prior disciplinary record

(5) Aggravating Factors:

a) **dishonest or selfish motive;**

b) **a pattern of conduct;**

c) **refusal to acknowledge wrongful nature of conduct;**

d) **substantial experience in the practice of law; and**

e) **respondent intentionally violated several court orders, a writ of Habeas Corpus and a Final Judgement.**

340. CHARLES would hope that just perhaps we ought to stop all of this and carefully examine just what it is we are protecting as would cause the Bar and one of the Chief Judges to recommend disbarment for an attorney who set out to protect his granddaughter, was not willing to accept the guidelines settled upon the Family Law System, used his skills to expose it, and as well to protect that grandaughter, such that he is now being disbarred for attacking and reversing void orders as is his sworn duty.

341. The Supreme Court portion of this same set of issues, Case 71,370 should also be examined, for if you lose this attorney, no one else will try, and yet this case cuts to the very heart of the legal system, a free and independant attorney, able and willing to withstand tyranny, and direct attention to a system that is destroying our families.

F. Statement of Costs and Manner in Which Costs Should be taxed:

I find the following costs were reasonably incurred by the Florida Bar:

1. **Grievance Committee Level**

a) Administrative Costs$	150.00
b) Court Reporter Costs	2,122.00
c) Staff Investigative Costs	1,068.70

2. **Referee Level**

a) Administrative Costs	150.00
b) Court Reporting Costs	4,244.30
c) Bar Counsel expenses	127.38

d) Referee Expenses 172.80

ESTIMATED COSTS TO DATE: $ 8,035.18

It is apparent that other costs might be incurred in the future, if further proceedings are necessary in this matter. It is reccommended that such future costs, together with the foregoing cost be charged to the respondent and that interest at the statutory rate shall accrue and be payable beginning thirty (30) days after the judgement in this case becomes final unless a waiver is granted by the Board of Governors of the Florida Bar.

Dated this 9th day of June 1988.

/s/
William A. Norris, Jr.
Referee

342. Clearly the BAR who has perpetrated this sham, with all too much help from the Courts has no right to costs, and it is the WISHARTS that should be awarded costs including a reasonable attorney's fee pursuant to **Section 57.105, Fla. Stats. (1983)** since there is no justiciable question of law of fact present, the BAR other than citing the DR'S they modified with no evidence and certainly no law as would refute CHARLES positions, and these facts leads us to the last question.

QUESTION XIV

IF CHARLES IS TO BE DISCIPLINED FOR HIS COMPETENCE AS A LAWYER THEN SHOULD NOT THE JUDGES THAT HAVE DENIED HIM AND HIS WIFE THE PROTECTION OF THE LAW BE IMPEACHED?

343. The WISHARTS followed their Christian imperative stated in **The Holy Bible, K. J. V., I Peter 2:13-16** which reads:

> 13 Submit yourselves to every ordinance of man for the Lord's sake: whether it be to King, as supreme;
>
> 14 Or unto governors, as unto them that are sent by him for the punishment of evildoers, and for the praise of them that do well.
>
> 15 For so is the will of God, that with well doing ye may put to silence the ignorance of foolish men:

16 As free, and not using your liberty for a cloke of maliciousness, but as the servent of God.

17 Honour all men. Love the brotherhood. Fear God. Honour the king.

344. The WISHARTS were given and exercised their responsibilities to TIFFANY (AII: pgs. 204-206 and Cf. pg. 203) but the Court knows this.

345. Since WISHARTS' law has not been refuted by contrary cites, but only by allegations and "findings" without cites, it may be presumed to be impeccable.

346. The preceeding analysis shows how and why TIFFANY was kept from the WISHARTS unlawfully, by deceit, fraud, and tyranny used to protect a broken system rather than to attempt to try to repair it as CHARLES, required by his **Oath of Amission** by the following **Fla. Bar Code of Prof. Resp., Preamble, and Canons 1, 4, 5, 6, 7 and 8,** and by his Christian principles, has tried to do.

347. Throughout, CHARLES has counseled BOBBIE to trust God, and submit to the system as unto the Lord, and that during a time when the counsel was "It is wrong, but there is nothing you can do.", "You must face reality.", etc..

348. WISHART submitted to the system, were denied hearings, the fruits of their victories were perverted, the Supreme Court has, on the 8th day of November 1988, denied the Wisharts' "Motion for Rehearing" in the companion case of **Wishart v. Bates,** Case No. 71,370, thereby depriving them of their lawful status as guardians of TIFFANY, with the only explanation, it is easier to deny justice to the WISHARTS than to offend fellow judges, to set the family courts straight by restoring the "Christian Ethical System", the clean hands doctrine, thus reconciling the conflict between **Ryan v. Ryan,** 277 So.2d 266 (Fla. 1973), and**Johnson v. Johnson,** 284 So.2d 231 (Fla. 2d DCA 1973).

349. Would not impeachment be an appropriate means to address what the Courts will or cannot, or are incapable of doing, namely justice.

CONCLUSION

350. The law is and the facts, as opposed to JUDGE NORRIS' conclusions, are settled, JUDGE KNOWLES' Order was void ab-initio as was the "Final Judgement".

351. At the time CHARLES opposed the 1 June 83 Order, after JUDGE KNOWLES found t+ and even if found valid later could not be enforced va.

352. At the time CHARLES opposed the JUDGEMENT, it was unrendered.

353. The various violations of DR'S charged against CHARLES are peversions of the true purpose of those DR'S and other DR'S modify them to allow CHARLES' acts.

354. CHARLES did not lie, and the one's accusing him did without evidence.

355. The system has failed, BOBBIE and CHARLES must be the scapegoat.

356. Rubin Ellis went to jail for refusing to violate his Oath of Admission, The Fla. Bar News, September 15, 1987, Article Entitled **Perjury Rule Is Debated,** and CHARLES went to jail and is now being disbarred for refusing to obey void orders as put TIFFANY in imminent danger, and no attorney worthy of that appellation should do otherwise.

357. If this is not the tyranny defined by Blacks Law Dictionary, 4th Ed. pg. 1689, **TYRANNY** what is?

358. It is interesting to note when CHARLES looked to the option of impeachment the idea is not given much hope, partly because of the political nature of our courts and the BAR and most particualarly because should the judges be impeached, those who replace them will be worse that what we have.

359. God led men are uncommon in our day.

360. Clearly what we need is a spiritual revival, before it is too late, and the question is will the courts not come along?

361. Of what value is a license to practice law, if the courts refuse to follow the law, the answer money and prestige is inadequate for those who love the law and liberty.