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In The Lake Circuit Court

Sitting at Crown Point, Indiana

Rodney A. Logal and Zena Crenshaw-Logal, Husband and Wife, *Pro Se* and as Relators for the State of Indiana, ***Plaintiffs,***	)	FILED IN CLERK'S OFFICE 2015 SEP 24 PM 3 06 MICHAEL A. BROWN CLERK LAKE CIRCUIT COURT
-vs-	)	Cause # 45C01-1507-PL-00063
Lake Superior Court, Small Claims Division III and the Honorable Julie N. Cantrell as its Judge and Michael N. Pagano as her Magistrate, ***Defendants.***	)	

Plaintiffs' Verified Response to Defendants' Amended Motion to Dismiss

Come now the Plaintiffs, *Pro Se* and as Relators for the State of Indiana, and say as follows in response to the defendants' Amended Motion To Dismiss filed in the above captioned proceeding on September 18, 2015 and received by said Plaintiffs on September 21, 2015:

1. In testing the legal sufficiency of this Action for Mandate, the defendants challenge this Court's authority to consider the matter, but do so in disregard of Indiana's rules of statutory construction.

Exactly five (5) months and two (2) days ago, the Court of Appeals of Indiana reconfirmed that '(w)hen a statute has not previously been construed, our interpretation is controlled by the express language of the statute and the rules of statutory construction.' *See, M.M. v. State*, 31 N.E. 3d 516 at 519 (2015 Ind. App.) quoting *State v. Prater*, 922 N.E.2d 746 at 748 (Ind. Ct. App. 2010), *trans. denied.* Of course the 1971 predecessor to Indiana Code §34-27-1-1 *[Actions for mandate; procedure]* pursuant to which this case is prosecuted in conjunction with Indiana Code §34-27-3, *et seq. [Actions for Mandate]* and Indiana Code §33-28-1-5 *[Circuit Court Powers]*, has long been determined to give "the

circuit, probate and superior courts authority to grant mandamus relief as in other civil actions upon complaint and summons." *See, Goshen City Court v. State*, 287 N.E.2d 591 at 594 (1972 Ind. App.). The defendants do not, as it appears they cannot, quote any statute or case law specifically providing what they claim — "(w)rit of mandate authority . . . is reserved to the Indiana Supreme Court". *See, Dfts' Mtn to Dsms Memo, p 4*.

'If a statute is susceptible to multiple interpretations, we must try to ascertain the legislature's intent and interpret the statute so as to effectuate that intent.' *M.M. at 519*. 'We review the statute as a whole and presume the legislature intended a logical application of the language used in the statute, so as to avoid unjust or absurd results.' *Id*. Yet the defendants would have us conclude that Indiana's legislature meant nothing by its latest iteration of I.C. §34-27-1-1 *[Actions for mandate; procedure]* and Indiana Code §34-27-3, *et seq*. *[Actions for Mandate]*, and that the provisions should just be ignored. *See, Dfts' Mtn to Dsms Memo, p 4*.

Of course the defendants concede that at least Mr. Logal can appeal[1] their determinations to "the Court of Appeals or the Supreme Court". *See, Plaintiffs' Exhibit 3, attached hereto and incorporated herein by reference*. Certain ends are undoubtedly served by

[1] "Rule (AP. 17. (A)., formerly) AP. 2(B) provides that all parties of record in the trial court shall be parties on appeal. (Presumably without regard as to whether a motion to correct errors was filed as to all parties.)" *See, State ex rel. Murray v. Estate of Heithecker*, 333 N.E.2d 308 at 616 (1975 Ind. App.). A party determined by a trial court to lack standing may, nonetheless, appeal the ruling. *See, Clark County Drainage Bd. v. Isgrigg*, 963 N.E.2d 9 at 10 (2012 Ind. App.) – "The Drainage Board raises three issues for our review, which we restate as follows: 1. Whether Isgrigg had standing in his official capacity as Clark County Surveyor to seek a declaratory judgment of his statutory rights and obligations vis-à-vis the Drainage Board with respect to two Drainage Board projects". Yet on September 15, 2015, the defendants' ruled as follows: "The Wilsons' Motion to Strike the Motion to Correct in so far as the Motion to Correct pertains to Ms. Crenshaw-Logal, who was found to be without standing, is meritorious; thus, the court GRANTS the Wilsons' Motion to Strike, in this regard." *See, Plaintiffs' Exhibit 3*.

a "rule anything and let them appeal" approach to the Logals' procedural and substantive rights, but as to this case, such goals diverge from Indiana's law on statutory construction. "An action for mandate may be prosecuted against any inferior tribunal, corporation, public or corporate officer, or person to compel the performance of any: (1) act that the law specifically requires; or (2) duty resulting from any office, trust, or station." *Indiana Code § 34-27-3-1*. We need not look beyond this language to confirm what the Court's docket suggests which is that subject matter jurisdiction over the Action for Mandate at issue, firmly vested in this tribunal on July 24, 2015. *See, Kennedy v. Town of Gaston*, 923 N.E.2d 988 at 994 (2010 Ind. App.)[2]. In relation to this Lake Circuit Court, "the small claims division of a superior court . . . (is) an inferior court". *See, Buckmaster v. Platter*, 426 N.E.2d 148 at 150 (1981 Ind. App.)

2. The defendants are leveraging a potential fraud on this Court to conclude: *"By purposefully choosing not to attend the (small claims court) trial, especially after it became clear that the Circuit Court had not granted an immediate stay as requested, Mr. Logal effectively waived any claims of error."*

The defendants proclaim that "the true purpose of (this) *Action for Mandate* was to stop the small claims trial in the Wilson lawsuit". *See, Dfts' Mtn to Dsms Memo, p 5*. They elaborate: "(i)nstead of appearing for trial, Mr. Logal elected to wait approximately 12 weeks and then file this action on July 24, 2015, the eve of trial." *Id. at 6*. Noting that "(t)he Lake County Circuit Court took no action on the *Action for Mandate*", the defendants conclude that "the Wilson lawsuit remained under the jurisdiction of Lake Superior Court

[2] In *Town of Gaston*, the appellate court considers the clear language of a statute to determine whether it did or did not bestow subject matter jurisdiction. *Gaston at 994*.

during this time frame." *Id*. According to the defendants, "to the extent that Petitioners wish to 'stop' or 'put on hold' events that have already taken place, such as the bench trial of August 3, 2015 and subsequent entry of judgment, the Petitioners' claims have been rendered moot." *Id*.

Contending that this case is moot not only disregards all of what the defendants were apprised by the Logals' aforementioned Motion to Correct Errors — *See, Plaintiffs' Exhibit 4, attached hereto and incorporated herein by reference* — the assertion also harkens to an "unconscionable plan or scheme"; quite possibly a fraud on this court. *Cf., Stonger v. Sorrell*, 776 N.E.2d 353 at 357 (2002 Ind.). Key events and considerations are detailed by Plaintiffs' Exhibit 5, attached hereto and incorporated herein by reference. *See, Plaintiffs' Exhibit 5*. The document is an un-initiated Action for Mandate against this Court's Administrator *(hereinafter, Goldman AFM)* that was rejected and never filed by the Clerk of this Court, reportedly upon the instructions of Chief Executive Marilyn Herniak, when tendered for filing by the Logals on or about July 22, 2015. *See, Plaintiffs' Exhibit 5*. That day, Mrs. Crenshaw-Logal spoke with attorney Pelley (previously misidentified by a deputy clerk as "Attorney Lynn Kelly") who acknowledged the error of her related advice, and promised to advise Herniak accordingly. *(Cf., Plaintiffs' Exhibit 5, p 1, ¶2)*. Within a short time on the same day (*i.e.,* July 22, 2015), Herniak left a phone message for Crenshaw-Logal indicating that this lawsuit was filed, and speculating that any need for proceeding with the Goldman AFM was obviated. Yet there are no docket entries for this case before July 24,

2015. *(See, Plaintiffs' Exhibit 6, p 3)*. It appears that no additional action was taken on the matter until "Sum & Compl. Issued" on August 7, 2015. *(See, Plaintiffs' Exhibit 6, p 2)*.

Were this a federal court, the indicated action of its Administrator and Chief Executive, Martin Goldman and Marilyn Herniak, would be reminiscent of crimes proscribed by Title 18 USCS §§ 1506 *(Theft or alteration of record or process)* and 2071 *(Records and Reports - Concealment, removal, or mutilation generally)*. The activity may instead constitute "Obstruction of justice", an Indiana state crime. *See, Indiana Code §35-44.1-2-2(a)(3)*. There would be little consolation should the referenced conduct have merely usurped certain judicial and county attorney functions. In any event, Goldman's and Herniak's tampering squandered ten (10) days of progress in this litigation as of its July 13th commencement.[3] Then another fourteen (14) days elapsed for reasons undisclosed by the record *(See, Plaintiffs' Exhibit 6)*, supplying what the defendants posit is an end-run around the Logals' proverbial day in this Court. *See, Dfts' Mtn to Dsms Memo, p 5*.

The Logals submit to this Court and resubmit to the defendants that the defendants "erred in proceeding to trial . . . on August 3, 2015 when subject matter jurisdiction to determine (the propriety or impropriety of doing) so without first ascertaining the presence or lack of good faith controversy attendant to the (small claims) matter pursuant to Indiana Trial Rule 56 was vested exclusively in (this Court)." *See, Plaintiffs' Exhibit 4*

[3] "A civil action is commenced by filing with the court a complaint or such equivalent pleading or document as may be specified by statute, by payment of the prescribed filing fee or filing an order waiving the filing fee, and, where service of process is required, by furnishing to the clerk as many copies of the complaint and summons as are necessary." *Ind. T.R. 3.*

(attached hereto and incorporated herein by reference), pp 1-3. But it is far from 'tangential to the true issues' that the Lake County, Indiana Court Clerk and Sheriff took the better part of a month, extending days beyond August 3, 2015, to perfect this Court's personal jurisdiction over the defendants.[4] Whatever may the source of corresponding malfeasance — whether it be felonious intent, impermissible prejudgment, and/or negligence — the defendants have leveraged it to conclude: "By purposefully choosing not to attend the trial, especially after it became clear that the Circuit Court had not granted an immediate stay as requested, Mr. Logal effectively waived any claims of error." *See, Plaintiffs' Exhibit 3*.

3. Subjecting the Logals to a "lose first, ask questions later" case disposition strategy amounts to an impermissible prejudgment of their Action for Mandate at hand or an improper *de facto* appeal of the underlying small claims decisions and consummates a fraud on this Lake Circuit Court.

For weeks, nothing was "clear" to the Logals once they filed the action at hand except that it lapsed into a form of case processing akin to the Bermuda Triangle.[5] The defendants were advised on **September 2, 2015** that it was well after trial; not until "August 12, 2015 (that) the Logals received by U.S. mail all the copies they tendered almost exactly a month earlier of proposed orders for return of summons and stay of lower court proceedings respectively, which items were unsigned and apparently rejected by some unidentified person without explanation." *See, Plaintiffs' Exhibit 4, p 2*. Only then were the Logals certain that at a time and for reasons that to them remain unknown, this Lake Circuit Court rejected their request for expedited service on the defendants and a stay of

[4] *Cf. Stonger at 358 – "Although the trial court called Dr. Gover's report a 'fabrication,' it found (with regard to alleged fraud on the court) that the report was 'tangential to the true issues . . .' and did not 'count for much'."*

[5] Compare Plaintiffs' Exhibit 3 in which the defendants declare: "(b)y purposefully choosing not to attend the trial, especially **after it became clear that the Circuit Court had not granted an immediate stay** as requested, Mr. Logal effectively waived any claims of error." *See, Plaintiffs' Exhibit 3.* (emphasis added).

their relevant small claims proceedings.[6] But the defendants are (or, at least, Magistrate Pagano is) so obviously inclined to disbelieve, discredit, and disregard the Logals that the defendants deemed this case inconsequential on September 15, 2015 — more than a week before this response to their motion to dismiss it was due. *See, Plaintiffs' Exhibit 3*.

Consistent with their penchant to credit the Logals with untoward motives, the defendants note that "Petitioners' **only concern** seems to have been in stopping the August 3 trial." *See, Dfts' Mtn to Dsms Memo, p 6*. (emphasis added). Then the defendants go on to contend that "the Petitioners appear to also seek monetary damages", *Id*., and "to want this Court to reverse Judge Pagano's rulings . . . with such reversal improving their odds of prevailing in the Wilson lawsuit." *Id. at 9*. This preoccupation with the Logals' supposed motives, over and beyond considerations of their respective rights, coupled with the defendants' daunting willingness to SURMISE criminal activity on the part of the Logals *[criminal conversion as to Mr. Logal and the unlawful practice of law as to Mrs. Crenshaw-Logal]* are troubling, and hopefully "below the standard towards which Indiana strives" in the administration of justice. *Cf., Everling v. State*, 929 N.E.2d 1281 (2010 Ind.)

The defendants have quipped: "(r)egardless, (they have) not received an order from Circuit Court directing a stay of (the small claim) proceedings (at issue)." *See, Plaintiffs' Exhibit 3, ftnt 1*. Embracing that sentiment and thereby subjecting the Logals to a "lose first, ask questions later" case disposition strategy amounts to an impermissible prejudgment of their Action for Mandate at hand or an improper *de facto* appeal of the

[6] The ruling is not reflected on the docket sheet for this action. *See, Plaintiffs' Exhibit 6.*

underlying small claims decisions and would consummate a fraud on this Lake Circuit Court. "(T)he (Lake Circuit) trial judge, we are bound to presume, has calmly and impartially reviewed (this case), **after having heard it all**, with the . . . means of observing the manner and appearance of the witnesses, and all other circumstances of the trial likely to aid in correctly weighing the evidence". *State ex rel. Winslow v. Fisher*, 37 N.E.2d 280 at 283 (1941 Ind. App.) (emphasis added). Should the criminal, unethical, and/or negligent conduct of court administrators and/or officers (whether court and/or law enforcement officers) serve to defeat that presumption, their activities will have had an unacceptable "influence on the trial court's decision" – *Cf. Stonger at 359* – and "infring(ed) upon the integrity of the judiciary", thereby consummating a fraud on this Lake Circuit Court. *See, Jahangirizadeh v. Pazouki*, 27 N.E.3d 1178 at 1184 (2015 Ind. App.)

Given the referenced case tampering, protracted service of process, and the defendants' interim trial without the Logals, this Lake Circuit Court is poised for an after-the-fact rejection or affirmation of the defendants' otherwise conclusive preclusion of summary judgment proceedings initiated by the Logals. *See, Plaintiffs' Exhibit 3*. Were that predicament the intended consequence of this Court denying the Logals' request for expedited service upon the defendants and a stay of their related proceedings, such a ruling would belie the presumption of judicial impartiality that has long been part of Indiana jurisprudence. *See, Winslow at 283*. Should the mishap be, instead, an innocent byproduct of human frailty and error, it could nonetheless trigger an improper *de facto* appeal of the defendants' otherwise conclusive preemption of summary judgment proceedings initiated by the Logals.

4. "(C)ertain types of constitutional violations *(such as disregarding Indiana Trial Rule 56 and, instead, insisting that Mrs. Crenshaw-Logal defend her standing during an impromptu hearing and that Mr. Logal answer for an alleged criminal conversion through a predictably hurried and/or disjointed recitation of intricate facts, presentation of detailed documents, and consideration of law)* **deprive a court of the authority to exercise its jurisdiction."**

An ". . . 'action for mandate cannot be employed to adjudicate and establish a right or to define and impose a duty'." *Harmony Health Plan of Indiana v. Indiana Dep't of Admin.*, 864 N.E.2d 1083 at 1089 (Ind. Ct. App. 2007). "Mandamus is not proper unless a party has a clear and unquestioned right to relief and the respondent has failed to perform a clear, absolute, and imperative duty imposed by law." *Id.* The Logals accordingly petitioned this Court to confirm that they have such a right — not to control the outcome of, but precipitate the summary judgment proceedings of Indiana Trial Rule 56 in the course of the defendants' relevant pre-trial considerations. *See, Logals' AFM, Cmplt.*

Without citing authority, the defendants assert that the "Petitioners are not entitled to an absolute right to summary judgment proceedings in a small claims case, and can offer no case law or statutory authority to support such a claim." *Dfts' Mtn to Dsms Memo, p 11*. "While Indiana has separate rules for small claims cases, the general proposition is that the Rules of Trial Procedure apply in small claims court unless the particular rule in question is inconsistent with something in the small claims rules." *Bowman v. Kitchel*, 644 N.E.2d 878 at 879 (1995 Ind.). Summary judgment proceedings are **not** abbreviated trials — a fact that calls into question any preemption of them pursuant to provisions on the conduct of trials such as S.C. 8.(A). *See, Dickerson v. Strand*, 904 N.E.2d 711 at 715 (2009 Ind. App.) and *Cf, S. C. 8.(A)*. Moreover, '(t)he function of a summary

judgment proceeding is to **expedite** the disposition of disputes in which there is no genuine issue of fact material to the claim involved and a party is entitled to judgment as a matter of law.' *Gaboury v. Ireland Rd. Grace Brethren, Inc.*, 446 N.E.2d 1310 at 1312 (1983 Ind.) (emphasis added). Preempting summary judgments hardly serves the defendants' "objective of dispensing speedy justice between . . . parties according to the rules of substantive law". *Cf, S. C. 8.(A)*.

"'Although a rule adopted by the Supreme Court is not a statute, it has the same binding force as any formally promulgated statute,' and thus when we interpret rules of court 'we follow the same rules of construction as when we interpret statutes'." *YTC Dream Homes, Inc. v. DirectBuy, Inc.*, 18 N.E.3d 635 at 642 (2014 Ind. App.). The defendants cite *Niksich v. Cotton*, 810 N.E.2d 1003 (Ind. 2004), for the proposition that Indiana Trial Rule 12(B)(6) motions are "at the limits of acceptable pre-trial motion practice for small claims cases." *See, Plaintiffs' Exhibit 1*. "(I)n deciding what process constitutionally is due in various contexts, the (U.S. Supreme) Court repeatedly has emphasized that 'procedural due process rules are shaped by the risk of error inherent in the truth-finding process'." *Carey v. Piphus*, 435 U.S. 247 at 258 (1978).

The defendants are adamant that Plaintiff Rodney A. Logal incriminate himself at trial, a much less structured context than summary judgment proceedings, or be deemed guilty of criminal conversion (among other claims) by default. *See, Plaintiffs' Exhibit 3*. "(W)here a (civil or criminal) proceeding seeks to impose a criminal or quasi-criminal sanction upon an individual . . . the Fifth Amendment (privilege against self-incrimination

is) applicable". *State ex rel. Kiritsis v. Marion Probate Court*, 381 N.E.2d 1245 at 1247-1248 (Ind. 1978). Under present circumstances, the privilege would not be preserved by Mr. Logal having an attorney and/or his wife at trial.[7]

When one or more parties before them undertake to establish that there is no genuine issue of fact material to the claim(s) at issue and they are entitled to judgment as a matter of law, Indiana Trial Rule 56 "specifically requires" the defendants to ascertain the presence or lack of good faith controversy attendant to the matter through certain pre-trial proceedings; actions that may be in lieu of trial. *See, Ind. T.R. 56* and *Cf, S. C. 8.(A)*. Mr. Logal and Mrs. Crenshaw-Logal triggered this process **in regard to an alleged tort**, *i.e.* abuse of process. *See, Logals' AFM, Cmplt.* Yet the defendants obsess "that Crenshaw-Logal was not in privity with the contract with the Wilson defendants, was not named as defendant in the (oral contract-related) counterclaim, and she could only show herself to be someone with an expectancy or future contingency interest" despite the harm already occasioned for her by the referenced tort. *See, Dfts' Mtn to Dsms Memo, p 11* and *Logals' AFM, Cmplt, p 3, ¶21*.

"When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." *See, T.R. 56 (E).* "(C)ertain types of constitutional violations *(such as disregarding Indiana Trial Rule 56 and, instead, insisting*

[7] Asserting "that (Mrs. Crenshaw-Logal's) true purpose is to represent her husband in the Wilson lawsuit . . . despite no longer holding an Indiana law license" is merely scurrilous. *See, Dfts' Mtn to Dsms Memo, p 13*.

that Mrs. Crenshaw-Logal defend her standing during an impromptu hearing and that Mr. Logal answer for an alleged criminal conversion through a predictably hurried and/or disjointed recitation of intricate facts, presentation of detailed documents, and consideration of law) deprive a court of the authority to exercise its jurisdiction." *See, Hornaday v. State*, 639 N.E.2d 303 at 311 (Ind. Ct. App. 1994). "'If there are two reasonable interpretations of a statute (and/or court rule), one of which is constitutional and the other not, we will choose that path which permits upholding the statute (and/or court rule) because we will not presume that the legislature (or Indiana Supreme Court) violated the constitution unless such is required by the unambiguous language of the statute' (and/or court rule)." *See, H.R. v. R.C. (In re D.C.)*, 887 N.E.2d 950 at 958 (2008 Ind. App.) citing *Boehm v. Town of St. John*, 675 N.E.2d 318, 321 (Ind. 1996). It is a path that, unfortunately, the defendants must be compelled to travel.

5. This Court need not await an independent action for fraud on the court to restore the proceeding at hand to a neutral state.

Contrary to defendant Pagano's deduction, the Logals did not "choose" the defendants *(Cf., Plaintiffs' Exhibit 3)*, but were, instead, directed to them by a deputy court clerk.[8] Neither Mr. Logal nor Mrs. Crenshaw-Logal anticipated that Indiana Small Claims Court Rule 8. (A) empowered the defendants to dole out favors and/or preferential treatment[9] not countenanced by **well-established** state and/or federal law; insist on their

[8] Plaintiffs' Exhibit 7 is a copy of pleadings that the Logals intended to file before the Lake Superior Court County Division - Room 2 until they were redirected to the defendants by a deputy court clerk. *See, Plaintiffs' Exhibit 7*.

[9] Certain of the Logals' courtroom opponents were accordingly spared the trouble of producing an expert or even a clearly knowledgeable witness to challenge Mr. Logal's assessment of his car's value and damages in *Logal, et al., v. Wiley, et al*., Cause No. 45D09-1502-SC-00222 before the Lake Superior Court, County Division

(*i.e.,* the Logals') strict compliance with Indiana Trial Rule 56 only to deem the **pre-trial** procedure inapplicable; and regard them as an odd variation of Bonnie and Clyde: an adaptation in which Mr. Logal is a Clyde incapable of making independent business/legal decisions, but who criminally converts One Thousand Dollars ($1,000.00) from his neighbors[10]; tells them about the purported crime after first concealing it, apparently in accord with the criminal intent conjured in his otherwise blank mind; pays to file a related lawsuit which produces nothing for him, but prompts an award for the neighbors of three (3) times the amount that this Logal/Clyde supposedly converted from them, plus legal fees . . . all while he readily accesses the illegal legal services of his wife, Mrs. Logal/Bonnie, who clearly aspires to counsel him out of this calamity which she seems to have in some way facilitated but failed to avert (despite her legal training) and can no longer impact as somehow the corresponding reduction of Mr. Logal's income/assets is not an actionable concern of hers. The defendants may countenance such "unjust or absurd results", but this Court should not. *See, M.M. at 519*.

All rulings, orders, and judgments of the defendants purportedly thwarting or otherwise intended to defy the authority of this Court are void. *See, State ex rel. Curley v. Lake Circuit Court*, 899 N.E.2d 1271 (2008 Ind.) and *See, Plaintiffs' Exhibit 4, p 2 (addressing the defendants' lack of relevant subject matter jurisdiction)*. And this Court need not await an

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III at Crown Point, Indiana. And, of course, this provision was disregarded, precipitating the Logals' present Action for Mandate: "When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." *See, T.R. 56 (E).*

[10] The Logals do not quite understand how Mr. Logal supposedly found himself compelled to give the Wilsons every dime of proceeds from his efforts and expenditures on their behalf, because he purportedly gifted his work and money to clear their land.

independent action for fraud on the court to restore the proceeding at hand to a neutral state. *Cf., Jahangirizadeh at 1183-1184*. A circuit court may "(m)ake all proper judgments, sentences, decrees, orders, and injunctions, issue all processes, and do other acts as may be proper to carry into effect the same, in conformity with Indiana laws and Constitution of the State of Indiana." *See, I.C. §33-28-1-5*. The defendants usurped this reviewing court's function through a *de facto* determination that the Lake Superior Court, Small Claims Division III was authorized to exercise jurisdiction through trial of the referenced Logals/Wilsons controversy without first ascertaining the presence or lack of good faith controversy attendant to the matter pursuant to Indiana Trial Rule 56. *See, Plaintiffs' Exhibit 3.* To thwart a resulting fraud on this Court, dispel the prospect of impermissible prejudgment in regard to the Action for Mandate at hand, and avoid making any determination attendant to an improper *de facto* appeal of the defendants' preemption of summary judgment proceedings initiated before them by the Logals, this Lake Circuit Court should declare void and of no effect any and all action, rulings, and the like based on and/or pursuant to the defendants' usurpation of this Court's authority upon commencement of the above captioned Action for Mandate.

WHEREFORE, the Plaintiffs and both of them pray that the defendants' Amended Motion to Dismiss filed herein on September 18, 2015 be denied; that they take nothing by way of said motion; that this matter proceed in accord with all applicable procedure and substantive law; and for any and all other relief just and proper upon the premises.

VERIFICATION

Under penalties of perjury, the Plaintiffs affirm that the above and foregoing representations of fact (excluding conveyance of opinions) are true and correct.

Respectfully Submitted,

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Certificate of Service

I hereby certify that on September 24, 2015, I served a true and accurate copy of the foregoing Plaintiffs' Verified Response to Defendants' Amended Motion to Dismiss with Plaintiffs' Exhibits 3-7 *(Plaintiffs' Exhibit 1 and 2 are already of record)* and corresponding CCS on defense counsel of record by placing a true and accurate copy of the same in the U.S. Mail, adequate postage affixed and addressed as follows:

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Zena Crenshaw-Logal, Plaintiff *Pro Se*