

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA

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**COMPLAINT**

DENNY C. CORMIER

PLAINTIFF,

v.

FRANK D. HORKAN, SUPERIOR  
COURT JUDGE; DWIGHT MAY;  
GEORGE ERVIN "SONNY"  
PERDUE III, GOVERNOR OF  
GEORGIA; JOHN B. ALDERMAN,  
CHAIRMAN OF COLQUITT  
COUNTY COMMISSIONERS,  
GEORGIA; COLQUITT COUNTY,  
GEORGIA; NANCY CORMIER;  
ANN V. BUECHLER; ANN V.  
BUECHLER TRUST AND ESTATE;

DEFENDANTS.

DENNY C. CORMIER

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**CASE NO:**

**ASSIGNED TO:**

**CIVIL COMPLAINT**

**SUIT IN EQUITY**

**42 U.S.C. § 1983**

**JURY DEMAND**

## INTRODUCTION

COMES NOW, Plaintiff, DENNY C. CORMIER, who hereby brings this complaint and suit in equity for deprivation of his rights, privileges, and immunities secured by the Constitution and laws of the United States, against the Defendants, FRANK D. HORKAN, Superior Court Judge, DWIGHT MAY, attorney, NANCY CORMIER, former spouse, ANN V. BUECHLER, mother of former spouse, GEORGE ERVIN “SONNY” PERDUE III, Governor of the State of Georgia, COLQUITT COUNTY, GEORGIA and JOHN B. ALDERMAN, Chairman of Colquitt County Commissioners, Georgia. Moreover, this complaint alleges that Defendants conspired to impermissibly infringe upon the United States Constitution, Amendments V, XIII and XIV, and violate 42 U.S.C. §§ 1982, 1983, and 1985, acting as possessed by virtue of state law, made possible only because the Defendants were clothed with the authority of state law resulting in impermissible infringements of the Due Process, Equal Protection and Privacy provisions of Amendments V and XIV. Moreover, this complaint alleges impermissible infringements of Amendment XIII by Defendants as well as violations of Federal Anti-Peonage statutes, 42 U.S.C. §§ 1994 et seq, through intentional forced labor and peonage of Plaintiff by Defendants, under color of law, and under threats of oppressive false imprisonment causing perpetual bankruptcy of Plaintiff. Furthermore, Plaintiff alleges violations by Defendants of Federal RICO statutes, 18 U.S.C. §§ 1951-1968 inter alia, by actively conspiring to commit extortion and fraud against Plaintiff, under color of law, during a Federal removal, in violation of 28 U.S.C. § 1446, and through corrupt *ultra vires* conduct by collection of unlawful debts through alimony-peonage contracts, with intentional infliction of emotional distress, thereby causing irreparable financial harm to Plaintiff.

## **JURISDICTION AND VENUE**

1. This Court has original jurisdiction over the instant case in accordance with 42 U.S.C. § 1983, and pursuant to 28 U.S.C. § 1343(a)(3) due to civil rights violations and impermissible infringements of 5<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution wherein the amount Plaintiff claims as damages suffered exceed \$75,000.
2. Subject matter jurisdiction is predicated upon 28 U.S.C § 1331 as parties are disputing Federal constitutional and statutory issues.
3. Federal diversity jurisdiction exists pursuant to 28 U.S.C. § 1332 because the Plaintiff and some Defendants are residents of states other than Georgia, and because the value of the matter in controversy exceeds \$75,000.
4. Plaintiff has asserted a Jennings-England reservation in all state pleadings involving Federal and constitutional issues to maintain his standing within the Federal Court system, and therefore this Court has jurisdiction to review Federal claims taken in the state court pursuant to England v. Louisiana State Board of Medical Examiners, 375 U.S. 411 (1964); Fields v. Sarasota Manatee Airport Authority, 953 F.2d 1299, 1303 (11th Cir. 1992) citing Jennings v. Caddo Parish School Bd., 531 F.2d 1331 (5th Cir.1976), [429 U.S. 897](#), 97 S.Ct. 260, 50 L.Ed.2d 180 (1976).
5. This action seeks declaratory relief, and as such this Court has jurisdiction under 28 U.S.C. § 2201(a) and 28 U.S.C. § 2202.
6. This action seeks injunctive relief, and as such this Court has jurisdiction under 28 U.S.C. § 1343(a)(3) and 28 U.S.C. § 1343(a)(4).
7. This action is founded upon the Constitution of the United States of America, and as such, this Court has jurisdiction over Defendants under 28 U.S.C. § 1346(a)(2).
8. Eleventh Amendment immunity for state officials is inapplicable and this Court has jurisdiction in the instant case under Ex parte Young, 209 U.S. 123 (1908), because Defendants acted *ultra vires* and because the State of Georgia acted

unconstitutionally when the Georgia Supreme Court erroneously declared on June 26, 2006 that state judges are permitted to violate Federal law.

9. The Rooker-Feldman abstention is inapplicable because both the Georgia Superior Court and the Georgia Supreme Court refused to hear or rule on the constitutional issues and instead dismissed them without reasoned opinion or a full and fair hearing, nor did any Georgia state court address violations of Federal statutory law, making declaratory relief unavailable, and because the Federal Anti-Peonage Statutes 42 U.S.C. § 1994 et seq and Federal RICO statutes have never been reviewed by any state or Federal court; therefore this Court has jurisdiction to review the merits of the instant case: Rooker v. Fidelity Trust Co., [263 U.S. 413](#) (1923), District of Columbia Court of Appeals v. Feldman, [460 U.S. 462](#) (1983), and Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 125 S. Ct. 1517, 1527 (2005).
10. Common-law principles of *collateral estoppel* and *res judicata* are inapplicable because declaratory relief was unavailable to Defendant at the state level due to denials and dismissals without reasoned opinion in both the Superior Court of Colquitt County, Georgia, and the Georgia Supreme Court, nor was Plaintiff ever given a full and fair hearing on the merits of his previous cases in the Federal Court, nor were issues, merits and causes of actions alleged in the instant case reviewed concerning *ultra vires* conduct of Defendants nor regarding Federal Anti-Peonage statutory violations, fraud and extortion Federal RICO violations, nor were impermissible infringements of 13<sup>th</sup> and 14<sup>th</sup> Amendments and Federal statutory law ever heard, addressed or reviewed in any previous State or Federal lawsuits by Plaintiff; instead all cases have been dismissed or remanded without a full and fair hearing or reasoned opinion solely based upon abstentions or jurisdictional grounds, relating to comity and ongoing state cases, and therefore this Court has jurisdiction to review merits of said instant case.
11. Venue is proper in this Federal District of Georgia under 28 U.S.C. § 1391, as a substantial part of the actions, events giving rise to this claim occurred in Georgia and involves violations of Georgia statutory law plus impermissible infringements of 5<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Amendment provisions of the U.S. Constitution as well as the Georgia Constitution arising under the Art. I Sec. I Paragraphs XXII and XXIII.

12. This Court has jurisdiction over this claim pursuant to its supplemental jurisdiction, 28 U.S.C. § 1367(a).
13. This court has additional jurisdiction for the instant case pursuant to the following case law where courts have found that state judges who acted outside of their judicial capacity were not entitled to immunity: Forrester v. White, 484 U.S. 219, 108 S.Ct. 538, 98 L.Ed.2d 555 (1988)(state court judge did not have absolute immunity from damages suit under S 1983 for his decision to demote and dismiss a probation officer); Morrison v. Lipscomb, 877 F.2d 463 (6th Cir.1989)(state court judge was not entitled to judicial immunity in connection with order declaring moratorium on issuance of writs of restitution from December 15 through January 2, as judge was acting in administrative and not judicial capacity).
14. Moreover, this Court has supplemental jurisdiction in cases involving state judges acting outside their judicial capacity derives from King v. Love, 766 F.2d 962, 968 (6th Cir.), cert. denied, 474 U.S. 971, 106 S.Ct. 351, 88 L.Ed.2d 320 (1985)(although setting bond on an arrest warrant is a judicial act, the act of deliberately misleading the police officer who was to execute the warrant about the identity of the person sought was nonjudicial); Sevier v. Turner, 742 F.2d 262 (6th Cir.1984)(juvenile court judge's initiation of criminal prosecution and civil contempt proceeding against father for child support in arrears constituted nonjudicial acts); New Alaska Development Corporation v. Guetschow, 869 F.2d 1298 (9th Cir.1988)(receiver appointed by state court to manage business assets of an estate was entitled to absolute derivative judicial immunity, but receiver was not absolutely immune from allegations that he stole assets or slandered parties, as such alleged acts were not judicial); Harper v. Merckle, 638 F.2d 848 (5th Cir.), cert. denied, 454 U.S. 816, 102 S.Ct. 93, 70 L.Ed.2d 85 (1981)(holding a contempt proceeding and ordering plaintiff incarcerated were not judicial acts where controversy that led to incarceration did not center around any matter pending before the judge, but around domestic problems of plaintiff former wife who worked at the courthouse); Harris v. Harvey, 605 F.2d 330 (7th Cir.1979), cert. denied, 445 U.S. 938, 100 S.Ct. 1331, 63 L.Ed.2d 772 (1980)(allegedly repeated communications to the press and city officials which were critical of police

lieutenant, and the improper instigation of criminal proceedings against the lieutenant by judge as part of a racial campaign to discredit lieutenant were not judicial acts).

15. This Court has additional authority and jurisdiction to review constitutional issues relating to the instant case, especially when it involves Equal Protection infringements and discrimination based upon gender in accordance with U.S. Supreme Court decisions in Orr v. Orr, [440 U.S. 268](#) (1979), Stanton v. Stanton, [429 U.S. 501](#) (1977), and Roe v. Wade, [410 U.S. 113](#) (1973), as well as findings in the following case law cited by the U.S Supreme Court: United Air Lines, Inc. v. Mahin, 410 U.S. 623, 630 -631 (1973); Poafpybitty v. Skelly Oil Co., 390 U.S. 365, 375 -376 (1968); Steele v. Louisville & Nashville R. Co., 323 U.S. 192, 197 n. 1 (1944); International Steel & Iron Co. v. National Surety Co., 297 U.S. 657, 666 (1936); Grayson v. Harris, 267 U.S. 352, 358 (1925); Red Cross Line v. Atlantic Fruit Co., 264 U.S. 109, 120 (1924); Rogers v. Hennepin County, 240 U.S. 184, 188 -189 (1916).

### **PARTIES AND FACTUAL STATEMENTS**

16. Plaintiff, DENNY C. CORMIER, is a physician and resident of Newport News, Virginia.
17. Defendant, NANCY CORMIER, is a resident of Eustis, Florida and ex-wife of Plaintiff, and an actor in this civil rights lawsuit because she was following the current custom of local law and conspired to violate Plaintiff's civil rights.
18. There were no minor children involved in the divorce proceedings and therefore custody and child support were never and are not at issue in this lawsuit.
19. Defendant, ANN V. BUECHLER, is a resident of Eustis, Florida and mother of Defendant, NANCY CORMIER; Defendant ANN V. BUECHLER enjoined the state lawsuit against Plaintiff at time of final judgment in Georgia on August 1, 2005, and was following current custom of local law, and she is therefore an actor in this civil rights lawsuit.

20. Defendant, FRANK D. HORKAN, is a Colquitt County Superior Court Judge, presiding in more than one county, and a long-time business and law partner of Defendant, DWIGHT MAY; Defendant FRANK D. HORKAN resides in Moultrie, Georgia, and is an actor in this civil rights lawsuit.
21. Defendant, DWIGHT MAY, was an attorney of Defendant, NANCY CORMIER, while also acting as treasurer and campaign manager for Defendant, FRANK D. HORKAN, during his re-election campaign and during state court proceedings and a Federal removal from May to July, 2005, and he is therefore an actor in this civil rights lawsuit.
22. Besides their political entanglements, Defendants FRANK D. HORKAN and DWIGHT MAY have been business and law partners for over 20 years, and have established a pattern of quid pro quo behavior during judicial proceedings by conspiring to violate Plaintiff's constitutional rights and protections.
23. Defendant FRANK D. HORKAN intentionally refused to disclose his financial and political relationship of over 20 years with Defendant DWIGHT MAY to Plaintiff or his counsel at any time during the course of the state trial, nor during the Federal removal in 2005, nor during the subsequent appeal to the Georgia Supreme Court nor at any other time whatsoever.
24. Defendant, GEORGE ERVIN "SONNY" PERDUE III, is the Governor of Georgia, who resides in Atlanta, Georgia, and is the responsible party for *ultra vires* actions on the part of state judges and other public officials presiding in more than one county; Defendant, GEORGE "SONNY" PERDUE, is therefore an actor in this civil rights lawsuit.
25. JOHN B. ALDERMAN is the chairman of the Colquitt County Commissioners and he is an actor in this civil rights lawsuit because he represents COLQUITT COUNTY, GEORGIA, and is the responsible party for providing judicial services to Defendant, Judge FRANK D. HORKAN, during his *ultra vires* conduct and deprivation of Plaintiff's constitutional and civil rights thereafter.
26. COLQUITT COUNTY, GEORGIA, is an actor in this civil rights lawsuit because it lacks Eleventh Amendment immunity and provided essential judicial services for Defendant Judge FRANK D. HORKAN, during his *ultra vires* conduct, and

furnished the Defendants with law enforcement and imprisonment facilities under color of law to implement wrongful alimony-peonage contracts in violation of Federal law.

27. Defendant FRANK D. HORKAN repeatedly threatened to have Plaintiff arrested and jailed beginning with hearing of March 8, 2005 if Plaintiff ever exercised his constitutional rights by removing his case to Federal court, thereby depriving Plaintiff under duress of his constitutional rights to Due Process and Equal Protection under both Georgia and U.S. Constitutions.
28. Defendant FRANK D. HORKAN repeatedly issued ultra vires orders outside his judicial capacity during a Federal removal from May to July, 2005 and proceeded with a state trial during that time by conducting and scheduling hearings in violation of 28 U.S.C. §§ 1446-7 thereby conspiring to deprive Plaintiff of his constitutional rights to Due Process and Equal Protection.
29. Defendant FRANK D. HORKAN refused to allow Plaintiff to question his ex-wife regarding her desertion at state trial hearing of March 8, 2005 to demonstrate her ineligibility for alimony under O.C.G.A. 19-6-1, because Defendant FRANK D. HORKAN stated that it was too stressful for her, thereby depriving Plaintiff of his rights to Due Process and Equal Protection and exhibiting flagrant gender bias.
30. Both Defendants FRANK D. HORKAN and DWIGHT MAY were made aware that Defendant FRANK D. HORKAN was proceeding illegally in a “rush to judgment”, and in violation of 28 U.S.C. § 1446, from May to July, 2005, because three Writs of Mandamus were submitted to the state court by Plaintiff on July 5, 2005 with copies to the Federal District Court and the Georgia Supreme Court.
31. Defendants, FRANK HOKAN and DWIGHT MAY have established a pattern of corrupt quid pro quo activities whereby Defendant FRANK D. HORKAN ruled exclusively in favor of Defendant DWIGHT MAY and his client, Defendant NANCY CORMIER, in the collection of unlawful debts, during the entire course of the state trial in exchange for election-campaign and business services thereby depriving Plaintiff of his rights to Due Process and Equal Protection.
32. In his June 14, 2005 *ultra vires* order, Defendant FRANK D. HORKAN unlawfully granted money to Defendant DWIGHT MAY, which was also issued in

violation of Georgia Superior Court Rules §24.2. “Financial data required”, prohibiting awards of attorney’s fees unless a financial affidavit has been entered by both parties, even though no affidavits had ever been entered.

33. Defendant FRANK D. HORKAN refused to rule on a Motion for New Hearing after final judgment hearing of August 1, 2005, despite numerous errors and conflicts of interest by Defendants FRANK D. HORKAN and DWIGHT MAY, thereby depriving Plaintiff of his rights to Due Process and Equal Protection and to a fair trial.
34. The Georgia Supreme Court erroneously ruled on June 26, 2006 that a state judge does not need to obey Federal law and need not be compelled to halt a state trial during a valid Federal removal in violation of 28 U.S.C. § 1446 and in direct contradiction to the recent U.S. Supreme Court decision in Howlett v. Rose, 496 U.S. 356 (1990) wherein the Justices held that all state officials, including state judges, must obey Federal law.
35. On October 5, 2007, Defendants attempted to pursue Plaintiff across state lines to enforce unlawful forced-labor and alimony-peonage contracts and collection of unlawful debts against Plaintiff by using an order to domesticate the final judgment of the Georgia state court in Virginia in violation of the Federal Anti-Peonage Statutes and Federal RICO statutes.

### **STATEMENT OF PROCEEDINGS**

36. On April 22, 2004, Plaintiff filed a Motion for Declaratory Judgment in Federal District Court on, Case #6:04-CV-19, to review the constitutionality of the Georgia Alimony Statutes as impermissibly infringing the Privacy provisions of the 14<sup>th</sup> Amendment.
37. On May 25, 2004 an *in camera* proceeding was held in the Superior Court of Colquitt County whereupon a Motion for Revision of Alimony for the November 19, 2003 order was denied by Defendant, FRANK D. HORKAN, in the presence of Defendant, DWIGHT MAY, without reasoned opinion thereby continuing an

unlawful alimony-peonage contract against Plaintiff and depriving Plaintiff of his Due Process and Equal Protection rights.

38. On June 21, 2004, Plaintiff removed the state court proceeding to United States District Court for the Middle District of Georgia, Cormier v. Cormier, Civil Action #6:04-CV-30, making a Federal Court challenge to the constitutionality of the Georgia Alimony Statutes as violative of the Federal and Georgia constitutional Right to Privacy inter alia, and due to a Liberty Interest because Defendants had threatened to jail Plaintiff for his Federal constitutional challenge.
39. On November 15, 2004, the United States District Court for the Middle District of Georgia rendered an order remanding the aforesaid Federal case to state court under a Younger abstention due to an ongoing state case.
40. On February 17, 2005, Plaintiff filed a Motion for Declaratory Judgment in the state court to challenge the constitutionality of the Georgia Alimony Statutes as impermissibly infringing the Privacy provisions of the 14<sup>th</sup> Amendment, and reserving his federal claims by asserting a Jennings-England reservation, while raising state constitutional claims for consideration by the trial court.
41. Defendant FRANK D. HORKAN repeatedly obstructed testimony from Defendant, NANCY CORMIER, as indicated in transcript, concerning her desertion of Plaintiff during hearing of March 8, 2005, which was key in determining eligibility of Defendant, NANCY CORMIER, under O.C.G.A. § 19-6-1.
42. During the hearing of March 8, 2005, and on numerous occasions thereafter, Defendant FRANK D. HORKAN exhibited flagrant gender bias by stating that it was “too stressful” for Defendant, NANCY CORMIER, to testify about her desertion of Plaintiff, nor was she ever compelled to obtain employment, thereby violating and impermissibly infringing Plaintiff’s rights to Due Process and Equal Protection under the Fifth and Fourteenth Amendments to the U.S. Constitution.
43. After hearing of March 8, 2005, Defendant FRANK D. HORKAN repeatedly refused to compel Defendant, NANCY CORMIER, to produce any documentation regarding her assets or interests in the ANN V. BUECHLER TRUST fund, or regarding the payment of an alleged mortgage thereby violating and impermissibly

infringing Plaintiff's right to Due Process and Equal Protection under the Fifth and Fourteenth Amendments to the U.S. Constitution, and further exhibiting gender bias against Plaintiff.

44. During the hearing on March 8, 2005, Defendant, Judge FRANK D. HORKAN, ordered the court reporter to go off-record, as indicated in transcript, and used this opportunity to threaten the Plaintiff with imprisonment if the Plaintiff exercised his constitutional right and removed his case to United States District Court; this threat was made in the presence of the court clerk, the court reporter, a deputy sheriff, a reporter for the Moultrie Observer, and spectator's in the court's gallery.
45. On March 25, 2005, Defendant, FRANK D. HORKAN, with ex-parte assistance from Defendant, DWIGHT MAY, summarily overruled and denied Plaintiff's Declaratory Judgment Motion challenging the constitutionality of Georgia's Alimony Statutes without reasoned opinion thereby making declaratory relief unavailable.
46. Moreover, on March 25, 2005, Defendant FRANK D. HORKAN with ex-parte consultation of Defendant, DWIGHT MAY, issued a finding of contempt against Plaintiff for not transferring furniture to Defendant, NANCY CORMIER, per his earlier order, despite evidence to the contrary, thereby exhibiting flagrant gender bias and depriving Plaintiff of his Due Process and Equal Protection rights.
47. Without any evidence or a finding of ability to pay, on March 25, 2005, Defendant FRANK D. HORKAN, with ex-parte assistance from Defendant, DWIGHT MAY, ordered incarceration of Plaintiff if he did not pay attorney fees and other unlawful debts levied against him in the contempt order within 15 days from said date under threats of false imprisonment of Plaintiff to wrongfully and under duress, coerce Plaintiff into an unlawful alimony-peonage contract and payment of unlawful debts.
48. On April 11, 2005, Plaintiff filed an Application for Discretionary Appeal before the Georgia Supreme Court, pursuant to the Family Law Project, Divorce/alimony Project, to challenge errors by the lower state court and review his Motion for Declaratory Judgment, due to numerous errors by Defendant FRANK D.

HORKAN, including gender bias, and for impermissible constitutional infringements arising from the Georgia Alimony Statutes.

49. The Georgia Supreme Court declined to review Plaintiff's Application for Appeal on May 12, 2005 without reasoned opinion thereby making declaratory relief unavailable and forcing Plaintiff into a wrongful alimony-peonage contract under duress and threats of false imprisonment to collect an unlawful debt, and further depriving him of his Due Process and Equal Protection rights.
50. On May 24, 2005, having exhausted his state court remedies, Plaintiff re-removed the issues and claims surrounding his Motion for Declaratory Judgment, involving a Liberty Interest and a constitutional challenge to the Georgia Alimony Statutes O.C.G.A. §§ 19-6-1 et seq, to the United States District Court, Middle District of Georgia, Case #6:05-CV-26, having previously reserved his constitutional claims by asserting a Jennings-England reservation.
51. In the official election Campaign Contribution Disclosure Report, signed, notarized and dated on July 11, 2005 by Defendant, FRANK D. HORKAN, for the Georgia State Election Board, Defendant, DWIGHT MAY, was designated his re-election treasurer and campaign manager during Defendant FRANK D. HORKAN's re-election for Superior Court Judge, which all Defendants failed to disclose to Plaintiff at that time, or at any time thereafter.
52. While the state case was under removal to Federal Court, the state trial-court judge, Defendant FRANK D. HORKAN, issued without jurisdiction an *ultra vires* ex parte order on June 14, 2005, in violation of 28 U.S.C. § 1446, declaring that he was not bound by Federal Law and that he would, in "a rush to judgment", unlawfully proceed with the state case during said Federal removal.
53. During said ex-parte hearing on June 14, 2005, Defendant, FRANK D. HORKAN, did further wrongfully and illegally issue an *ultra vires* order for Plaintiff to pay an unlawful debt to opposing counsel, Defendant DWIGHT MAY, sums of money in excess of \$3,000 during a proper removal to Federal court and in violation of Federal RICO Statutes, thereby depriving Plaintiff of his Due Process and Equal Protection rights as well.

54. Defendants FRANK D. HORKAN and DWIGHT MAY also conspired to make *ultra vires* state court awards on June 14, 2005, to the detriment of Plaintiff and during a proper Federal removal, and without benefit of a financial affidavit, thereby depriving Plaintiff of his Due Process and Equal Protection rights.
55. On July 5, 2005, Plaintiff petitioned state trial court with a Writ of Mandamus to advise the trial court to conform to Federal Statutes, whereupon Plaintiff also submitted concurrent Writs of Mandamus to the Georgia Supreme Court and to the Federal District Court; however Defendant, FRANK D. HORKAN, refused to review or rule upon nor to comply with said Writ of Mandamus thereby depriving Plaintiff his rights to Due Process, Equal Protection and to a fair trial.
56. A second ex-parte, *ultra vires* hearing was held on July 7, 2005 by Defendants FRANK D. HORKAN and DWIGHT MAY, who conspired to illegally proceed with state trial despite an ongoing Federal removal, and to schedule a final judgment hearing on August 1, 2005 without affording Plaintiff his rights to Due Process and Equal Protection or to a fair trial.
57. On July 11, 2005 the Federal District Court partially remanded said removed Federal case to the state trial court. A second remand was issued by Judge Sands of the Federal District Court to deny Plaintiff's Motion to Deny Remand and Writ of Mandamus because they were moot on July 13, 2005.
58. Defendant, FRANK D. HORKAN, ignored and refused to review Plaintiff's Motion to Recuse on July 25, 2005 due to his errors and prejudicial *ultra vires* conduct and because Defendants had been named in a previous Federal lawsuit challenging judicial errors and constitutionality of the Georgia Alimony Statutes, plus the Defendants' oppressive use of an alimony-peonage contract under color of law and under duress, thereby denying Plaintiff his rights to a fair trial and impermissibly infringing his rights to Due Process and Equal Protection.
59. On July 25, 2005, Plaintiff submitted a Notice of Appeal for remand of removal by the Federal District Court, Case # 6:05-CV-26 (WLS), to the U.S. Court of Appeals, Case #05-14239-JJ.
60. On August 1, 2005, Defendant, FRANK D. HORKAN, proceeded with an ex parte hearing during the pendency period of the Federal removal, and despite lack of

proper notice and conflict of interest with his business and political crony, Defendant DWIGHT MAY, thereby denying Plaintiff his rights to Due Process and Equal Protection, and further violating Federal RICO statutes.

61. At the ex parte state hearing of August 1, 2005, Defendant FRANK D. HORKAN issued a final decree of monetary awards and permanent alimony against Plaintiff, and subsequently ruled on August 3, 2005, that Plaintiff must pay an unlawful debt in the amount of \$50,000 to Defendant, NANCY CORMIER, \$5,000 to Defendant, ANN V. BUECHLER, and all attorney's fees and permanent alimony in the amount of \$2,500 per month under duress and threats of false imprisonment without giving the Plaintiff opportunity to review alleged evidence of debts, thereby depriving Plaintiff of his rights to Due Process and Equal Protection and benefit to a fair trial.
62. Final decree of August 1, 2005, forced Plaintiff into a perpetual alimony-peonage contract in violation of the Federal Anti-Peonage statutes, 42 U.S.C. 1994 et seq and impermissibly infringing the Thirteenth Amendment of the U.S. Constitution as well as Article I, Section I, Paragraph XXII of the Georgia Constitution, under duress and threats of false imprisonment and in violation of U.S. Supreme Court rulings in US v Kozminski and Bailey v Alabama, plus additional violations and impermissible infringements of Article I, Section I, Paragraph XXIII of the Georgia Constitution prohibiting Debtor's Prison.
63. Plaintiff was also ordered in final decree of August 1, 2005 to unlawfully assume all debts of the marriage under coercion and without equitable distribution, thereby depriving Plaintiff of his rights to Due Process and Equal Protection and discriminating against Plaintiff through blatant gender bias.
64. As a further consequence of the final decree of August 1, 2005, Plaintiff was required to assume responsibility of over \$150,000 in marital debt, most of which had been incurred for the benefit of the Defendant, NANCY CORMIER, under duress and threats of false imprisonment, thereby depriving Plaintiff the benefit of his Due Process and Equal Protection rights and forcing him into an unlawful alimony-peonage adhesion contract in violation of the Federal Anti-Peonage Statutes as well as discriminating against Plaintiff through gender bias.

65. Plaintiff was unable to attend final hearing on August 1, 2005 because it was within the pendency period for remanded Federal case, plus Plaintiff was under sanction by the state court for immediate incarceration for exercising his constitutional right of proper removal of the state case to the Federal District Court, and for inability to pay alimony-peonage arrearages, thereby making Due Process, Equal Protection rights and freedom from Involuntary Servitude and Peonage impossible as well as denying Plaintiff a fair trial.
66. Although Plaintiff submitted a Motion for Re-Hearing of Final Decree on August 9, 2005, based upon numerous errors by state trial court and *ultra vires* conduct by Defendants FRANK D. HORKAN and DWIGHT MAY, the state trial court refused to rule on said motion thereby depriving Plaintiff of his Due Process and Equal Protection rights, and right to a fair trial.
67. On August 31, 2005, Plaintiff submitted an Application for Appeal of Final Decree ruling of August 1, 2005 to the Georgia Supreme Court, and on September 29, 2005, Plaintiff was granted an appeal by the Georgia Supreme Court.
68. However, the Georgia Supreme Court erroneously ruled on June 26, 2006 in Cormier v Cormier, Case# S06F0442, that a state judge was not required to obey Federal law, specifically alluding to Defendant Judge FRANK D. HORKAN's flagrant violation of 28 U.S.C. § 1446 by proceeding with the State case during a valid and proper Federal removal:

“On June 13, 2005, the trial court entered an order denying Husband's second effort to remove the case to federal court, which informed all parties that the case would proceed to a pre-trial hearing on July 7, 2005, and that the trial would be held on August 1, 2005, in the Colquitt County Courthouse.”

69. Neither Defendant FRANK D. HORKAN nor Defendant DWIGHT MAY disclosed at any time to Plaintiff nor to counsel, Mr. Stephen Mackie, their political connections, nor did they disclose their political ties during a subsequent

appeal to the Georgia Supreme Court which rendered its decision on June 26, 2006, Case #S06F0442.

70. On October 5, 2007, Defendants obtained an order to domesticate the Georgia final judgment order of August 1, 2005 to Virginia, thereby engaging in unlawful interstate trafficking of forced-labor and alimony-peonage contracts under coercion, duress and threats of false imprisonment, and under color of law in further violation of the Federal Anti-Peonage Statutes and Federal RICO Statutes.

### **STATEMENT OF CLAIMS: COUNTS**

#### **Count I – Impermissible Infringement of Due Process Provisions of the Fifth Amendment and Violation of Civil Rights Thereunder (as to all defendants)**

71. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 70 inclusive.

72. Defendants deliberately and with malice deprived Plaintiff of his procedural and substantive Due Process rights by not allowing key evidence and testimony to be entered and heard as well as obstructing efforts to obtain evidence by discovery from Defendants, and therefore willfully deprived Plaintiff of a fair trial.

73. Further, Defendants impermissibly infringed on Plaintiff's constitutional rights by the taking of liberty and property without the benefit of any procedure or substantive Due Process, McCarthy v. Arndstein, 266 U.S. 34 (1924).

#### **Count II – Impermissible Infringement of the Thirteenth Amendment and Violation of Civil Rights Thereunder (as to all Defendants)**

74. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 73 inclusive.
75. By conspiring to forever force, compel and otherwise obligate Plaintiff into involuntary servitude, indenture and perpetual peonage, under duress and threats of false imprisonment, for the benefit of Defendant, NANCY CORMIER, and monetary gain of all Defendants, under color of law, Defendants have impermissibly infringed and violated Plaintiff's 13<sup>th</sup> Amendment constitutional rights to freedom from Involuntary Servitude.
76. Defendants have conspired to coerce and force Plaintiff into perpetual bankruptcy, involuntary servitude, indentured servitude and peonage through their unlawful, wrongful and *ultra vires* conduct under color of law, and for the collection of unlawful debts thereby impermissibly infringing the 13<sup>th</sup> Amendment of the U.S. Constitution and Art I Sec I Paragraph XXII of the Georgia Constitution, as well as violating the Federal RICO Statutes.

**Count III – Impermissible Infringement and Violation of the Due Process, Equal Protection, and Privacy Provisions of the Fourteenth Amendment  
(as to all Defendants)**

77. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 76 inclusive.
78. The Defendants took from Plaintiff, individually and collectively conspired to deprive Plaintiff of his Due Process, Equal Protection and Privacy rights under provisions of the Fourteenth Amendment, and to deprive Plaintiff of certain property rights without the benefit of procedural or substantive Due Process, all under color of law.
79. Defendants individually and severally impermissibly infringed and violated Plaintiff's rights to freedom from Gender Bias guaranteed under the Equal Protection provisions of the 14<sup>th</sup> Amendment and reaffirmed by U.S. Supreme Court decision in Orr v. Orr, [440 U.S. 268](#) (1979) and Stanton v. Stanton, [429 U.S. 501](#) (1977).

**Count IV - Violation of 42 U.S.C. § 1982**

**(as to all Defendants)**

80. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 79 inclusive.

81. Defendants deprived Plaintiff of his property rights and any future rights of conveyance.

**Count V - Violation of 42 U.S. C. § 1983**

**(as to all Defendants)**

82. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 81 inclusive.

83. Defendants, as state actors, demonstrated *ultra vires* conduct, under the color of state law, which was sufficiently willful and reckless, while acting and engaging in official state actions with callous indifference, wanton malevolence, malice, and with intentional gross negligence, within the scope of their official duties, violated Plaintiff's civil and constitutional rights, thereby causing irreparable financial harm to Plaintiff.

84. Defendants willfully impeded and otherwise obstructed, under color of law, all of Plaintiff's efforts to seek declaratory relief for violations of his civil and constitutional rights.

85. Defendants repeatedly impeded and otherwise obstructed Plaintiff's right to a fair trial and to his constitutional Due Process, Equal Protection and Privacy rights through oppressive application of the Georgia Alimony Statutes, O.C.G.A. §§ 19-6-1 et seq.

86. Defendants discriminated against Plaintiff based upon his gender, under color of law, and thereby deprived him of his constitutional Due Process and Equal Protection rights.

**Count VI -Violation of 42 U.S.C. § 1985**

**(as to all Defendants)**

87. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 86 inclusive.

88. Defendants, willfully and wantonly, directly or indirectly, in whole or in part, did with unqualified deliverance, conspire to deprive Plaintiff of his inherent constitutional rights and privileges, thus causing him irreparable harm.

**Count VII -Violation of Federal Anti-Peonage Statutes, 42 U.S.C. § 1994 et seq.**

**(as to all Defendants)**

89. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 88 inclusive.

90. Defendants conspired to deliberately, willfully and actively violate the Federal Anti-Peonage Statutes, 42 U.S.C. § 1994 and 18 U.S.C. §§ 1581 et seq by repeatedly attempting to maliciously coerce and force Plaintiff into illegal alimony-peonage contracts through oppressive abuse and misuse of the Georgia Alimony Statutes, O.C.G.A. §§ 19-6-1 et seq, under duress and threats of false imprisonment and debtor's prison, under color of law, for the collection of unlawful debts.

**Count VIII - Violation of Federal and Georgia RICO Statutes**

**(as to all Defendants)**

91. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 90 inclusive.

92. Defendants engaged in a pattern of unfair, deceptive and fraudulent acts under color of law to coerce and extort money and property, in collection of unlawful

debts from Plaintiff through wrongful, abusive and oppressive misuse of the Georgia Alimony Statutes, O.C.G.A. §§ 19-6-1 et seq in an arbitrary and malicious manner for monetary benefit of Defendants thereof.

93. Defendants repeatedly violated Federal RICO statutes 18 U.S.C. §§ 1951 et seq for purposes of extortion and peonage under color of law through oppressive misuse of the Georgia Alimony Statutes and for collection of unlawful debts.

94. Defendants' conduct has an extortionate quality that gives it the rancid flavor of unfairness.

95. Defendants attempted to enforce collection of unlawful debts through duress and wrongful alimony-peonage contracts, under color of law, across state lines.

**Count IX - Intentional Infliction of Emotional Distress**  
**(as to all Defendants)**

96. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 95 inclusive.

97. By Defendants intentionally and maliciously depriving Plaintiff of his constitutional rights, they have intentionally inflicted emotional distress on him.

98. Plaintiff has suffered severe emotional distress caused by Defendants forcing him into an illegal alimony-peonage contract and perpetual bankruptcy, entirely against his will, under color of law, and causing him irreparable financial harm.

99. Defendants' actions have alienated affection of Plaintiff's children causing him severe emotional distress and egregious harm.

**Count X - Tortious Interference with Economic Advantage**  
**(as to all Defendants)**

100. Plaintiff repeats the allegations set forth and incorporates by reference herein the above paragraphs 1 through 99 inclusive.

101. Defendants, in an arbitrary and capricious manner and with malicious intent, have deprived and interfered with Plaintiffs economic advantage causing him irreparable financial harm.

102. Defendants are therefore liable to Plaintiff for all the damages that follow as a natural consequence of their actions and are the proximate result of their conduct.

103. Defendants breached their special relationship and fiduciary responsibility as public officials charged with obeying the laws of the State of Georgia and of the United States as well as the Georgia Code of Judicial Conduct, causing Plaintiff irreparable harm, and therefore are liable to Plaintiff for all the damages that follow as a natural consequence of their actions.

### **PLAINTIFF'S ENTITLEMENT TO RELIEF**

**WHEREFORE:** The Plaintiff claims irreparable harm caused by Defendants and claims damages against Defendants individually and severally in an amount to be determined at trial in excess of \$1,000,000, plus costs, and for any further relief that this Honorable Court determines necessary and appropriate as follows:

1. Enjoin Defendants from any further statutory or constitutional violations;
2. Order injunctive relief and declaratory judgment;
3. Order an injunction against Defendant Judge FRANK D. HORKAN to halt further state court orders, to set aside all current state court orders, and to bar Defendants from any further statutory or constitutional violations;
4. Order that Final Judgment of the Georgia Colquitt County Superior Court be set aside and that Plaintiff be awarded punitive and compensatory damages in excess of \$1,000,000;

5. Award monetary, retroactive, and prospective equitable relief to Plaintiff;
6. Disallow Defendants invocation of their Eleventh Amendment and qualified immunity shield under the *Ex Parte Young Doctrine* and pursuant to aforementioned case law cited herein;
7. Award court costs and attorney fees;
8. Order other relief that may be deemed just and proper by this Court.

**Furthermore**, Plaintiff hereby requests a jury trial on all issues so triable.

Dated: May 29, 2009

Respectfully Submitted,

/s/ - Denny C. Cormier

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