

IN THE SUPREME COURT OF OHIO

THE STATE EX REL., SOLTESZ	:	
v.	:	Case No. _____
MCGOOKEY, JUDGE, ET AL.	:	Original Action In Mandamus
	:	
	:	
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COMPLAINT IN ORIGINAL ACTION IN MANDAMUS OF  
RELATOR, E. DEAN SOLTESZ

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E. Dean Soltesz, pro se  
807 Marland Drive S  
Columbus, Ohio 43224-1923  
(614) 318-5693 (Mobile)  
[DSIts@ yahoo.com](mailto:DSIts@ yahoo.com)

RELATOR

THE HONORABLE BEVERLY K. MCGOOKEY,  
Judge of The Probate Division of  
The Erie County Common Pleas Court  
323 Columbus Avenue,  
Sandusky, Ohio 44870  
(419) 627-7750 (Telephone)  
(419) 626-9120 (Facsimile)

RESPONDENT

THE HONORABLE R.R. DENNY CLUNK,  
Assigned Judge of the Probate Division of  
The Erie County Common Pleas Court  
323 Columbus Avenue,  
Sandusky, Ohio 44870  
(419) 627-7750 (Telephone)  
(419) 626-9120 (Facsimile)

RESPONDENT

COURTSMART DIGITAL SYSTEMS, INC.  
51 Middlesex Street  
North Chelmsford, MA 01863  
(800) 235-8690 (Telephone)  
(978) 251-4488 (Facsimile)

RESPONDENT

THE HONORABLE JAMES R. BOWMAN,  
Assigned Judge of the Probate Division of  
The Erie County Common Pleas Court  
323 Columbus Avenue,  
Sandusky, Ohio 44870  
(419) 627-7750 (Telephone)  
(419) 626-9120 (Facsimile)

RESPONDENT

INCORP SERVICES, INC.  
(Agent for CourtSmart Digital Systems,  
Inc.)  
9435 Waterstone Blvd., Suite 140  
Cincinnati, OH 45249

# IN THE SUPREME COURT OF OHIO

State ex rel., E. Dean Soltesz,  
807 Marland Drive South  
Columbus, Ohio 43224-1923

No. \_\_\_\_\_  
Complaint in Mandamus

Relator,

v.

The Honorable Beverly K. McGookey,  
Judge of The Probate Division of  
The Erie County Common Pleas Court,  
Ohio, 323 Columbus Avenue,  
Sandusky, Ohio 44870

Respondent,

and,

The Honorable Denny R. Clunk, Appointed  
Judge of the Probate Division of The Erie  
County Common Pleas Court, Ohio 44870,  
323 Columbus Avenue, Sandusky, Ohio 44870

Respondent,

and,

The Honorable J. Ronald Bowman,  
Appointed Judge of the Probate, General  
and Domestic Divisions of The Erie County  
Common Pleas Court, Ohio, 323 Columbus  
Avenue, Sandusky, Ohio 44870

Respondent,

and,

CourtSmart Digital Systems, Inc.  
51 Middlesex Street  
North Chelmsford, MA 01863

Incorp Services, Inc.  
(Agent for CourtSmart Digital Systems, Inc.)  
9435 Waterstone Blvd. Suite 140  
Cincinnati, OH 45249

Respondent

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1. The relator is E. Dean Soltesz, and resides at 807 Marland Drive South, Columbus, Ohio 43224-1923.

2. The respondents are:

A. The Honorable Beverly K. McGookey, elected Judge of The Probate Division of The Erie County Court of Common Pleas of the State of Ohio (Ohio Supreme Court Reg. No. 0029126, and herein referred to as “Respondent Judge McGookey”); and,

B. The Honorable Denny R. Clunk, assigned or otherwise appointed Judge of The Probate Division of The Erie County Common Pleas Court of the State of Ohio (Ohio Supreme Court Reg. No. 0008652, and herein referred to as “Respondent Judge Clunk”); and,

C. The Honorable J. Ronald Bowman, assigned or otherwise appointed Judge of The General, Domestic Relations, and Probate Divisions of The Erie County Common Pleas Court of the State of Ohio (Ohio Supreme Court Reg. No. 0008381, and herein referred to as “Respondent Judge Bowman”); and,

D. CourtSmart Digital Systems, Inc., 51 Middlesex Street, North Chelmsford, Massachusetts 01863 (herein referred to as “ Respondent CourtSmart”); (Agent in the

State of Ohio for CourtSmart is: Incorp Services, Inc., 9435 Waterstone Blvd., Suite 140, Cincinnati, OH 45249)

3. On December 13, 2007, the relator filed a motion for a hearing in the Probate Division of The Erie County Common Pleas Court, *In the Guardianship of Edward I. Soltesz* (my Dad), case number 2007-02-028, requesting Respondent Judge McGookey make a record of such hearing in accordance with R.C. 2111.02(C)(4) Appointment of guardian - limited, interim, emergency, or standby guardian - nomination.

4. On January 28, 2008, a hearing was held in the Probate Division of The Erie County Common Pleas Court, *In the Guardianship of Edward I. Soltesz* (my Dad), case number 2007-02-028, for the appointment of a *limited* guardian with specific limited powers in accordance with R.C. 2111.02(B)(1) Appointment of guardian - limited, interim, emergency, or standby guardian - nomination.

5. The purpose for that January 28, 2008 hearing was for the purpose of removing my sister, Diana Barrett, as temporary estate guardian of my Dad as well as personal guardian of my Dad in accordance with R.C. 2101.24(A)(1)(e) Jurisdiction of probate court, and arrange for the necessary *ethical* transfer of what had become the real property of my Dad (specifically, 409 52<sup>nd</sup> Street, Sandusky, Ohio) back to my name in accordance with R.C. 2111.50(B)(1) Probate court is superior guardian of wards, pursuant to R.C. 2101.24(A)(1)(s) Jurisdiction of probate court.

6. During the hearing of January 28, 2008, the nominee for the limited guardian, attorney Robert C. Egger (Ohio Supreme Court Registration Number 0007165), was not physically present in the courtroom during that hearing, and was instead contacted by

Respondent Judge McGookey via her cell phone contrary to R.C. 2111.02(C)(1) Appointment of guardian - limited, interim, emergency, or standby guardian - nomination.

7. During that January 28, 2008 hearing, attorney Egger did *not* swear under oath that he would:

- A. Make and continue to make diligent efforts to file a true inventory in accordance with R.C. 2111.14 Duties of guardian of estate,
- B. Find and report all assets belonging to the estate of the ward (my Dad),
- C. and that he would faithfully and completely fulfill the other duties of guardian, including:
  - i. The filing of timely and accurate reports and accountings, and
  - ii. Prepare the necessary paperwork for arranging for an *inter vivos* transfer of the real property of my Dad, specifically at 409 42<sup>nd</sup> Street, Sandusky, Ohio, back to the name of the relator in accordance with R.C. 2111.50(B)(1), pursuant to R.C. 2101.24(A)(1)(s)

in accordance with R.C. 2111.02(C)(1) Appointment of guardian - limited, interim, emergency, or standby guardian - nomination.

8. On or about September 24, 2010, attorney D. Jeffery Rengel (Ohio Supreme Court Registration Number 0029069) filed his brief of appellee in the Ohio Sixth District Court of Appeals in the case of *Robert C. Egger, Guardian of the Estate of Edward I. Soltesz v. Edward I. Soltesz, et al.*, case number E-10-029, 2011-Ohio-1843.

9. Attorney Rengel made the following false, libelous and fraudulent statements against the Relator on pages 8 through 9 of his brief of appellee in appeals case number E-10-029 without any references to be found anywhere in the records of the probate cases involved:

- A) That attorney Rengel was supposedly required to continually remind [the Relator] that seeking to have him obtain what he referred to as “undue advantage and funds of the guardianship estate” on [the Relator’s] behalf was a conflict of interest.
- B) That [the Relator] could not seem to grasp the concept that attorney Rengel would not act as a simple conduit for me by signing motions wholly prepared by [the Relator], particularly when attorney Rengel disagreed with the tenor and concept of such motions.
- C) That [the Relator’s] proposed “motion for reimbursement” was one such motion which improperly sought payment from the guardian estate for items that were not, in attorney Rengel’s view, properly reimbursable.
- D) That [the Relator] continually attempted to use attorney Rengel to file motions which were clearly designed to result in a benefit to [the Relator] over, and to the detriment of, that of [the Relator’s] sister and [the Relator’s] Dad’s guardian estate

in violation of:

Ohio Constitution, Article I, Section 1.11 Freedom of speech; of the press; of libels

R.C. 2739.01 Libel and slander

**FIRST REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD**

10. On January 18, 2011, the Relator appealed a December 20, 2011 decision denying the appointment of a guardian ad litem for my Dad *In the Guardianship of Edward I. Soltesz*, case number 2007-2-028 in accordance with R.C. 2101.42 Cases appealable from probate court.

11. The appeals case referenced in statement 10 directly above became appeals case number E-11-015.

12. In the praecipe for appeals case number E-11-015 the Relator ordered a complete transcript of the hearing held on January 28, 2008 in the case of *In the Guardianship of Edward I. Soltesz*, case number 2007-2-028, in accordance with his duty under Ohio App.R. 9(B) and 10(A).

13. On February 24, 2011, court reporter, Jody Young, sent an email to the Relator advising him that she had asked Barb Lamb, who at that time the deputy clerk and administrator of the Probate Division of The Erie County Common Pleas Court, that she asked Deputy Clerk Lamb the day before to look for the record of the January 28, 2008 hearing.

14. Court reporter Young added in that February 24, 2011 email, that Deputy Clerk Lamb informed her that she would call her back, if she had found it, and that she had not called her back.

15. A mandatory duty to keep and maintain records that are required by R.C. section 2101.12, or another section of the Revised Code, such as section 2111.02(C)(4) Appointment of guardian - limited, interim, emergency, or standby guardian – nomination, by record-keeping methods other than bound volumes of paper pages.

16. The record-keeping methods referenced in statement 13 directly above include, but are not limited to . . . electrostatic process . . . magnetic tape or other electromagnetic methods, electronic data processing, machine-readable media is imposed on Respondent Judge McGookey by R.C. 2101.121(A) Record-keeping methods.

17. A mandatory duty to possess and make readily available a true copy of the January 28, 2008 hearing record necessary for an examination of that record to court reporter,

Jody Young, upon her request was imposed on Respondent Judge McGookey and Judge David A. Zeitzheim (Ohio Supreme Court Registration Number 00243898), who died on December 31, 2011, by R.C. 2101.121(B) Record-keeping methods.

18. Respondent Judge McGookey and Judge David A. Zeitzheim had a duty to transcribe the January 28, 2008 hearing record in accordance with Ohio App.R. 9(A)(1) and (2); 10(B); and 11(B) for the appeal in appeals case number E-11-015.

19. Respondent Judge McGookey and Judge Zeitzheim were, or with respect to Respondent Judge McGookey has still been empowered to employ and control the clerks, employees, deputies and referees of the Probate Division of The Erie County Common Pleas Court under both Ohio Constitution, Article IV, Section 4(C).

20. Respondent Judge McGookey:

- A. Was or still had the care and custody of the files, papers, books, and records belonging to the probate court of Erie County in the State of Ohio
- B. Was and may still have been authorized to perform the duties of clerk of the judge's court
- C. Was then able and may still be able to have appointed deputy clerks, court reporters, a bailiff, and any other necessary employees, each of whom shall take an oath of office before entering upon the duties of the employee's appointment and, when so qualified, may perform the duties appertaining to the office of clerk of the court for the cases this Relator and my Dad have been involved in, in that particular court

in the Probate Division of The Erie County Common Pleas Court *In the Guardianship of Edward I. Soltesz*, case number 2007-2-028 in accordance with R.C. 2101.11(A)(1) Court records – investigators – bond in only a *de facto* capacity.

21. Judge David A. Zeitzheim:

- A. Was or still had the care and custody of the files, papers, books, and records belonging to the probate court
- B. Was and may have been authorized to perform the duties of clerk of the judge's court
- C. May have then been able to have appointed deputy clerks, court reporters, a bailiff, and any other necessary employees, each of whom shall take an oath of office before entering upon the duties of the employee's appointment and, when so qualified, may perform the duties appertaining to the office of clerk of the court

in the Probate Division of The Erie County Common Pleas Court *In the Guardianship of Edward I. Soltesz*, case number 2007-2-028 in accordance with R.C. 2101.11(A)(1) Court records – investigators – bond only in a *de facto* capacity.

22. On March 10, 2011, court reporter Young filed her affidavit of March 7, 2011, *In the Guardianship of Edward I. Soltesz*, case number 20072028, in the Probate Division of The Erie County Common Pleas Court, stating that she had requested the record of the January 28, 2008 hearing in that case from court administrator Barbara Lamb, and that to date she had not been provided with a true copy of that particular hearing record, contrary to R.C. 2101.121(B) Record-keeping methods.

23. A mandatory duty is imposed to keep and maintain indices to the records that permit the records to be retrieved readily upon Respondent Judge McGookey, and in the past sense, Judge David A. Zeitzheim by Ohio Revised Code 2101.121(C) Record-keeping methods.

24. The refusal of Respondent Judge McGookey and Judge Zeitzheim to provide a copy of the January 28, 2008 hearing record to court reporter Young violated the duty of the Clerk of the Probate Court to provide a copy of that hearing record under Ohio App.R. 10(B) Transmission of the Record; Duty of clerk to transmit the record.

**SECOND REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD**

25. On March 17, 2011, the Relator filed a motion to amend the notice of filing in Ohio Sixth District Court of Appeals case numbers E-11-0003.

26. On or about March 30, 2011, the Relator filed concurrent motions in the Ohio Sixth District Court of Appeals in case number E-11-003, *In the Matter of the Guardianship of Edward I. Soltesz, [E. Dean Soltesz-Appellant]*:

- A. A motion for extension of time to transmit the record pursuant to Ohio App.R. 15(A), and 10(C), and 6th Dist.Loc.App.R. 8(B)
- B. A motion for amended notice of filing of the record of probate court case number 20072028
- C. A motion to supplement the record with a transcript of the hearing held January 28, 2008, pursuant to App. R. 15(A), 9(E), and 6<sup>th</sup> Dist. Loc. App. R. 8(B), also citing R.C. 2101.121(B) and (C).
- D. The three above-stated motions were all for the purpose of obtaining a transcript of the January 28, 2008 hearing proceedings *In the Guardianship of Edward I.*

*Soltesz*, Erie County Probate Court case number 20072028, or otherwise proving that one or more respondents in this complaint had breached one or more of their clerical (ministerial) duties.

27. On April 29, 2011, the Court of Appeals issued a decision in case numbers E-11-003 and E-11-015, directing the probate clerk to advise the court in writing on or before May 2, 2011, if the record on appeal contained the *entire* record from trial court case no. 20072028, *In the Guardianship of Edward I. Soltesz*.

28. On May 2, 2011 Barbara J. Lamb, Court Administrator and Deputy Clerk for the Probate Division of The Erie County Common Pleas Court, filed an affidavit that the record on appeal contains the *entire* case record from *In the Guardianship of Edward I. Soltesz*, probate court case number 20072028, and *Robert C. Egger, Guardian of the Estate of Edward I. Soltesz v. Edward I. Soltesz, et al.*, probate court case number 20072028A, and consequentially violated:

R.C. 2909.06(A)(1) Criminal damaging or endangering; and

R.C. 2913.05(A), (B) and (C) Telecommunications fraud; and

R.C. 2913.06(B)(2) Unlawful use of telecommunications device; and

R.C. 2913.32(A)(1) Criminal simulation; and

R.C. 2913.32(A)(4) Criminal simulation; and

R.C. 2913.42(A)(1) Tampering with records; and

R.C. 2913.42(A)(2) Tampering with records; and

R.C. 2913.43(A) Secured writings by deception; and

R.C. 2913.73 Evidence that victim lacked capacity to give consent; and

R.C. 2917.11(A)(4) Disorderly conduct; and

R.C. 2917.12(A)(1) Disturbing a lawful meeting; and

R.C. 2921.11(A) Perjury; and  
R.C. 2921.13(A)(1) Falsification; and  
R.C. 2921.13(A)(3) Falsification; and  
R.C. 2921.13(A)(5) Falsification; and  
R.C. 2921.13(A)(6) Falsification; and  
R.C. 2921.13(A)(7) Falsification; and  
R.C. 2921.13(A)(8) Falsification; and  
R.C. 2921.13(A)(10) Falsification; and  
R.C. 2921.13(A)(11) Falsification; and  
R.C. 2923.01(A)(1) Conspiracy; and  
R.C. 2923.01(A)(2) Conspiracy; and

R.C. 2923.02(A) Attempt to commit an offense; and  
R.C. 2923.32(A)(1) Engaging in a pattern of corrupt activity

29. Court Administrator and Deputy Clerk Lamb's filing of the May 2, 2011 affidavit also violated:

18 U.S.C. 1001(a)(1) and (2) and (3) - Statements or entries generally; and  
18 U.S.C. 1343 - Fraud by wire, radio, or television with respect to wire fraud; and  
18 U.S.C. 241 – Conspiracy against rights with respect to the Relator's Dad and this Relator's rights of due process secured to him by the United States Constitution and the laws of the United States; and  
18 U.S.C. 242 - Deprivation of rights under color of law with respect to having subjected the Relator's Dad and this Relator a deprivation of one or more rights, privileges, or immunities secured or protected by the Constitution or laws of the United States; and

18 U.S.C. 1952(A)(1) and (2) and (3) - INTERSTATE AND FOREIGN TRAVEL OR  
TRANSPORTATION IN AID OF RACKETEERING ENTERPRISES; and

18 U.S.C. 1962 - PROHIBITED ACTIVITIES; and

18 U.S.C. 1968 - CIVIL INVESTIGATIVE DEMAND; and

other federal statutes as matters may progress,

under Article IV, the first paragraph of the United States Constitution, concerning Congress may by general Laws prescribe the Manner in which such . . . Records and Proceedings shall be proved, and the Effect thereof.

30. A mandatory duty was imposed upon Respondent Judge McGookey and Judge Zeitzheim for being responsible for the direction and control of Court Administrator and Deputy Clerk Lamb for her to act in a manner consistent with the judges' obligations by Ohio Jud.Cond.R. 2.12(A) Supervisory duties.

31. A mandatory duty was imposed upon Respondent Judge McGookey and Judge Zeitzheim for informing the appropriate authority of the other Judge's conduct by Ohio Jud.Cond.R. 2.15(A) Responding to Judicial and Lawyer Misconduct.

32. A mandatory duty was imposed upon Respondent Judge McGookey and Judge Zeitzheim to:

A. Avoid committing duplicity in the act of Court Administrator and Deputy Clerk Lamb to avoid complicity in her act of filing the affidavit on that date under R.C. 2923.03(A)(1) and (2) and (3) and (4) Complicity; and,

B. Avoid engaging in a pattern of corrupt activity in the act of Court Administrator and Deputy Clerk Lamb in her act of filing the affidavit under R.C. 2923.32(A)(1) and (2) and (3) Engaging in a pattern of corrupt activity

33. Also later in the day on May 2, 2011, the Court of Appeals issued a decision and judgment requesting transmission of the case file of the guardianship case to the clerk of the Court of Appeals.

34. On May 4, 2011, the Court of Appeals issued a decision and judgment entry dismissing my appeal “in part” in Ohio Sixth District Court of Appeals case numbers E-11-003 and E-11-015.

35. On June 15, 2011, the Court of Appeals issued three separate decisions in case numbers E-11-003 and E-11-015 as follows:

- A. A decision file-stamped at 1:53 PM denying my motion to amend the appellate court’s clerk’s Ohio Appellate Rule 11(B) notices
- B. A decision file-stamped at 3:13 PM denying my motion to supplement the record with a transcript of the hearing held on January 28, 2008 (in the guardianship case), citing *State v. Ishmail* (1978), 54 Ohio St. 2d 402, paragraph one of the syllabus in support
- C. Another decision file-stamped at 3:13 PM retroactively granting my motion to supplement the record with the trial court record in case number 20072028 with reference to the trial court clerk’s May 2, 2011 advisement that the record on appeal contains the entire record from both case nos. 20072028 and 20072028A

36. On August 1, 2011, The Honorable David A. Zeitzheim gave verbal notice to the Probate Court that he was retiring for health reasons from all cases.

37. The refusal of Respondent Judge McGookey and Judge Zeitzheim to provide a copy of the January 28, 2008 hearing record to court reporter Young violated the duty of the

Clerk of the Probate Court to provide a copy of that hearing record under Ohio App.R. 10(B) Transmission of the Record; Duty of clerk to transmit the record.

**THIRD REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD**

38. On August 4, 2011, the Ohio Supreme Court assigned Respondent Judge R.R. Denny Clunk (Ohio Supreme Court Registration Number 0008652) as visiting judge to the Probate Division of The Erie County Common Pleas Court in the State of Ohio with a Certificate of Assignment by Chief Justice Maureen O'Connor of the Ohio Supreme Court file-stamped by the Probate Division of the Erie County Common Pleas Court on August 31, 2011:

A. *In the Guardianship of Edward I. Soltesz* (my Dad), case number 2007-02-028;  
and

B. *Robert C. Egger, Guardian of the Estate of Edward I. Soltesz vs. Edward I. Soltesz, et al.*, case number 2007-02-028A

39. Shortly after a hearing held on July 12, 2012 in the Probate Court in the guardianship case, the related land sale case, and a third probate case to settle the estate of the Relator's Dad, Edward I. Soltesz (Deceased), the Relator visited the Office of the Erie County Auditor to request all maintenance records of the sound-recording system for hearings held in the Probate Division of the Erie County Common Pleas Court from January 28, 2008 through March 10, 2011, in accordance with the Court's decision in *Egger v. Soltesz*, 2011-Ohio-4143, at ¶ 6.

40. The Erie County Auditor, Rick Jeffery, personally advised the Relator that he could do better than the request made by providing the Relator with the name, address and telephone number of the company that provides all of the maintenance and support for that system for the entire county common pleas court, and auditor Jeffery did so.

41. The name of the company referenced in statement 35 directly above was CourtSmart Digital Systems, Inc., with main corporate headquarters office at 51 Middlesex Street, North Chelmsford, Massachusetts 01863 (hereinafter referred to as "Respondent CourtSmart"), and the toll-free telephone number is 800-235-8690.

42. On August 6, 2012, the Relator made a telephone call to Respondent CourtSmart for copies of all maintenance records for service work provided to the Erie County Common Pleas Court of Ohio for the period from approximately January 28, 2008 through as late as March 7, 2011, and spoke directly with Scott Campbell, Manager of Technical Services for CourtSmart.

43. Scott Campbell for Respondent CourtSmart informed the Relator that they have a copy of the January 28, 2008 hearing record the Relator was inquiring about online, and that the Relator should send him an email requesting it from them and he would see what he could do.

44. Approximately an hour and forty-five minutes after the Relator sent the email referenced in statement 43 directly above, Scott Campbell of Respondent CourtSmart replied to the Relator's email as follows:

Mr. Soltesz, I do not have any authority in this matter.  
The court record is the property of Erie Co. Ohio  
I cannot access any of that data for any reason unless directed by the Court.

45. Respondent CourtSmart has been providing its services to The Erie County Common Pleas Court for the State of Ohio as *a public official charged with the duties of keeping and maintaining the records of hearing proceedings in The Erie County Common Pleas Court for the State of Ohio in accordance with R.C. 2101.121 Record-keeping methods.*

46. Respondent CourtSmart has been acting as a *de facto* deputy clerk for all Divisions of The Erie County Common Pleas Court, since it was contracted to record all hearing proceedings in that Court, where a record has been required to be kept under:

- A. R.C. 2101.01(A)(1) Probate division - location - equipment – employees;  
and
- B. R.C. 2101.11(A)(1) Court records – investigators – bond.

47. A mandatory duty to possess and make readily available a true copy of the January 28, 2008 hearing record necessary for an examination of that record was imposed on Respondent CourtSmart and Respondent Judge Clunk and Respondent Judge McGookey by R.C. 2101.121(B) Record-keeping methods.

48. The refusal of Respondent CourtSmart to make readily available to the Relator a true copy of the January 28, 2008 hearing record necessary for an examination of that record was imposed on Respondent CourtSmart and Respondent Judge Clunk and Respondent Judge McGookey by R.C. 2101.121(B) Record-keeping methods constituted a violation of duty specifically enjoined by law.

#### FOURTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD

49. On October 18, 2012, the Relator submitted a public records request in writing via email to the Erie County Auditor's Office, requesting a true copy of the hearing held on January 28, 2008, in the case of *In the Matter of the Guardianship of Edward I. Soltesz*, case number 2007-02-028, in the Probate Division of The Erie County Common Pleas Court on file on the online backup system of Respondent CourtSmart.

50. On October 19, 2012 at approximately 9:43 AM, Brenda Hurst, Fiscal Officer for the Erie County Auditor's Office, replied to the Relator's email request of the public records referenced in statement 50 directly above with a computer copy of her reply sent to Vicki Fitzgerald (Court Administrator/Fiscal Officer for Judge Binette), Beth Naufel (Court Administrator and Civil Assignment Commissioner for Judge Tygh Tone), Respondent Judge McGookey, and Julie Fidler, stating:

Dear Mr. Soltesz,  
This is not information the auditor has. You will need to contact the courts for this please. I have forwarded this email to those contacts.

Thank you,

51. Approximately 10:04 AM on October 19, 2012, Respondent Judge McGookey responded to the email of Brenda Hurst referenced directly above, stating:

Thanks. We are trying to do deal with it.

52. A mandatory duty to possess and make readily available a true copy of the January 28, 2008 hearing record necessary for an examination of that record is imposed on Respondent Judge McGookey and Respondent Judge Clunk and Respondent CourtSmart by R.C. 2101.121(B) Record-keeping methods.

53. The refusal of Respondent Judge McGookey and Respondent Judge Clunk and Respondent CourtSmart to make readily available to the Relator a true copy of the January 28, 2008 hearing record necessary for an examination of that record was imposed on Respondent CourtSmart by R.C. 2101.121(B) Record-keeping methods constituted a violation of duty specifically enjoined by law.

54. The refusal of Respondents Judge McGookey and Judge Clunk to grant the Relator the authority he needed to obtain the needed information from Respondent CourtSmart

proving that they do in fact have an online backup copy of the January 28, 2008 hearing record available for transcription, and to continue the fraud upon the court leading to a fraudulent transfer of the title the Relator's Dad's home to Citizens Banking Company, constituted a violation of a duty specifically enjoined by law.

FIFTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD

55. On October 9, 2012, there was a complaint filed in the General Division of The Erie County Common Pleas Court in the case of *The Citizens Banking Company vs. The Estate of Edward I. Soltesz, et al.*, case number 2012 CV 0752 in which the Relator was named a defendant.

56. On November 19, 2012, the Relator filed a motion for authorization to obtain information from Respondent Courtsmart with supporting documentation attached.

57. In that motion referenced in statement 56 directly above the Relator:

- A. Stated in opening as well as in closing, that he needed specific information from Respondent CourtSmart in order to prepare an adequate defense in that foreclosure case
- B. Attached a copy of:
  - i. The email request the Relator made to the Erie County Auditor's Office on October 18, 2012, which that office in turn forwarded to the Erie County Common Pleas Court on October 19, 2012, attached to the Relator's Answer to the complaint in that case as "Defendant Dean Soltesz's Exhibit 'C.' "

ii. The Public Records Request Worksheet attached to that email described directly above, and provided to that motion as “Defendant Dean Soltesz’s Exhibit ‘C-1’ ”

C. Cited:

Ohio Evid. R. 1001 Definitions

- (1) Writings and recordings
- (3) Original
- (4) Duplicate

Ohio Evid. R. 1002 Requirement of Original

Ohio Evid. R. 1004 Admissibility of Other Evidence of Contents

- (1) Originals lost or destroyed
- (2) Original not obtainable.
- (3) Original in possession of opponent
- (4) Collateral matters

Ohio Evid. R. 1005 Public Records

Ohio Evid. R. 1006 Summaries

Ohio Evid. R. 1007 Testimony or Written Admission of Party, and,

Ohio Evid. R. 1008 Functions of Court and Jury

D. Cited Chapter 2921 of the Ohio Revised Code concerning offenses against justice and public administration

E. Stated that the grant of that motion would be able to prove that neither the Plaintiff in that case, Citizens Banking Company, nor attorney Galloway, who had been appointed as administrator of the estate of the Relator’s Dad, were involved in

any conspiracy (*cf.*, R.C. 2923.01 Conspiracy, 18 USC 241 Conspiracy against rights) to deny due process of law (US Constitution, Fifth and Fourteenth Amendments) to either the Relator or the estate of the Relator's Dad

58. On December 7, 2012, a certificate of assignment by Chief Justice O'Connor was filed in the case of *The Citizens Banking Company vs. The Estate of Edward I. Soltesz, et al.*, case number 2012 CV 0752, appointing Respondent Judge Bowman to preside over that particular case, effective November 19, 2012, Receipt: 148983, Date: 03/04/2014.

59. Respondent Judge Bowman never ruled on the Relator's motion for authority to obtain information from Respondent CourtSmart of November 19, 2012, and yet subsequently granted the foreclosure to Plaintiff Citizens Banking Company on July 25, 2013 by issuing a decision authorizing such foreclosure under fraudulent pretenses instead.

60. A) The July 25, 2013 ruling by Respondent Judge Bowman was over the Relator's objections filed on February 11, 2013, March 15, 2013, and April 1, 2013 in that case of *The Citizens Banking Company vs. The Estate of Edward I. Soltesz, et al.*, case number 2012 CV 0752, in violation of the Relator's rights of due process.

B) A copy of that decision was mailed to the Relator through the United States Postal Service for the purposes of furthering such foreclosure fraud in violation of:

18 U.S.C. 241 Conspiracy against rights; and

18 U.S.C. 1030(a)(2)(C), and  
(4), and  
(6)(A), and  
(7)(B) and  
(C), and  
(e)(1) and  
(2)(B) and  
(6) and  
(9) and

(10) and  
(11) and  
(12) and  
(g)  
(i)(1)(A) and  
(B) and  
(j)(1) and  
(2)

- Fraud and related activity in connection with computers; and

18 U.S.C. 1037(a)(1) and  
(2) and

- Fraud and related activity in connection with electronic mail

18 U.S.C. 1341 - Frauds and swindles

18 U.S.C. 1343 - Fraud by wire, radio, or television

18 U.S.C. 1961(1) and  
(2) and  
(3) and  
(4) and  
(5) and  
(7) and  
(8) and  
(9), and  
(10)

- Definitions; and

18 U.S.C. 1962(a) and  
(b) and  
(c) and  
(d)

- Prohibited activities; and

18 U.S.C. 1963(a)  
(1) and  
(2)  
(A) and  
(B) and  
(C) and  
(D) and  
(3) and  
(b)  
(1) and

- (2) and
- (c) and
- (d)
  - (1)
    - (A) and
    - (B)
      - (i) and
      - (ii) and
  - (2) and
  - (3) and
  - (e) and
  - (f) and
  - (g)
    - (1) and
    - (2) and
    - (3) and
    - (4) and
    - (5) and
  - (h)
    - (1) and
    - (2) and
    - (3) and
    - (4) and
    - (5) and
    - (6) and
  - (i)
    - (1) and
    - (2) and
  - (j) and
  - (l)
    - (1) and
    - (2) and
    - (3) and
    - (4) and
    - (5) and
    - (6)
      - (A) and
      - (B) and
  - (m)
    - (1) and
    - (2) and
    - (3) and
    - (4) and
    - (5)
- Criminal penalties; and

18 U.S.C. 1964(a) and  
(b) and  
(c) and  
(d)

- Civil remedies; and

18 U.S.C. 1965(a) and

(b) and  
(c)

- Venue and process; and

18 U.S.C. 1966 – Expedition of actions; and

18 U.S.C. 1967 – Evidence; and

18 U.S.C. 1968 – Civil investigative demand; and

18 U.S.C. 2381 – Treason; and

18 U.S.C. 2382 - Misprision of treason; and

28 USC 1331 Federal question;

as well as any other statutes of the United States Code, that the United States Attorney General may find applicable.

61. On August 21, 2013, Respondent Judge Bowman issued an order of sale of the real property in the case of *The Citizens Banking Company vs. The Estate of Edward I. Soltesz, et al.*, case number 2012 CV 0752, in the General Division of The Erie County Common Pleas Court.

62. Respondent Judge Bowman had a duty to allow the Relator to provide an affirmative defense in the foreclosure case by *Citizens Banking Company* by granting the Relator's motion to obtain information from Respondent CourtSmart, but refused to do so, and engaged in a conspiracy in a pattern of corrupt activity with one or more of the Respondents

named in this complaint in violation of R.C. 2923.01(A)(1) and (2) and /or (3); and (B); and (C), as well as federal statutes cited in statement 61 above.

63. Respondent Judge Bowman had a duty to allow the Relator to provide an affirmative defense in the foreclosure case by *Citizens Banking Company* by granting the Relator's motion to obtain information from Respondent CourtSmart, but refused to do so, and engaged in a conspiracy to deprive the Relator of his rights:

- A. Of due process under the United States Constitution
- B. Of property under both the United States and Ohio Constitutions

64. Respondent Judge Bowman had a duty to issue a decision, which would have honored the Relator's due process rights, including, but not necessarily limited to his right to provide an affirmative defense, and his right to present evidence in protection of his property rights in the foreclosure case by *Citizens Banking Company*, but instead engaged in foreclosure fraud by violating one or more of the following federal statutes:

- A. 18 U.S.C. 1001(a)(1) and (2) and (3) - Statements or entries generally; and
- B. 18 U.S.C. 1343 - Fraud by wire, radio, or television with respect to wire fraud; and
- C. 18 U.S.C. 241 – Conspiracy against rights with respect to the Relator's Dad and this Relator's rights of due process secured to him by the United States Constitution and the laws of the United States; and
- D. 18 U.S.C. 242 - Deprivation of rights under color of law with respect to having subjected the Relator's Dad and this Relator a deprivation of one or more rights, privileges, or immunities secured or protected by the Constitution or laws of the United States; and

E. 18 U.S.C. 1952(A)(1) and (2) and (3) - INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING ENTERPRISES; and

F. 18 U.S.C. 1962 - PROHIBITED ACTIVITIES; and

G. 18 U.S.C. 1968 - CIVIL INVESTIGATIVE DEMAND; and

any other federal statutes as matters may progress under Article IV, the first paragraph of the United States Constitution, concerning in relevant part "Congress may by general Laws prescribe the Manner in which such . . . Records and Proceedings shall be proved, and the Effect thereof."

65. The refusal of Respondent Judge Bowman to grant the Relator the authority he needed to obtain the necessary information from Respondent CourtSmart, proving that they do in fact have an online backup copy of the January 28, 2008 hearing record available for transcription, and that there had in fact been a fraudulent transfer of the title to Citizens Banking Company, which constituted a violation of a duty specifically enjoined by law.

SIXTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD

66. On April 9, 2013, a certificate of assignment was filed in the case of *Diana Barrett vs. E. Dean. Soltesz*, case number 2012 DV 0156, appointing Respondent Judge J. Ronald Bowman to preside in the Erie County Court of Common Pleas, General, Domestic Relations, and Probate Divisions to hear case 2012 DV 0156 and to conclude any proceedings in which he participated.

67. On April 17, 2013, in the Domestic Relations Division of The Erie County Common Pleas Court in the case of *Diana D. Barrett v. E. Dean Soltesz*, case number 2012 DV 0156:

- A. A hearing was held.
- B. A decision was issued by Respondent Judge Bowman to continue the temporary civil protection order against the Relator, which was initially issued on December 12, 2012.
- C. The Relator was not in attendance at that hearing due to the fact that he had not been served with a copy of the complaint against him.

68. On May 14, 2013, the Relator filed in the Domestic Division of the Erie County Common Pleas Court in the case of *Diana D. Barrett vs. E. Dean Soltesz*, case number 2012 DV 0156 a motion to obtain information from Respondent CourtSmart.

69. In that motion for authorization to obtain information from Respondent CourtSmart referenced in statement 68 directly above the Relator provided the following:

- A. A copy of the email request he made to the Erie County Auditor's Office on October 18, 2012, which that office in turn forwarded to The Erie County Common Pleas Court on October 19, 2012 attached as "Defendant's Exhibit 'D-1'"
- B. A copy of a Public Records Request Worksheet was also attached "Defendant's Exhibit 'D-2'"
- C. A statement that the importance of the information sought from CourtSmart was referenced as an *offer of proof* consistent with Ohio Evid. Rule 103(A)(2), that there was no basis under the law for the Plaintiff to have any claim against the Relator in that case.
- D. A true copy of an email from Scott Campbell, Manager of Technical Support Services for Respondent CourtSmart dated August 6, 2012, attached thereto as "Defendant's Exhibit E"

E. A true copy of the email response from Respondent Judge McGookey dated October 19, 2012 to the public records request referenced in Exhibits D-1 and D-2, attached thereto as “Defendant’s Exhibit F”

F. A true copy of the Notice of Hearing dated March 16, 2011 in the cases of *The Guardianship of Edward I. Soltesz*, case number 072028, and the Land Sale Proceeding in said guardianship, case number 072028A, attached thereto as Defendant’s Exhibit I, proving that:

- i. The hearing held in that case on April 21, 2011 was only a “*pre-trial*” hearing and *not* the actual *trial* of that case.
- ii. That there were other cases involving both Plaintiff Diana D. Barrett and this Relator in which the Domestic Relations Division of the same Court would not have exclusive jurisdiction under R.C. 2101.24(A)(1)(g), (m), (n), (o), (q), (s), (t), (w), (bb), (cc), (dd); and (2)

G. A copy of the first page of a similar motion in Ohio Supreme Court appeal, case docket number 2013-1090 attached thereto as Defendant’s Exhibit J

H. Citations of:

- i. Ohio Evid. R. 1001 Definitions
  - (1) Writings and recordings
  - (3) Original
  - (4) Duplicate

Ohio Evid. R. 1002 Requirement of Original

Ohio Evid. R. 1004 Admissibility of Other Evidence of Contents

- (1) Originals lost or destroyed

(2) Original not obtainable.

(3) Original in possession of opponent

(4) Collateral matters

Ohio Evid. R. 1005 Public Records

Ohio Evid. R. 1006 Summaries

Ohio Evid. R. 1007 Testimony or Written Admission of Party

Ohio Evid. R. 1008 Functions of Court and Jury

ii. Ohio Revised Code 149.43(A)(1) Availability of public records for inspection and copying

Ohio Revised Code 2101.11(A)(1) Court records – investigators – bond

Ohio Revised Code 2101.121(B) Record-keeping methods

Ohio Revised Code 2111.02(C)(4) Appointment of guardian – limited, interim, emergency or standby guardian – nomination

R.C. 2901.01(A)(9)(d) General provisions definitions

R.C. 2905.11(A)(4) Extortion

Ohio Revised Code 2913.01(A), (B), (C)(3), (D), (E), (F), (G), (H), (K)(1), (2), (3) and (4), (L), (M), (N), (O), (P), (R), (T), (X), (Y), (Z), (BB)(1), (II)(1)(a), (b), and (d), Theft and fraud general definitions including “Embezzlement”

Ohio Revised Code 2913.02(A)(1), (2), (3), (4) and (5), and (B)(1) and (2) Theft

R.C. § 2913.05 Telecommunications fraud

R.C. 2913.42(A)(1) and (2), (B)(3)(c) and (d), and (4) Tampering with records

R.C. 2913.43(A) Secured writings by deception

Ohio Revised Code Chapter 2921 Offenses against justice and public administration, specifically:

R.C. 2921.03(A) Intimidation

R.C. § 2921.12 Tampering with evidence

R.C. 2921.13(A)(1), (3), (6), (7), (9), (10), (11) and (13) Falsification

R.C. 2921.11(A), (B) and (C) Perjury

R.C. § 2921.21 Compounding a crime

R.C. § 2921.31 Obstructing official business

R.C. 2921.32(A)(4) and (6) Obstructing justice

R.C. 2921.41(A)(1) and (2) Theft in office

R.C. § 2921.44 Dereliction of duty

R.C. § 2921.45 Interference with civil rights

R.C. 2921.42(A)(1) and (2), (E), (H), (I)(1)(a) and (2) Having an unlawful interest in a public contract

R.C. 2923.01(A)(1), (2) and (4) Conspiracy with respect to “engaging a pattern of corrupt activity”

R.C. § 2923.02 Attempt to commit an offense

R.C. 2923.03(A)(1), (2) and (3) Complicity

R.C. § 2923.31 Corrupt activity definitions

R.C. § 2923.32 Engaging in a pattern of corrupt activity

R.C. § 2945.64 Embezzlement prima-facie evidence

iii. 5 USC 3331 Oath of office

18 USC 1001(a)(1), (2) and (3) Statements or entries generally

18 USC 1021 Title records

18 USC 1028(a)(1), (5), (7) and (8) Fraud and related activity in connection with identification documents, authentication features, and information

18 USC 1029(a)(7) and (9), (e)(1), (8), (9) and (11), and (g)(1) Fraud and related activity in connection with access devices

18 USC 1030 Fraud and related activity in connection with computers

18 USC 1037 Fraud and related activity in connection with electronic mail

18 USC 1039 Fraud and related activity in connection with obtaining confidential phone records information of a covered entity

18 USC 1341 Frauds and swindles

18 USC 1343 Fraud by wire, radio, or television

18 USC 1349 Attempt and conspiracy

18 USC 1962 Prohibited activities

18 USC 1964 Civil remedies

18 USC 1965 Venue and process

18 USC 1966 Expedition of actions

18 USC 1967 Evidence

18 USC 1968 Civil investigative demand

18 USC 2381 Treason

18 USC 2382 Misprision of treason

28 USC 1331 Federal question

iv. Ohio Judicial Conduct Rules:

Preamble, Paragraphs 1, 2.6, and 2.8

1.1 Compliance with the Law

2.2 Promoting Confidence in the Judiciary

- 2.3(B) Competence, Diligence and Cooperation
- 2.8(B) Decorum, Demeanor, and Communications with Jurors
- 2.9(A)(3) and (D) *Ex parte* communications and contacts with others (referenced in comment 4),
- 2.10(C) Judicial statements on pending and impending cases relevant to division (B)
- 2.12(A) Supervisory duties
- 2.15(A) Responding to Judicial and Lawyer Misconduct
- 2.16(B) Cooperation with Disciplinary Authorities, and,
- 3.1(E) Extrajudicial activities in general

- v. Art. III, Section 2, Clause 1, U.S. Constitution
- vi. Ohio Constitution, Article IV, Section 4.02(B)(1)(f) and (g),  
(2)(a)(iii)
- vii. Ohio Civil Rule 38 Jury trial of right, (A) Right preserved, and  
(B) Demand

70. On September 24, 2013 Respondent Judge Bowman denied the Relator's May 14, 2013 motion for authorization to obtain information from Respondent CourtSmart in the case of *Diana D. Barrett vs. E. Dean Soltesz*, case number 2012 DV 0156 in the Domestic Division of the Erie County Common Pleas Court, and:

- A. Denied the Relator his right to provide an affirmative defense against the groundless charge against him
- B. That denial was mailed to the Relator and therefore was part of a devised scheme in furtherance of defrauding this Relator of his rights secured to him under the United States Constitution, specifically:

- i. His right to own, enjoy and dispose of his own property
- ii. His right to present evidence in testimony in explanation and rebuttal
- iii. His right to present evidence in his defense

in violation of:

- 5 USC 3331 Oath of office; and
- 18 USC 1001(a)(1), (2) and (3) Statements or entries generally; and
- 18 USC 1021 Title records; and
- 18 USC 1028(a)(1), (5), (7) and (8) Fraud and related activity in connection with identification documents, authentication features, and information; and
- 18 USC 1029(a)(7) and (9), (e)(1), (8), (9) and (11), and (g)(1) Fraud and related activity in connection with access devices; and
- 18 USC 1030 Fraud and related activity in connection with computers; and
- 18 USC 1037 Fraud and related activity in connection with electronic mail; and
- 18 USC 1039 Fraud and related activity in connection with obtaining confidential phone records information of a covered entity; and
- 18 USC 1343 Fraud by wire, radio, or television; and
- 18 USC 1962 Prohibited activities; and
- 18 USC 1964 Civil remedies; and
- 18 USC 1965 Venue and process; and
- 18 USC 1966 Expedition of actions; and
- 18 USC 1967 Evidence; and
- 18 USC 1968 Civil investigative demand; and
- 18 USC 2381 Treason; and
- 18 USC 2382 Misprision of treason

71. Respondent Judge Bowman's September 24, 2013 decision was mailed to the parties involved in that case, and therefore was part of a larger scheme or artifice to defraud the Relator of his property rights as well as other rights of due process of law in violation of one or more of the various rules of law referenced in statement 69(H) above, including but not necessarily limited to 18 USC 1341 Frauds and swindles.

72. The refusal of Respondent Judge Bowman to grant the Relator the authority he needed to obtain the requested information from Respondent CourtSmart, proving that:

- A. They do in fact have an online backup copy of the January 28, 2008 hearing record available for transcription, and
- B. There had in fact been a fraudulent transfer of the title involved in the probate cases referenced in this complaint to Citizens Banking Company, as well as a cover-up of the denial of due process rights of the Relator and the Relator's Dad constituted a violation of a duty specifically enjoined by law.

#### SEVENTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD

73. On September 9, 2013, the Relator filed a motion to correct or modify the record *In the Guardianship of Edward I. Soltész*, case number 20072028.

74. In that September 9, 2013 motion the Relator cited:

- A. Ohio Civ. Rules of Procedure 44(C) Other proof of record; and 73(A) Applicability, and (E)(7) Service of notice
- B. R.C.:
  - 3.30 Failure to give bond of office

149.43(A)(1) and (B)(4) Availability of public records for inspection and copying

2101.11(A)(1) Court records – investigators – bond

2101.121 Record-keeping methods

2101.13 Probate judge shall make entries omitted by his predecessor

2101.33 Vacation and modification of judgments

2111.02(C)(4) Appointment of guardian - limited, interim, emergency, or standby guardian – nomination

C. Ohio Judicial Conduct Rules:

1.1 Compliance with the law

1.2 Promoting Confidence in the Judiciary

1.3 Avoiding Abuse of the Prestige of Judicial Office

2.3(A) and (B) Bias, Prejudice, and Harassment

2.4(B) External Influences on Judicial Conduct

2.5(A) and (B) Competence, Diligence, and Cooperation

2.8(B) Decorum, Demeanor, and Communication with Jurors

2.12(A) and (B) Supervisory Duties

D. Ohio Constitution:

Article I, Section 1.11 Freedom of speech; of the press; of libels

Article I, Section 1.16 Redress in Courts

Article IV, Section 4.04(C) Common Pleas Court

E. Ohio Appeals Rule 9 The record on appeal

Appeals Rule 10(B) Duty of clerk to transmit the record

F. Ohio Evid. R. 102 Purpose and construction; supplementary principles

Evid. R. 103(A)(2) Rulings on Evidence; Effect of erroneous ruling; Offer of proof

Evid. R. 1001 Definitions  
(3) Original

Evid. R. 1002 Requirement of Original

Evid. R. 1004 Admissibility of Other Evidence of Contents

- (1) Originals lost or destroyed
- (2) Original not obtainable
- (3) Original in possession of opponent
- (4) Collateral matters

Evid. R. 1005 Public Records

G. Ohio Sup. R. 45 Court Records – Public Access

- (A) Presumption of public access
- (B) Direct access

H. U.S. Constitution:

Article I, Section 8, Clause 3

Article I, Section 9, Clause 6

Article IV, Section 1

Article III, Section 2, Clause 1

Article VI, Clauses 2 and 3

I. 28 U.S.C. 1331 Federal question

75. The Relator also provided a motion to re-open the case *In the Guardianship of Edward I. Soltesz*, case number 20072028, for filing concurrently with his motion to modify or correct the record.

76. The new Administrator and Deputy Clerk of The Erie County Common Pleas Court, Cindy Blazik, telephoned the Relator to advise him that Respondent Judge Clunk had never closed that guardianship case, that therefore the motion to re-open the case was unnecessary, and that she would be mailing it back to him along with the copies of that motion provided for filing.

77. On September 30, 2013, Respondent Judge Clunk issued an order denying the Relator's motion to correct or modify the record *In the Guardianship of Edward I. Soltesz*, case number 20072028.

78. A mandatory duty is imposed on Respondent Judge Clunk to provide any reasonable assistance to the Relator in his attempts to determine the whereabouts of the missing hearing record of January 28, 2008 *In the Guardianship of Edward I. Soltesz*, case number 20072028 by Ohio App. R. 9 The record on appeal, as well as R.C. 149.43 Availability of public records for inspection and copying, 2101.121 Record-keeping methods, 2101.13 Probate judge shall make entries omitted by his predecessor, and 2101.33 Vacation and modification of judgments.

79. The refusal of Respondent Judge Clunk to grant the Relator the authority he needed to obtain the needed information from Respondent CourtSmart proving that they do in fact have an online backup copy of the January 28, 2008 hearing record available for transcription constituted a violation of a duty specifically enjoined by law.

#### EIGHTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD

80. On November 23, 2011, attorney Rengel filed a motion for summary judgment against the Relator in *Robert C. Egger, et al., Plaintiffs v. Edward I. Soltesz, et al., Defendants*

(the land sale case), case number 2007-02-028 A in the Probate Division of The Erie County Court of Common Pleas.

81. On December 7, 2011, the Relator filed his response to attorney D. Jeffery Rengel's motion for summary judgment in the land sale case, which was the same day that the Relator's Dad died.

82. On December 16, 2011, attorney Rengel filed an amended motion for summary judgment against the Relator in *Robert C. Egger, et al., Plaintiffs v. Edward I. Soltesz, et al., Defendants* (the land sale case), case number 2007-02-028 A in the Probate Division of The Erie County Court of Common Pleas.

83. On December 30, 2011, the Relator filed his objection to attorney Rengel's amended motion for summary judgment, citing attorney Rengel's violation of R.C. 2905.11 Extortion, and also Ohio Gov.Bar R I, Section 8, and Ohio Prof.Cond.R. 8.4.

84. On February 8, 2012, Respondent Judge Clunk issued an order denying attorney Rengel's motion for summary judgment against the Relator.

85. On April 2, 2012, there was:

- A. A hearing held to appoint an administrator in the third probate case to settle the estate of my Dad, *Concerning Edward I. Soltesz*, case number 2012-1-072
- B. A second hearing for the purpose of determining the final accounting in the guardianship case, *In the Guardianship of Edward I. Soltesz*, case number 2007-2-028

with Respondent Judge Clunk presiding.

86. During that hearing of April 2, 2012 referenced directly above, the following was established on the record of that hearing:

A. That the judicial proceedings in the probate cases, involving the Relator's Dad, his sister Diana Barrett, attorney and former estate guardian Robert C. Egger and the Relator, had not been conducted in accordance with what was established on the record of the Probate Court in the guardianship case in the hearing held on January 28, 2008.

B. Respondent Judge Clunk held that the Relator must be able to show something "egregious" with the record of the judicial proceedings of the Probate Court, and that he did not want to get into matters, which were in the past in the case of the Relator's Dad's guardianship, because he had already made up his mind that everything was just fine the way things were with his predecessor.

87. On May 10, 2012, Respondent Judge Clunk held a hearing in the Probate Division of The Erie County Common Pleas Court in the following two cases:

- A. *In The Guardianship of Edward I. Soltesz*, case number 2007-2-028
- B. *Robert C. Egger, et al., Plaintiffs v. Edward I. Soltesz, et al., Defendants* (the land sale case), case number 2007-02-028 A

88. During that May 10, 2012 hearing, the following was established on the record of that particular hearing:

- A. Respondent Judge Clunk held that the Relator's claim against attorney Rengel involving extortion under R.C. 2905.11 would be more appropriate in the General Division of The Erie County Common Pleas Court.
- B. Respondent Judge Clunk established the necessity of something egregious in the record of the accounting for the guardianship case, and that there was no basis for any exceptions

C. Respondent Judge Clunk stated that he was not going to go back in the guardianship case to things in the year two-thousand and eight, claiming as his reasons:

- i. He wasn't the sitting judge then.
- ii. He didn't have anything to do with the guardianship case.

D. Respondent Judge Clunk re-affirmed that the Probate Court is a statutory court.

89. On May 21, 2012, the Relator filed a complaint with jury demand endorsed thereon against attorney Rengel in the General Division of The Erie County Common Pleas Court, case number 2012 CV 0380, also citing a violation of R.C. 2905.11 Extortion by attorney Rengel.

90. On June 6, 2012, Plaintiff attorney D. Jeffery Rengel filed a Brief in Opposition to Dean Soltesz's Motion For Default Judgment in the case of *Robert C. Egger, Guardian of the Estate of Edward I. Soltesz v. Edward I. Soltesz, et al.*, case number 07-05-028 A in the Probate Division of this Court. In that brief on page 1 he stated:

If Defendant Soltesz believes so strongly in his unfounded allegations of criminal activity then this writer invited, *neigh demands*, that Soltesz file criminal charges so that the undersigned can fully defend himself against these slanderous allegations. Only once these phony claims are put to rest once and for all can the undersigned fully seek adequate redress from Soltesz.

91. On September 17, 2012, Respondent Judge Bowman issued a judgment entry that was filed in the case of *E. Dean Soltesz v. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380, in the General Division of The Erie County Common Pleas Court, granting attorney Rengel's motion to dismiss my complaint against him, denying Defendant Rengel's motion for sanctions, and denying the Relator's motion for leave to amend his complaint in that same case.

92. Immediately prior to the file-stamped judgment entry referenced in statement 92 immediately above on September 17, 2012, the Relator provided a formal criminal complaint against attorney D. Jeffery Rengel, Esq. to the Erie County Sheriff's Department of Ohio.

93. The criminal complaint referenced in statement 92 directly above was in accordance with attorney Rengel's demand of June 6, 2012, that the Relator file criminal charges against him.

94. The Relator learned later that this criminal complaint had been provided to Erie County Prosecutor, Kevin Baxter, who has apparently had it sitting on his desk since then.

95. On September 12, 2013, attorney Rengel filed a notice of service of his second set of his requests for admissions, production and interrogatories upon the Relator in the General Division of The Erie County Common Pleas Court, in the case of *E. Dean Soltesz v. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380, and served such copy of those discovery requests upon me, even though attorney Rengel previously argued that that case had been closed.

96. On October 9, 2013, the Relator filed in the General Division of The Erie County Common Pleas Court in the case of *E. Dean Soltesz v. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380, the Relator's answer to attorney Rengel's second set of his requests for admissions, production and interrogatories to the Relator.

97. Also on October 9, 2013, the Relator filed a motion for authority to obtain information from Respondent CourtSmart in the case of *E. Dean Soltesz v. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380 in which:

- A. He stated the necessity for the grant of his motion in his answering attorney Rengel's:
  - i. Request for Admission No. 6
  - ii. Interrogatory No. 7 with reference to Request for Production No. 7

- iii. Request for Admission No. 7
- iv. Interrogatory No. 11
- v. Interrogatory No. 13 with reference to Request for Production No. 13

B. He cited the following rules of evidence:

Ohio Evid. Rules 101; 102; 103(A)(2), (B) and (D); 104(B); 106 Remainder of Related Writings or Recorded Statements;

Ohio Evid. R. 201(D), (E) and (F);

Ohio Evid. R. 301;

Ohio Evid. Rules 402; 404(B); 405(B); 407;

Ohio Evid. R. 501 General Rule;

Ohio Evid. Rules 607(A) and (B); 608(A) and (B); 611(A); 612; 613(A), (B) and (C); 614(A) and (B); 615; 616(A) and (C);

Ohio Evid. Rules 801; and 802;

Ohio Evid. R. 803(1), (5), (6) Records of regularly conducted activity, (7) Absence of entry in record kept in accordance with the provisions of paragraph (6), (8) Public records and reports, (10) Absence of public record or entry, (14) Records of documents affecting an interest in property, (15) Statements in documents affecting an interest in property, (16) Statements in documents affecting an interest in property, (18) Learned treatises, (23) Judgment as to personal, family, or general history, or boundaries, (21) Reputation as to character, and (23) Judgment as to personal, family, or general history, or boundaries;

Ohio Evid. R. 804 Hearsay exceptions (1) Former testimony; (3) Statement against interest; (4) Statement as to personal or family history; (6) Forfeiture by wrongdoing;

Ohio Evid. Rules 805; and 806 Attacking and Supporting Credibility of Declarant;

Ohio Evid. R. 901 Requirement of Authentication or Identification;

Ohio Evid. R. 1001 Definitions, (1) Writings and recordings, (3) Original, (4) Duplicate;

Ohio Evid. R. 1002 Requirement of original;

Ohio Evid. R. 1003 Admissibility of Duplicates;

Ohio Evid. R. 1004 Admissibility of Other Evidence of Contents (1) Originals lost or destroyed; (2) Original not obtainable; and (3) Original in possession of opponent;

Ohio Evid. R. 1005 Public Records;

Ohio Evid. R. 1006 Summaries;

Ohio Evid. R. 1007 Testimony or Written Admission of Party; and,

Ohio Evid. R. 1008 Functions of Court and Jury

C. He cited Ohio Civil Rule 44 Proof of official record, Division (A)(1)

Authentication, and Ohio Civil Rule 44(C) concerning Other proof of record.

D. He cited the following provisions of the Ohio Constitution:

Ohio Constitution, Article 1, Section 1.11 Freedom of speech; of the press; of libels

Ohio Constitution, Article 1, Section 1.16 Redress in courts

E. He cited Ohio Sup. R. 45 Court Records – Public Access, parts (A)

Presumption of public access, and (B) Direct access.

F. He cited the following provisions of the U.S. Constitution:

Article I, Section 8, Clause 3, involving the commercial agreement

between Respondent CourtSmart and the Erie County Common Pleas

Court

Article I, Section 9, Clause 6, involving no preferences in the regulation of commerce between CourtSmart in Massachusetts and this Court in the State of Ohio

Article IV, concerning the Full Faith and Credit Clause

Article III, Section 2, Clause 1, concerning judicial power of the United States

Article VI, Clauses 2, concerning oaths; and 3, concerning Treason

G. He cited Title 28 United States Code Section 1331 Federal question.

H. He cited Ohio Jud. Cond. Rules:

1.1 Compliance with the law

1.2 Promoting Confidence in the Judiciary

1.3 Avoiding Abuse of the Prestige of Judicial Office

2.3(A) and (B) Bias, Prejudice, and Harassment

2.4(B) External Influences on Judicial Conduct

2.5(A) and (B) Competence, Diligence, and Cooperation

2.8(B) Decorum, Demeanor, and Communication with Jurors

2.12(A) and (B) Supervisory Duties

98. Respondent Judge Bowman dismissed the Relator's claim against attorney Rengel in the case of *E. Dean Soltesz v. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380, in the General Division of The Erie County Common Pleas Court without deciding the Relator's motion for authority to obtain information from Respondent CourtSmart, and closed the case without journalizing the judgment entry on September 17, 2012.

99. The refusal of Respondent Judge Bowman to grant the motion of the Relator to obtain the necessary information from Respondent CourtSmart in the case of *E. Dean Soltesz v. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380, in the General Division of The Erie County Common Pleas Court constitutes a violation of duty specifically enjoined by law.

NINTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD

100. On October 15, 2013, the Relator filed a notice of appeal of the September 17, 2012 decision and judgment entry in the case of *E. Dean Soltesz vs. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380, from the General Division of The Erie County Common Pleas Court, along with a docketing statement and praecipe to the Ohio Sixth District Court of Appeals.

101. On October 28, 2013, the Relator filed in the General Division of the Erie County Common Pleas Court in the case of *E. Dean Soltesz vs. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380, a motion to order the transfer of the record of cases in the Probate Division to the General Division of the Erie County Common Pleas Court, consistent with the finding of fact and holding of Respondent Judge Clunk in the Probate Division of The Erie County Common Pleas Court during the hearing of May 10, 2012 in the case of *In the Guardianship of Edward I. Soltesz*, case number 2007-02-028, and R.C. 2101.24(B)(2) Jurisdiction of probate court.

102. Respondent Judge Bowman refused to grant the Relator's motion to order the transfer of the record of cases in the Probate Division to the General Division of The Erie County Common Pleas Court (*In the Guardianship of Edward I. Soltesz*, case number 2007-02-028, and *Robert C. Egger, et al., Plaintiffs v. Edward I. Soltesz, et al., Defendants*, case number 2007-02-028 A) consistent with the finding of fact and holding of Respondent Judge Clunk in the Probate Division of The Erie County Common Pleas Court during the hearing of May 10, 2012, in the

case of *E. Dean Soltesz v. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380 in violation of R.C. 2101.24(B)(2) Jurisdiction of probate court, concerning the violation of R.C. 2905.11 Extortion.

103. A mandatory duty to grant the Relator's motion to order the transfer of the record of cases from the Probate Division to the General Division of The Erie County Common Pleas Court (*In the Guardianship of Edward I. Soltesz*, case number 2007-02-028, and *Robert C. Egger, et al., Plaintiffs v. Edward I. Soltesz, et al., Defendants*, case number 2007-02-028 A) is imposed upon Respondent Judge Bowman.

104. The refusal of Respondent Judge Bowman to grant the motion of the Relator to obtain the necessary information from Respondent CourtSmart in the case of *E. Dean Soltesz v. D. Jeffery Rengel, Esq.*, case number 2012 CV 0380, in the General Division of The Erie County Common Pleas Court constitutes a violation of duty specifically enjoined by law.

**TENTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD**

105. On October 18, 2013, the Relator filed a motion for an evidentiary hearing along with a subpoena and praecipe with that motion in the Probate Division of The Erie County Common Pleas Court, *In the Guardianship of Edward I. Soltesz*, case number 2007-2-028, assigned to Respondent Judge Clunk and Respondent Judge Bowman, but only in their *de facto* capacity, and not in a *de jure* capacity for both respondents.

106. The stated purpose for such evidentiary hearing, subpoena and praecipe was to obtain the necessary evidence in testimony from Respondent CourtSmart, that it did in fact have an online backup copy of the January 28, 2008 hearing record available for transcription for that

record of that Probate Division of The Erie County Common Pleas Court *In the Guardianship of Edward I. Soltesz*, case number 2007-02-028.

107. On October 30, 2013, Respondent Judge Clunk issued an order denying the Relator's motion for an evidentiary hearing *In the Guardianship of Edward I. Soltesz*, case number 20072028 in the Probate Division of The Erie County Common Pleas Court.

108. A mandatory duty was imposed upon the Respondent Judge Clunk to hold an evidentiary hearing, when substantial, credible evidence had been provided, which would have proven that an entire hearing record has been willfully concealed from appellate review by an officer of the court in violation of:

- A. Ohio Constitution, Article I, Section 1.16 Redress in courts
- B. R.C. Title 29 Crimes -- Procedure
  - i. R.C. 2909.07(A)(6)(a) Criminal mischief
  - ii. R.C. 2913.01(A), (B), (C)(1), (2) and (3), (D), (E), (F), (H), (K)(1), (2), (3) and (4), (L), (M), (N), (O), (P), (Q), (R), (T), (X), (Y), (Z), (BB)(1) and (2), (CC), (DD), (II)(1)(a), (b)(ii), (c) and (d) Theft and fraud general definitions
  - iii. R.C. 2913.02(A)(1), (2), (3), (4) and (5) Theft
  - iv. R.C. 2913.06(B)(2) Unlawful use of telecommunications device
  - v. R.C. 2913.42(A)(1) and (2) Tampering with records
  - vi. R.C. 2913.43(A) Securing writings by deception
  - vii. R.C. 2921.11(A) Perjury
  - viii. R.C. 2921.12 Tampering with evidence
  - ix. R.C. 2921.13(A)(1), (3), (5), (6), (7), (8), (9), (10), (11) and (13) Falsification – in theft offense
  - x. R.C. 2921.22(A)(1) and (2) Failure to report a crime . . .

- xi. R.C. 2921.31(A) Obstructing official business
- xii. R.C. 2921.41(A)(1) Theft in office
- xiii. R.C. 2921.44(E) Dereliction of duty
- xiv. R.C. 2921.45(A) Interfering with civil right
- xv. R.C. 2921.52(A)(4) and (B) Using sham legal process
- xvi. R.C. 2923.01(A)(1) and (2) Conspiracy
- xvii. R.C. 2923.02(A) Attempt to commit an offense
- xviii. R.C. 2923.03(A) Complicity
- xix. R.C. 2923.32(A)(1), (2) and (3) Engaging in pattern of corrupt activity
- xx. R.C. 2923.34(A) Civil proceeding seeking relief from any person whose conduct constitutes corrupt activity
- xxi. R.C. 2927.12(A) Ethnic intimidation
- xxii. R.C. 2981.02(A)(1), (2) and (3)(a) and (c) Property subject to forfeiture
- xxiii. R.C. 2981.06(A) Seizure of forfeited or other property – disposition

C. Ohio Superintendence Rules:

- i. Rule 11 Recording of proceedings
  - (A) Recording devices
  - (B) Appeal (with reference to Ohio App. R. 9(A))
  - (D) Inspection of electronically recorded transcripts of proceedings
  - (E) Reference to electronically recorded transcripts of proceedings
- ii. Rule 44 Court Records – Definitions
  - (B) “Court record”
  - (C)(1) “Case document”

- (D) “Case file”
- (E) “File”
- (F) “Submit”
- (G)(1) “Administrative document”
- (I) “Public access”
- (J) “Direct access”
- (K) “Remote access”

D. Ohio Judicial Conduct Rules:

- Rule 1.1. Compliance with the Law
- Rule 1.2 Promoting Confidence in the Judiciary
- Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office
- Rule 2.1 Giving Precedence to the Duties of Judicial Office
- Rule 2.2 Impartiality and Fairness
- Rule 2.3(A), (B) and (C) Bias, Prejudice, and Harassment
- Rule 2.4(B) External Influences on Judicial Conduct
- Rule 2.5(A) Competence, Diligence, and Cooperation
- Rule 2.6(A) Ensuring the Right to Be Heard
- Rule 2.8(B) Decorum, Demeanor, and Communication with Jurors
- Rule 2.12(A) and (B) Supervisory Duties
- Rule 2.15(A) Responding to Judicial and Lawyer Misconduct
- Rule 2.16(B) Cooperation with Disciplinary Authorities

E. U.S. Constitution:

Preamble

Art. III, Section 3

Art. IV, Section 1

Art. VI

First Amendment

Fifth Amendment

Fourteenth Amendment, Sections 1 and 5

109. The refusal of Respondent Judge Clunk to grant the Relator's motion for an evidentiary hearing for the purpose of providing vital information from Respondent CourtSmart in the case of *In the Guardianship of Edward I. Soltesz*, case number 2007-02-028, in the Probate Division of The Erie County Common Pleas Court, that Respondent CourtSmart does in fact possess a true online backup copy of the January 28, 2008 hearing record available for transcription and that fact constitutes a violation of duty specifically enjoined by law.

**ELEVENTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD**

110. On November 27, 2013, the Relator appealed the October 30, 2013 decision of the Probate Division of The Erie County Common Pleas Court denying his motion for an evidentiary hearing *In the Guardianship of Edward I. Soltesz*, case number 2007-02-028, which became Ohio Sixth District Court of Appeals case numbers E-13-0067 and E-13-0072.

111. In the praecipe for the appeal made on November 27, 2013 in the case of *In the Matter of the Guardianship of Edward I. Soltesz, An Incompetent Person*, Ohio Sixth District Court of Appeals case number E-13-072, trial court case number GDN 2007-2-028, the Relator

made a specific request for a complete transcript of the hearing of January 28, 2008 to be made pursuant to Ohio App.R. 9(B).

112. On January 8, 2014, the Clerk of Courts for Erie County, Ohio, Luvada Wilson, issued a Notice of Filing in the case of *In the Matter of the Guardianship of Edward I. Soltesz*, Ohio Sixth District Court of Appeals case number E-13-0072/2007-2-028.

113. In that Notice of Filing referenced in statement number 112 directly above, the Clerk of Courts for Erie County, Ohio made a special notation that:

NOTE: Requested Transcripts for Jan. 28, 2008, Aug. 26, 2010 & May 10, 2012 have not been transcribed to date.

114. A mandatory duty is imposed upon the Respondent(s) Judge McGookey and Judge Clunk to provide the Appeals Clerk with a transcript of the hearing held on January 28, 2008 by Ohio App.R. 10(B) Duty of clerk to transmit the record.

115. The refusal of Respondents Judge McGookey and Judge Clunk to have a transcript made of the January 28, 2008 hearing record for the purposes of appellate review constitutes a violation of duty specifically enjoined by law for purposes of due process.

#### TWELFTH REQUEST FOR COPY OF THE JANUARY 28, 2008 HEARING RECORD

116. On January 28, 2014, the Relator filed a motion for correction or modification of the record in the Ohio Sixth District Court of Appeals in the case of *In the Matter of the Guardianship of Edward I. Soltesz, [E. Dean Soltesz-Appellant]*, court of appeals case number E-13-072, trial court case number 2007-2-028 pursuant to:

Ohio Appellate Rules:

Rule 1(A) Scope of Rules

Rule 9 The record on appeal

- (A)(1) and (2) Composition of the record on appeal; recording of proceedings
- (B)(1), (3), (4), and (7) The transcript of proceedings; discretion of trial court to select transcriber; duty of appellant to order; notice to appellee if partial transcript is ordered
- (E) Correction or modification of the record

Rule 10 Transmission of the record

- (A) Time for transmission; duty of appellant
- (C) Extension of time for transmission of the record; reduction of time

Ohio Sixth District Local Appellate Rules:

Rule 2 Extension of Time for Transmitting Record

Rule 3 Notice of Appeal, Praecipe and Docketing Statement

- (B) Praecipe

Rule 5 Time for Filing Briefs

- (A) Extensions

Rule 8 Fax Filing and Motions

- (B) Motions

Rule 14 Appointment of Counsel

- (A) Request for Counsel

Ohio Civil Rule of Procedure 44 Proof of Official Record

- (C) Other proof

117. The Relator also cited in his January 28, 2014 motion in the Ohio Sixth District

Court of Appeals:

A. Ohio Judicial Conduct Rules:

Rule 1.1. Compliance with the Law

Rule 1.2 Promoting Confidence in the Judiciary

Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office

Rule 2.1 Giving Precedence to the Duties of Judicial Office

Rule 2.2 Impartiality and Fairness

Rule 2.3(A), (B), (C) and (D) Bias, Prejudice, and Harassment

Rule 2.4(A), (B) and (C) External Influences on Judicial Conduct

Rule 2.5(A) and (B) Competence, Diligence, and Cooperation

Rule 2.6(A) and (B) Ensuring the Right to Be Heard

Rule 2.12(A) and (B) Supervisory Duties

Rule 2.15(A) and (B) Responding to Judicial and Lawyer Misconduct

Rule 2.16(A) and (B) Cooperation with Disciplinary Authorities

B. R.C.:

3.30 Failure to give bond of office

149.43(A)(1) and (B)(4) Availability of public records for inspection and copying

2101.13 Probate judge shall make entries omitted by his predecessor

2101.33 Vacation and modification of judgments

2101.121 Record-keeping methods

2111.02(C)(4) Appointment of guardian – limited, interim, emergency, or standby guardian – nomination

C. Ohio Constitution:

Article I, Section 1.11 Freedom of speech; of the press; libels

Article I, Section 1.16 Redress in courts

D. Ohio Rules of Evidence:

Evid.R. 102 Purpose and construction; supplementary principles

Evid.R. 103 Rulings on evidence

(A) Effect of erroneous ruling

(2) Offer of proof

Evid.R. 1001 Definitions

(3) Original

Evid.R. 1002 Requirement of Original

Evid.R. 1004 Admissibility of Other Evidence of Contents

(1) Originals lost or destroyed

(2) Original not obtainable

(3) Original in possession of opponent

(4) Collateral matters

Evid.R. 1005 Public Records

118. The Relator also provided attachments to his motion in support, namely:

Attachment A: A copy of the email communications between the Relator and

Scott Campbell, Manager of Technical Support Services for Respondent

CourtSmart of August 6, 2012, which were already part of the record on

appeal in that particular case

Attachment B: A copy of the email communications between the Relator

and the Erie County Auditor's Office as well as the Judges of the Erie

County Common Pleas Court, including but not limited to Respondent

Judge McGookey on October 18-19, 2013

Attachment C: A copy of his Public Records Request Worksheet of 18

October 18, 2012

119. On February 13, 2014, the Ohio Sixth District Court of Appeals found the Relator's motion for correction or modification of the record not well-taken and denied the Relator's motion to correct the record of the Probate Division of The Erie County Common Pleas Court, granting him twenty-one days to file his brief in appeals case number E-13-072.

120. On March 6, 2014, the Relator filed his brief of appellant, setting forth the following assignments of error:

**ASSIGNMENT OF ERROR I:**

**THE TRIAL COURT IS WITHOUT JURISDICTION TO CONCEAL THE RECORD OF THE JANUARY 28, 2008 HEARING RECORD FROM APPELLATE REVIEW.**

**ASSIGNMENT OF ERROR II:**

**THE RECORD OF THE JANUARY 28, 2008 HEARING HELD IN THE CASE ON APPEAL WOULD PROVE THAT THE PROBATE COURT HAS VIOLATED ITS DUTIES AS SUPERIOR GUARDIAN OF THE WARD, IF THE COURT OF APPEALS WOULD HAVE JUSTLY GRANTED APPELLANT'S APP.R. 9(E) MOTION FOR CORRECTION OF THE RECORD.**

**ASSIGNMENT OF ERROR III:**

**THIS COURT OF APPEALS IS WITHOUT JURISDICTION TO DENY APPELLANT'S APP.R. 9(E) MOTION FOR CORRECTION OF THE RECORD, WHEN AN ISSUE HAS ARisen ON APPEAL THAT THE RECORD OF A HEARING IN THE PROBATE COURT HAS BEEN WITHHELD FROM APPELLATE REVIEW, AND ONE OF THE ISSUES ON APPEAL INVOLVES THAT RECORD.**

121. On June 27, 2014, the Ohio Sixth District Court of Appeals affirmed the decision of the Erie County Court of Common Pleas, Probate Division, *In the Matter of the Guardianship of Edward I. Soltesz, [E. Dean Soltesz-Appellant]*, court of appeals case number E-13-072, trial court case number 2007-2-028, *In re Guardianship of Soltesz*, 2014-Ohio-2832, because that action was not a *mandamus* action, further holding that *mandamus* is the appropriate remedy.

122. On August 8, 2014, this Relator appealed that decision from the Court of Appeals to the Ohio Supreme Court, which became Ohio Supreme Court docket number 2014-1357.

123. On January 28, 2015, the Ohio Supreme Court decided to decline accepting jurisdiction of the Relator's appeal in docket number 2014-1357, allowing the decision of the Sixth District Court of Appeals to stand *In re Guardianship of Soltesz*, 2014-Ohio-2832, case number E-13-072.

124. On March 6, 2015, the Ohio Sixth District Court of Appeals issued a decision, in case number E-14-089, upholding the decision of Respondent Judge Bowman in the appeal of the civil protection order of May 14, 2014. See *Barrett v. Soltesz*, 2015-Ohio-794.

125. The Appeals Court's decision further prevents the reputation of this Relator from being restored to him from the damage done to him by the Respondents named herein in their withholding of the January 28, 2008 hearing record in the Relator's Dad's guardianship case from appellate review contrary to the Rules of Court established by the Ohio Supreme Court.

126. The Appeals Court's decision further prevents the reputation of this Relator being restored to him by preventing that January 28, 2008 hearing record from being submitted into evidence for inclusion in the record of the domestic relations case involving Ms. Diana Barrett and the Relator, contrary to Ohio Constitution Article I, Section 1.11, concerning libels and slander, Article I, Section 1.16, concerning redress in courts, and Article I, Section 1.01, concerning *inalienable rights* to enjoying and defending life and liberty, *acquiring, possessing, and protecting property*.

127. On April 8, 2015, I sent an email to the Treasurer of Erie County, Pam Ferrell, inquiring whether Respondent Judge Bowman has in fact provided the bond for the performance of his duties as Judge of the “Probate” Division of the Erie County Common Pleas Court.

128. On April 9 - 13, 2015, Erie County Treasurer, Pam Ferrell, replied to my emails confirming that her office does not have any bonds for visiting Judges in spite of the statute that may be involved.

129. On April 17, 2015, I appealed the Ohio Sixth District’s decision in case number E-14-089, *Barrett v. Soltesz*, 2015-Ohio-794 to the Ohio Supreme Court. That case became Ohio Supreme Court case number 2015-0618.

130. On July 8, 2015, the Ohio Supreme Court declined acceptance of jurisdiction in the domestic relations case involving Ms. Barrett and me in case number 2015-0618, Court of Appeals case number E-14-089, trial court case number 2012 DV 0156. There is now no other way for me to obtain the information from Respondent CourtSmart as to whether it does in fact have any type of copy of the January 28, 2008 hearing record available for transcription in my Dad’s guardianship case, case number 2007-02-028 in the Erie County Common Pleas Court.

131. A mandatory duty to provide the record or any information regarding whether the record of the January 28, 2008 hearing is truly available for transcription was imposed upon the Respondents: Judge McGookey, Judge Clunk, Judge Bowman, and CourtSmart pursuant to the Rules of Evidence and other rules of law set forth herein above, such as general laws passed by Congress prescribing the manner in which such acts, records, and proceedings shall be proven, and the effect thereof under Art. IV, U.S. Constitution, and in accordance with due process of law under the Fourteenth Amendment.

132. The refusal of the Respondents to cooperate with the Relator to investigate the fact that the January 28, 2008 hearing record in question is truly available constitutes a violation of a duty specifically enjoined by law.

133. The Relator has no plain and adequate remedy in the ordinary course of the law.

134. The Respondents have acted only in a *de facto* capacity, not *de jure* due to:

A. The recusal of Respondent Judge McGookey on January 22, 2010

B. The assignment (or otherwise having been appointed) of Judge David A.

Zeitzheim to the guardianship case of this Relator's Dad, Edward I. Soltesz, and subsequent notice of retirement of Judge Zeitzheim from hearing all cases, citing health reasons with no record of him having posted a bond for the probate cases involved pursuant to R.C. 2101.03 and 3.30.

C. The lack of any bond having been posted by Respondents Judges Clunk or Bowman pursuant to ORC 2101.03 and 3.30, and Respondent Judge Clunk's holding during the May 10, 2012 hearing that the probate court is a statutory court.

135. Relator most respectfully requests that this action be referred to a master commissioner for the presentation of evidence, hearings, and oral argument pursuant to S.Ct.Prac.R. 12.10 with possible consideration by that master commissioner to S.Ct.Prac.R. Section 13.

136. Relator claims damages as follows:

A. One thousand dollars as provided under R.C. 149.43(C)(1)

B. All filing fees he has been required to pay to the Probate Division of the Erie County Common Pleas Court in the probate cases stated herein, since the January 28, 2008 hearing

C. Costs of all transcripts he has paid to the court reporter, Jody Young of Young Reporting Services, 5504 Wahl Rd., P.O. Box 127, Vickery, Ohio 43464 in the cases of:

- i. *In the Guardianship of Edward I. Soltesz*, case number 2007-02-028, in the Probate Division of The Erie County Common Pleas Court
- ii. *Robert C. Egger, Guardian of the Estate of Edward I. Soltesz v. Edward I. Soltesz, et al.*, case number 2007-02-028A, in the Probate Division of The Erie County Common Pleas Court
- iii. *In Settling the Estate of Edward I. Soltesz*, case number 2012-1-072, in the Probate Division of the Erie County Common Pleas Court
- iv. *Diana Barrett vs. E. Dean. Soltesz*, case number 2012 DV 0156, in the Domestic Relations Division of The Erie County Common Pleas Court

D. Court costs to date this Relator has incurred in the related Ohio Sixth District Court of Appeals cases:

E-10-029, E-10-047, E-10-057, E-10-063, E-11-002, E-11-003, E-11-015, E-11-021, E-11-022, E-047, E-11-064, E-065, E-12-024, E-12-027, E-12-035, E-12-045, E-13-028, E-13-067, E-13-072 and E-14-078 (Ohio Supreme Court docket number 2015-0618) on the grounds that those particular case decisions were procured under the pretenses of fraud in the trial courts

E. That there shall be a new judge appointed to the Domestic Relations Division of the Erie County Common Pleas Court to re-hear case number 2012 DV 0156, *Diana Barrett v. E. Dean Soltesz* with respect to the evidence that

Respondent Judge Bowman has prevented from being submitted into evidence in that case, which would serve to prove that he issued the civil protection order against this Relator as a way of retaliating against him for being able to prove that Respondent Judge Bowman has been involved in conspiracy in the commission of one or more third degree felony(ies) of Ohio laws under R.C. 2921.12 and/or 2913.42, in his assigned clerical duties in the Probate Division of the Erie County Common Pleas Court, as well as having violated his oath of office under Article VI, U.S. Constitution.

F. Damages against the Relator's credit rating, which may be proven and remedied in separate proceedings in federal court under federal laws

Wherefore, the Relator prays that a writ of *mandamus* be issued directing:

A) A successor judge to be appointed to replace Respondent Judge Bowman in the Erie County Common Pleas Court, who is able to grant this Relator the necessary authority he has long sought for permission to obtain the requested information from Respondent CourtSmart, regarding the online backup copy of the January 28, 2008 hearing record available for transcription, as a judge of the General and Domestic Relations divisions of the Erie County Common Pleas Court, trial court case number 2012 DV 0156, Ohio Sixth District Court of Appeals case number E-14-078, Ohio Supreme Court docket number 2015-0618. Such order will allow this Relator to present new evidence in that case under R.C. 3113.31(E)(8)(c), which he was *not* permitted to present in that domestic relations case in that court. That civil protection order was issued against this Relator as a form of retaliation against him for conducting an investigation into whether any of

the Respondents, Judges McGookey, Clunk or Bowman, have been involved in any type of fraudulent activity, contrary to Jud. Cond. R. 2.16(B) and Civ.R. 60(B),

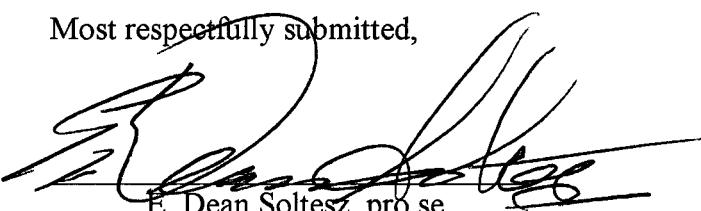
or

B) Respondent CourtSmart to provide the requested information directly to this Relator, or directly to this Court, along with a true copy of that hearing record available for transcription, which it has in its custody online, so that this Relator can also present new evidence in the Domestic Relations case, which he was not permitted to present in that Court pursuant to R.C. 3113.31(E)(8)(c)

or,

An alternative writ.

Most respectfully submitted,



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