U.S. DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

David Schied,
Plaintiff,
V

Laura Cleary in her individual and official capacity as Lincoln Consolidated Schools Superintendent;
Cathy Secor in her individual and official capacity as Lincoln Consolidated Schools business office manager;
Sandra Harris in her individual and official capacity as former Lincoln Consolidated Schools Superintendent
Diane Russell in her individual and official capacity as Lincoln Consolidated Schools FOIA Coordinator and Administrative Assistant;
Sherry Gerlofs in her individual and official capacity As Lincoln Consolidated Schools the Human Resources Administrative Assistant
Lincoln Consolidated Schools Board of Ed et. al & DOES 1-30

Defendants.

Case No. 10-10105 (U.S. District Court)
09-1474-NO (Wash Cir Crt)
Hon. Denise Page Hood

PLAINTIFF'S RESPONSE:
TO "DEFENDANTS' '*NOTICE OF REMOVAL*'"

WITH

PLAINTIFF'S "*DEMAND FOR REMAND OF CASE BACK TO WASHTENAW COUNTY CIRCUIT COURT*"

And accompanying

MOTION FOR SANCTIONS AGAINST DEFENDANTS AND THEIR ATTORNEY MICHAEL WEAVER FOR "*FRAUD*" AND "*CONTEMPT*" *UPON STATE AND FEDERAL COURTS*

Oral Argument Requested;

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DEMAND FOR JURY TRIAL / DEMAND FOR CRIMINAL GRAND JURY

Here comes the Plaintiff who had filed his case in the Washtenaw County Circuit Court, to challenge the assertions of Plunkett-Cooney attorney Michael Weaver constituting yet another incident of "FRAUD UPON THE COURT" in attempt to keep Washtenaw County judges from reviewing his long history of *fraud* in previous cases presented in both State and Federal courts.

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THE TRUTH OF THIS "*NEW*" CASE; AND THE BACKGROUND HISTORY OF ATTORNEY WEAVER'S "*FRAUD*" UPON THIS AND OTHER COURTS

1. In short, THIS instant case is concerning a criminal event perpetuated by the Defendants on March 12, **2009** (3/12/09) as presented in testimony by a witness and placed into a formal "*Affidavit of Earl Hocquard*" presented with the original Complaint as "**Exhibit #8**". Plaintiff incorporates that "Exhibit #8" herein by reference. (Bold emphasis added)
2. On the other hand, attorney Weaver has intentionally *misled* this Court, as well as the Washtenaw County Circuit Court, when he asserted that, "*Plaintiff initiated a prior cause of action arising out of the* ***same transaction and occurrence***". (See p.3, para #8 of Weaver's "*Notice of Removal to United State District Court, Eastern District of Michigan Southern Division*".) Bold emphasis added
3. Attorney Weaver's document, filed under Oath as true, falsely states, "*That matter* [i.e., the "*prior cause of action arising out of the same transaction and occurrence*"] *was* ***entitled*** "*David Schied v.* ***Sandra Harris, et al****, Case No. 2:08-cv-10005*". (Bold emphasis added)
4. Defendants' attorney Michael Weaver's "*Notice of Removal*" (p.2 para 3) states this U.S. District Court is given jurisdiction over this case under 28 U.S.C. § 1332(a)(1), and that this action is removable to this Court under 28 U.S.C. § 1441(a). By the **Evidence that is already in the record, it should be clear that attorney Weaver's statement and "*Removal*" action demonstrates frivolousness, and the willful and intentional commission of "*fraud upon the court*" by the Defendants' attorney as his clients.**
5. **Attorney Weaver has filed this case for the sole purpose of causing further DELAY in the proceedings of this case, to cause additional damage against Plaintiff as a CRIME VICTIM, and to further the Defendants' "*criminal conspiracy to deprive*" Plaintiff of his**

Constitutional and Civil Rights, including his rights to "*due process, to full faith and credit, to privileges and immunities, to equal treatment under the law, to criminal protection*" and to a JURY trial for hearing on this latest of a long line of continuing offenses by his *corrupt* school district clients.

6. 28 U.S.C. § 1441(a) holds,

> "*...any civil action brought in a State court of which the district courts of the United States have **original** jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending...*"

7. 28 U.S.C. § 1332(a)(1) holds,

> "*The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs, **and** is between: (1) citizens of **different** states.*" (Bold emphasis added)

8. This Court should be advised that, as it regards the nature of this instant Complaint, pertaining to both civil and criminal offenses **occurring in 2009**, and concerning **ONLY PARTIES IN RESIDENCY OF THE STATE OF MICHIGAN, this U.S. District Court HAS NO JURISDICTION OVER THE PROCEEDINGS OF THIS "*NEW*" COMPLAINT**. Plaintiff therefore brings this joint "*Response*" and "*Motion for Sanctions*" under 28 U.S.C. § 1441(b), 28 U.S.C. § 1447, and Fed. R. Civ. P. 11 respectively.

9. 28 U.S.C. § 1441(b) maintains,

> "*Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.*"

10. 28 U.S.C. § 1447(c) holds,

> "*A motion to remand the case on the basis of any defect.....**If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case SHALL be remanded.** An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. **A certified copy of the order of remand shall be mailed by the***

clerk to the clerk of the State court. The State court may thereupon proceed with such case."

11. Fed. R. Civ. P. 11(b) (Representations to the Court) holds that Sanctions are justified when:

> "*By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after* ***an inquiry reasonable under the circumstances,*** *— (1) it is not being presented for any improper purpose, such as to harass* ***or to cause unnecessary delay or needless increase in the cost of litigation;*** *(3) the allegations and other* ***factual contentions have evidentiary support*** *or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4)* ***the denials of factual contentions are warranted on the evidence*** *or, if specifically so identified, are reasonably based on a lack of information or belief.*"

12. Fed. R. Civ. P. 11(c) (Sanctions) also holds:

> "*If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may...* ***impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation*** *...by motion...or on the Court's initiative.*"

DEFENDANTS AND THEIR ATTORNEY MICHAEL WEAVER HAVE A LONG HISTORY OF SWAYING JUDGES BY PERPETUATING "*FRAUD UPON THE COURT*"

13. As shown throughout this document by the available Evidence, Plaintiff is presenting this "Response" by review of previous cases going backward in time from Weaver's most recent "*fraud upon this court*" to the earlier occasions of **"*the same*" type of fraud he had committed upon previous courts.** (Bold emphasis added)

14. Herein, this U.S. District Court is given proper "*notice*" that, prior to this, attorney Weaver had perpetuated FRAUD upon this U.S. District Court for the Eastern District of Michigan in 2008 when Plaintiff had brought a completely different case to Judge PAUL D. BORMAN, and while being represented by an attorney who is better known for his adherence to strong

personal morals, solid professional principles, and the high ethical standards of professional practice otherwise expected of attorneys as sworn "*officers of the court*".

15. In his "*Notice of Removal*", Attorney Weaver has "*misrepresented*" the caption of the U.S. District Court case as *Schied* ***vs Sandra Harris, et al.***" to align this instant Complaint with a previous one involving only ONE of the co-defendants named in this new case. The case referenced by attorney Weaver as being "*the same*" as this instant case, **which actually pertained to a completely different "*transaction and occurrence*",** was really captioned throughout the 2008 proceedings as, "*David Schied* ***vs Thomas A. Davis, Jr., et al.***" That previous case, naming the Defendants beginning with "*Thomas A. Davis, Jr....*", was filed by a far more reputable attorney than Plaintiff-Cooney attorney Michael Weaver.[1] **(*See* "Exhibit A")**

16. That previous case had been originally filed as a *42 U.S.C. § 1983* "*Deprivation of Rights Under Color of Law*" case, naming the Defendants as follows in quotes, as it was captioned consistently on the cover page of every document submitted to this U.S. District Court in 2008:

> "*Thomas A. Davis, Jr. in his official capacity as Director of Texas Department of Public Safety; Jennifer Granholm, in her official capacity as Chairperson of the State of Michigan Administrative Board; Leonard Rezmierski, in his official capacity as Northville Public Schools Superintendent;* ***Sandra Harris****, in her official capacity as former Lincoln Consolidated Public Schools superintendent; and Fred J. Williams in his official capacity as Lincoln Consolidated Schools Public Schools superintendent*"

[1] **"Exhibit A"** is being presented as a page from Detroit's "*Premier Business Journal*" DBUSINESS with focus on Plaintiff's former attorney Daryle Salisbury being recently named as one of Detoit's "*Top Lawyers*" In 2008, Mr. Salisbury was the one filing the case that was misleadingly referenced by Weaver as the basis for his claim that this U.S. District Court has "*original jurisdiction*" over this instant "*State*" court case.

17. Weaver intentionally mixed a little bit of "*truth*" with a whole lot of "*lie*" when he referenced the former civil rights case by claim that the case was "***entitled*** '*David Schied* ***v. Sandra Harris, et al***'. This is just **one example** of the deceptive tactics of this unethical attorney, who should otherwise have been barred from practice as a professional attorney long ago.

The case of "*SCHIED V. THOMAS A. DAVIS, JR et. al*" held before Judge Paul D. Borman

18. Plunkett-Cooney attorney Michael Weaver DEFRAUDED the U.S. District Court and Judge Paul D. Borman in his "*Answer*" to Plaintiff's "*Complaint*", even in the previous case of "*SCHIED V. THOMAS A. DAVIS, JR et. al*". He stated, on behalf of his clients, that "*Plaintiff's claim is barred by the doctrine of res judicata...[and]...collateral estoppel*". **(*See* p.5 para #1 and #2 of "Exhibit B")**

19. When arguing his "*Motion for Summary Judgment*" in that previous court case Weaver himself admitted, "*The doctrine of res judicata in Michigan precludes multiple lawsuits litigating 'the same cause of action'.*" **(*See* page 6 para 1 of "Exhibit C".)** Yet he made such argument without acknowledging the fact that though Plaintiff had proof of a **CONTINUUM** OF THE SAME "*TYPE*" OF OFFENSE COMMITTED BY "*THE SAME*" NAMED DEFENDANTS, **Plaintiff had never before filed a 42 U.S.C. § 1983 "*civil rights*" cause of action, either in State or in federal court.**

20. In that previous case, Plaintiff David Schied had based his U.S. District Court complaint upon the fact that on **November 27, 2006** (11/27/06) the co-defendants, named as Fred Williams and Sandra Harris, were responsible for maintaining a "*nonpublic*" and erroneous 2003 FBI criminal history report in the District's "*public*" personnel files, along with

clemency documents provided to Sandra Harris in November 2003 providing evidence of Mr. Schied's "*good faith*" attempt then to rely upon his federal statutory right to "*challenge and correct*" the accuracy of that FBI report and to keep his job until that challenge was completed and until the FBI record was "*corrected*".

21. The "*cause*" of that previous U.S. District Court action was based upon AN ENTIRELY SEPARATE OCCURRENCE than this instant Complaint. The cause of THAT action was based upon the illegal dissemination of those "*nonpublic*" documents to a member of the public (i.e., Plaintiff's wife) under the Freedom of Information Act. **(*See* "Exhibit D")** [2]

22. Refusing to even acknowledge that Plaintiff's attorney had clarified the case against Williams and Harris as involved with the 11/27/06 incident, Weaver then committed additional instances of "*fraud*" upon the U.S. District Court. The very first sentence of his "*Motion for Summary Judgment*" (i.e., Weavers "Introduction" on page 1 of "*Exhibit C*"), Weaver misleadingly claimed,

> "*This lawsuit involves a breach of contract action...whereby Plaintiff David Schied alleges he was wrongfully terminated from employment with the Lincoln Consolidated Schools....Plaintiff has filed two prior lawsuits ARISING FROM THE SAME TRANSACTION OR OCCURRENCE in both the Washtenaw County and Ingham County Circuit Courts....*"

23. While Weaver correctly pointed out to U.S. District Court judge Paul D. Borman, that "*both state court actions were dismissed by the respective courts*", Weaver "*intentionally omitted*" the fact that in each of those preceding cases **Weaver had only won because he had perpetuated yet other instances of FRAUD upon those courts**, by using similar arguments and while mischaracterizing Plaintiff as well as Plaintiff's "*cause of action*".

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[2] "*Exhibit D*" includes copies of the FOIA request and the cover sheet to the documents illegally disseminated, as signed by Diane Russell, who then was not named as a defendant in the previous civil rights case.

24. It should be noted that in filing his "*Plaintiff's Response to Defendants Harris and Williams' Summary Judgment Motion*", which attorney Daryle Salisbury had **filed merely for "*injunctive relief*"**, Mr. Salisbury pointed out the "*Devil in the details*" of this case by making the following cautionary remarks to the U.S. District Court and Judge Paul D. Borman when writing on pages 6 and 7 of his argument,

> "*The difficulty with this situation is that* ***until plaintiff obtains the requested injunctive relief that a brand new set of circumstances, people and events will continue to crop up****. Perhaps plaintiff's frustration may be better appreciated by the following analogy...We have a horse, a saddle and a burr under the saddle. Each time a rider sits on the saddle the burr injures the horse.* ***Sometimes it is the same rider.*** *Sometimes it is a different rider but* ***each injury to the horse is different and is on a different day.*** *This scenario will continue ad infinitum until the burr is removed....In this Federal lawsuit it is easy to picture Plaintiff as the horse, the burr as the untrue and inaccurate information contained in the Defendants' records, and shifting riders over shifting times....New injuries occur over and over at different times and from the same or different riders until the burr is removed....So far,* ***despite all of plaintiff's reasoned and reasonable efforts to 'remove the burr', new incidents, new dates of injury*** *and* ***new and renewed riders find new ways to sit on the saddle****....The horse, the saddle and the burr remain the same so we have the same underlying 'events' much like in this Federal lawsuit, but* ***what changes matters – what differentiates this case from the previous State Court cases – is the new injury; the new injury dates****; the new 'riders' or the renewed riders (i.e.,* ***former riders who have refused to remove the burr even when confronted with new information and now – as a result of this case – certified proof that the burr should be removed)*** *and* ***new damages occasioned by the refusal.***" (Bold emphasis added)
>
> **(*See* "Exhibit F")** [3]

25. Despite Mr. Salisbury's more ethical and truthful line of reasoning in argument for the "*cause of action*", as the request for a simple "*injunction*" against the Defendants to stop their further damage to Plaintiff's reputation, career, and his ability to support his dependent

[3] Plaintiff has only included the "*cover page*" and pages 6-7 in this exhibit. He relies upon the U.S. District Court to review the entire record already on file with the Court since in this instant case, which he has filed as a "*forma pauperis*" litigant while no longer being able to afford the cost of an attorney or the cost of copying in duplicate entire court records.

family, attorney Weaver instead filed a "*Motion for Sanctions*" against Plaintiff and his attorney Daryle Salisbury. (***See* "Exhibit G"**)

26. Again in the filing of that "*motion for sanctions*", attorney Weaver committed yet **another instance of "*FRAUD*" upon this U.S. District Court,** by the misleading claim,

> "***Plaintiff alleges he was wrongfully terminated from employment with the Lincoln Consolidated Public Schools**...Fed. R. Civ. P. 11 provides sanctions against parties or attorneys for frivolous actions...Accordingly, it is clear that this court should grant sanctions...against both Plaintiff and Plaintiff's counsel.*" [4]

THE "*MISCARRIAGE OF JUSTICE*" RESULTING FROM ATTORNEY WEAVER'S "*FRAUD*" UPON JUDGE PAUL D. BORMAN AND THE U.S. DISTRICT COURT

27. As the U.S. District Court records demonstrate, Judge Paul D. Borman perpetuated a great "*miscarriage of justice*" when issuing his "*Order Granting Defendant' Motions for Summary Judgment, and Holding in Abeyance Defendants' Motions for Sanctions*". It is clear that Judge Borman's intention was to dissuade attorney Salisbury from pursuing this case further into the Sixth Circuit Court of Appeals. (***See* "Exhibit H"**)

28. **Any "*reasonable*" person would see that Judge Borman apparently never even READ attorney Salisbury's pleading, much less never properly considered "*the merits*" of attorney Salisbury's arguments.** Judge Borman ruling started right out by falsely claiming that "*Plaintiff and/or his counsel, Daryle Salisbury, failed to indicate on the required Civil Cover Sheet that there were related civil cases to the instant federal case.*" The record otherwise speaks for itself. Attorney Salisbury not only had otherwise clearly informed Judge Borman about those other previous cases on his "*civil cover page*" accompanying his initial Complaint, he had subsequently also brought emphasis and explanation to that fact by

[4] *See* page 2 of Weaver's "*Motion for Sanctions*" and pages 1 and 2 of Weaver's "*Brief in Support of Motion for Sanctions*", both presented in "Exhibit G".

illustration of the "*burr under the saddle*" metaphor. Yet Judge Borman dismissed Plaintiff's case anyway to allow these criminal offenses to continue into the future. (Bold emphasis added) [5]

29. In terminating Plaintiff's previous "*Complaint*", U.S. District Court judge Paul D. Borman produced his own "*fraudulent*" set of official court documents by issuance of his "*Opinion and Order*", documents on which the Sixth Circuit Court of Appeals would later base their own dismissal of this case when under review of Plaintiff's "*appeal*" of that case. **Judge Borman's own "*misrepresentation*" of this case to the public, came by his persistent refusal to openly recognize that the "*dissemination* [of] *the criminal ['nonpublic'] conviction*" was committed by the Defendants in response to requests from the public under the Freedom of Information Act.**

30. Moreover, Judge Borman's "*fraud upon the public*" was accentuated by his refusal to recognize that any "*conviction*" once received by Mr. Schied (i.e., in 1977) had long ago been "*erased*", "*wiped clean*", and finally "*obliterated*" by a Texas court "*Order of Expunction*", which Plaintiff had also been asserting was being CRIMINALLY disseminated under the Freedom of Information Act by another co-defendant in this case (i.e., Leonard Rezmierski) employed as the Superintendent at the Northville Public Schools in Wayne County.

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[5] Only much later, and after Mr. Schied had filed his own "*Notice and Claim of Appeal*" to the Sixth Circuit Court as a "*pro se*" litigant, did Judge Paul Borman finally actually "*read*" the pleadings of Daryle Salisbury and provided an "*Amended Opinion and Order*" admitting that Daryle Salisbury had indeed actually provided information about the previous occurrences leading to previous cases on his cover page. The U.S. District Court records show that Judge Borman also took that opportunity to terminate his previous *malicious* Order holding sanctions over the head and reputation of Plaintiff's attorney and Plaintiff himself.

31. While referencing the 2007 Wayne County Circuit Court case against Northville Public Schools, a case that had also been filed on Plaintiff's behalf by attorney Daryle Salisbury, Judge Borman stated only that "*Michigan law required Northville to release the information*". Yet Judge Borman made that statement while failing to acknowledge that the Wayne County Circuit Court judge (Cynthia Diane Stephens) had simply followed a previous PATTERN set by her "*peer group*" of other Michigan judges, of "OMITTING" any mention of the fact that the "*information*" being disseminated was the Texas "*Order of Expunction*" of what should have otherwise been nothing but the "*remaining record of ARREST*".....not a "*conviction*". Had he *properly* looked into the matter he would have seen that what he was claiming about "*Michigan law*" was FALSE, and that this "*nonpublic*" clemency *information* was being repeatedly released to the public CRIMINALLY through the U.S. Mail under FOIA request.

32. Furthermore, Judge Paul D. Borman's "*fraudulent*" court Order extended to the third state court case in the Ingham County Circuit Court. Not only did Judge Borman "*OMIT*" the significant fact that the State judge in that case, Judge William Collette, had dismissed the case shortly after revealing that he had been "*lifelong friends*" with one of the criminal co-defendants employed at the office of the Michigan attorney general, but he also failed to acknowledge the fact that Ingham County Circuit Court judge Collette had dismissed the case without hearing on four separate "*motions*" filed by the Plaintiff, including a "*Motion for the Judge to Disqualify Himself for Judicial Misconduct*", and a "*Motion for Change of Venue to a Court with Criminal Jurisdiction*".

33. Even more significant about that previous U.S. District Court case was the FACT that Judge Borman had allowed co-defendant Leonard Rezmierski to commit "*fraud upon the Court*" by

defying the overwhelming Evidence of the case, by the filing of a sworn "*Affidavit of Leonard Rezmierski*" claiming that Rezmierski oversees all incoming FOIA requests to the Northville Public Schools and that none had ever been received or processed, either in request for the public personnel records of David Schied or by any "*relative*" to Mr. Schied.

34. Despite the evidence of the opposite, Judge Paul Borman ruled, "*As to Rezmierski, it is clear that res judicata bars Plaintiff's claims...Plaintiff's Wayne County Circuit Court case was decided on the merits...*" Rather than acknowledge the Evidence of the 2006 FOIA request and the plethora of evidence that David Bolitho, assistant superintendent of the Northville Public Schools had CRIMINALLY sent out the Texas court "*Order of Expunction*" out through the mail in response to that request, Judge Paul Borman made an "*official court record*" that FRAUDULENTLY stated that, "*Plaintiff points to the February 15, 2008 Texas affidavit demonstrating that his criminal record has been cleared as 'new' evidence that substantiates his instance claims*".

35. In such fashion, and while awarding a higher value to Rezmierski's sworn affidavit than to Plaintiff's own sworn "*Affidavit*" in the Wayne County Circuit Court case stating just the opposite, **Judge Borman "*cherry-picked*" what evidence he wished to use to support his *misleading* decision**; and while following suit with his "*peer group*" of the State judges in again allowing the CRIMES by Leonard Rezmierski, and of his co-defendants at the Lincoln Consolidated Schools, to continue against Mr. Schied.

36. Judge Paul D. Borman also stated that "*res judicata*" applied to Plaintiff's claims against Lincoln Consolidated Schools superintendents Harris and Williams. Again, while "*cherry-picking*" what FACTS to use in support of his objective of dismissing the case, Judge Borman acknowledged only that the personnel file contained "*false and defamatory*

statements". Judge Borman readily **OMITTED** the significant fact that those "*statements*" were in the form of a "*nonpublic*" and erroneous FBI report, which had been disseminated "*publicly*" by FAX and under the Freedom of Information Act along with the two defamatory letters and "*oral accusations*". Judge Borman only went so far as to admit that Harris had (tortuously) proffered "*information*" (to Mr. Schied's peer teachers, departmental supervisors, and to Mr. Schied's building principals) in 2003.

37. Finally, Judge Borman's perpetuation of Weaver's "*fraud upon the court*" extends to his claim that,

> "*Plaintiff's instant claims revolve around his allegations that Harris and Williams 'ignored' his requests involving his criminal history, and seeks the Court to enjoin further dissemination of his criminal record. These issues either were, or could have been, resolved in the Washtenaw County Circuit Court action*".

38. It is clear however by this statement that this U.S. District Court judge Borman has not only failed to rationalize how the resolve of that earlier case that was filed in 2004 could have resolved the NEW OCCURRENCE, and a criminal offense occurring later by the Defendants again in 2006, an incident that occurred AFTER that Washtenaw County Circuit Court "*dismissal*" ruling referenced by Borman.

39. Judge Borman ended his "*Opinion and Order*" dismissing that previous action by writing,

> "*The Court finds that Plaintiff should not be allowed to keep bringing new lawsuits ARISING OUT OF THE SAME FACTS every time he 'discovers' another party whom he can allege cause of action based upon the criminal history records*".

40. By this type of wording, Judge Borman placed all accountability for the "*offenses*" on the shoulders of the Plaintiff, without ever recognizing that **it was not the "*criminal records*" that was the "*cause of action*" but instead the CRIMINAL DISSEMINATION OF THE "*NONPUBLIC*" CRIMINAL HISTORY RECORDS TO THE PUBLIC UNDER THE**

FREEDOM OF INFORMATION ACT by the Defendants that was the TRUE "*cause of action*".

41. In essence, **Judge Borman "*bought*" attorney Michael Weaver's fraudulence on behalf of his clients, and Judge Borman simply "*passed it on*" to make that fraudulence a matter of the "*official record*" of the U.S. District Court.** (Bold emphasis added)

THE PLUNKETT-COONEY LAW FIRM CONTINUED TO PERPETUATE THE "*FRAUD*" UPON THE SIXTH CIRCUIT COURT OF APPEALS

42. Attorney Weaver dropped out of that federal "*civil rights*" case when Plaintiff filed his "*Appeal*" to the Sixth Circuit Court. Nevertheless, just as a huge ship is difficult to steer backward or in another direction once it has ventured off course, other attorneys from the Plunkett-Cooney law firm put forth no effort to do so, instead choosing to maintain the same "*course*" set by Weaver by continuing his "*charade*" into the higher U.S. court.

43. **The problem there was that the judges of the Sixth Circuit Court allowed that "*fraud*" to continue, even as Plaintiff alerted the Sixth Circuit Court judges that BOTH the Defendants from the Lincoln Consolidated Schools and the Northville Public Schools were continuing to CRIMINALLY violate his rights to privacy, and while also committing crimes of "*converting government property to personal use*", when continuing to disseminate the 2003 FBI report and the 2004 Texas court "*Order of Expunction*" to the public under the Freedom of Information Act.** (Bold emphasis added)

44. As a result, a series of "*cover ups*" occurred in the ranks of these federal court judges, each in support of the wrongful decision of the previous court, and each continuing to "*sanction*" the

continuance of the Defendants' CRIMES against the plaintiff and against the People of the states (Michigan and Texas) and the Congress of the United States. [6]

45. The first of these judicial "*cover ups*" occurred as a result of Plaintiff having filed a "*Petition for Writ of Mandamus*" and "*Motion for Criminal Grand Jury Investigation*" along with his "*Claim of Appeal*" to the Sixth Circuit Court. In this first instance, judges Martha C. Daughtrey, David William McKeague, and Gregory F. Van Tatenhove disregarded clear Evidence that the Defendants were continuing to commit CRIMES against the Plaintiff, and **dismissed the "*Petition for Writ of Mandamus*" under claim that the issues presented by that "*Petition*" would be resolved later by the Sixth Circuit Court when addressing the "*Claim of Appeal*"**; and while issuing an Order affirming that the jurisdiction of the Sixth Circuit Court did not extend to summoning a Grand Jury and that the Plaintiff as an ordinary citizen had no right to initiate criminal proceedings himself against the co-Defendants. [7]

46. As a result of these Sixth Circuit Court judges "*buying into*" the fraud perpetuated by the Plunkett-Cooney attorneys, in response to Plaintiff's "*petition*" and "*motion*", Plaintiff was compelled to file "*Judicial Misconduct*" complaints against judges Martha C. Daughtrey, David William McKeague, and Gregory F. Van Tatenhove. (***See* "Exhibit I"**)

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[6] The impact upon the "*People*" and "*Congress*" are understood when reading the content of Plaintiff's instant "*Complaint*" as it outlines how the sanctioning of the Defendants' criminal acts not only violates "*full faith and credit*" laws of each State concerning "*clemency*", "*privacy*", and the "*right to equal employment opportunity*" for former offenders, but also violates both the "*spirit*" and the "*letter*" of the Privacy Act of 1974 and the "*National Crime Prevention and Privacy Compact*" between States and the Federal government, as originally intended and set up by Congress.

[7] The "*cover up*" here lay in the fact that these Sixth Circuit Court judges completely disregarded the Evidence demonstrating a "*continuum*" of crimes being committed; and that their "*peer group*" of State judges in Michigan had been sanctioning these crimes for several years with judgments that similarly "*MISREPRESENTED THE FACTS*" of the case by *SIGNIFICANT OMISSIONS*, by a "*cherry-picking*" of laws, and by a reliance upon erroneous oversimplified "*official*" documents that were carelessly generated by other government officials who had previous "*heard*" and decided upon Plaintiff's previous "*cause(s) of action*".

47. That "*judicial misconduct*" complaint was forwarded to "*Chief Judge*" Danny J. Boggs, who in July 2009 issued an "*Order of Dismissal*" while insinuating that Plaintiff's complaint was "*frivolous*". **Judge Boggs completely disregarded the Evidence referenced by the Plaintiff showing that the co-defendants in the case "*on Appeal*" were continuing to criminally violate his rights to privacy, and while violating both State and federal "*full faith and credit*" laws. (*See* "Exhibit J")** (Bold emphasis added)

48. Subsequently, Plaintiff rested upon his right to "*Petition*" for a review of Sixth Circuit Court judge Danny Bogg's decision to dismiss the judicial misconduct complaints on Judges Martha Daughtrey, David McKeague, and Gregory Van Tatenhove. That *petition* then went to the new "*Chief Judge*" of the Sixth Circuit Court, Alice M. Batchelder who subsequently issued another "Order" re-affirming Judge Bogg's decision to dismiss the judicial misconduct complaint on their "*peer group*" of other federal judges. Again, **Judge Batchelder had also disregarded the Evidence of the crimes being committed by the co-defendants. (*See* "Exhibit K")** [8] (Bold emphasis added)

49. There was something significant about the federal courts' "*cover up*" in 2008 and 2009 of the clear PATTERN of previous cover-ups by Michigan judges of the crimes being committed by government officials in Michigan over the previous several years since 2004. It was that **Plaintiff David Schied, as a CRIME VICTIM, had already repeatedly reported the crimes to both State law enforcement and to the U.S. Department of Justice, through the Office of the U.S. Attorney, through the FBI's "*criminal division*" and the FBI's**

[8] "Exhibit K" includes a copy of the 5-page "*Petition for Review*" that Mr. Schied sent to the Judicial Council of the Sixth Circuit in challenge of the "*disposition*" rendered by Judge Danny Boggs. This document references a plethora of documents that had already been in possession of the Sixth Circuit Court which offered the basis of Mr. Schied's dispute with Judge Boggs' decision, which included the Evidence that the crimes were still being allowed to be committed by Judge Boggs and the other judges (Daughtrey, McKeague, and Van Tatenhove).

"*civil rights*" division, through the USDOJ's "*Office of the Civil Rights Ombudsman*", and through the U.S. Department of Education's "*Office of Civil Rights*" (USDOE OCR).

50. In fact, it had been the U.S. Attorney Stephen J. Murphy (before he subsequently became a U.S. District Court judge) who had turned Mr. Schied away in 2007 while recommending that Mr. Schied take the matter to the FBI, and that he hire an attorney and file a civil case in federal court, instead of that U.S. Attorney ordering a criminal Grand Jury investigation or initiating criminal proceedings himself. **The problem led to from here was that these Sixth Circuit Court judges (Daughtrey, McKeague, and Van Tatenhove) had only referred Mr. Schied back again to the office of the federal prosecutor**, who by then was U.S. Attorney Terrence Berg, and **he too refused to do anything about the continuance of these crimes.** (Bold and underlined emphasis added)

51. Seeing himself in the ultimate "Catch-22" and being provided with nothing but a "*runaround*", arriving literally "*full circle*" back again to where he had started at the U.S. Attorneys' office, Mr. Schied filed a U.S. District Court "*cause of action*" naming ALL of these federal government officials as guilty of a criminal "*conspiracy to cover up*" the antecedent State government crimes. That case (Docket No. 08-14944) went before Judge Lawrence P. Zatkoff, who promptly issued an "*Order to Strike*" the entirety of Plaintiff's complaint and eighty (80) exhibits of Evidence against the federal government; and while issuing an Order for Mr. Schied to re-write everything as an "*amended*" complaint.

52. Then after Plaintiff filed an "*Amended Complaint*", while Plaintiff was acting "*pro se*" and as a "*forma pauperis*" litigant unable to duplicate the costs of re-copying and re-"*serving*" the

very same Evidence over again to nearly a dozen of the very same Defendants, Judge Zatkoff dismissed Plaintiff's amended complaint anyway.

53. Judge Zatkoff dismissed the case while reiterating that the jurisdiction of the federal court did not extend to summoning the requested "Grand Jury", and that the Plaintiff, as an ordinary citizen, had no right to initiate criminal proceedings himself against the co-Defendants. Judge Zatkoff even went so far as to dismiss that case "*WITH PREJUDICE*" so that Mr. Schied could not take that case to a higher-level court for more thorough "*judicial review*" of Judge Zatkoff's actions.

54. Therefore, Plaintiff David Schied filed another "*Judicial Misconduct*" complaint on Judge Lawrence P. Zatkoff. That judicial complaint was assigned again to Judge Alice M. Batchelder. **(*See* "Exhibit L")**

55. Upon finding out that the "*judicial misconduct*" complaint about Lawrence P. Zatkoff was assigned again to "*chief judge*" Alice Batchelder, Plaintiff David Schied filed a complaint with the office of the "Circuit Executive" Clarence Maddox of the Sixth Circuit Court. The complaint was concerning the "*mishandling of judicial misconduct complaint No. 06-09-90141 against Lawrence P. Zatkoff*". **(*See* "Exhibit M")**

56. Mr. Schied complained about the "judicial misconduct" complaint being sent to Judge Alice Batchelder because, as Plaintiff in the still pending U.S. District Court case that Judge Borman had dismissed and was then nearly a year into an "*Appeal*" in the Sixth Circuit, Mr. Schied had just previously filed another complaint on ALL of the judges of the Sixth Circuit – including Judge Batchelder – for continuing the delay of the case on Appeal.

57. The basis of that complaint on Judge Batchelder and others was that none of the judges of the Sixth Circuit Court had yet assigned themselves to "*litigate the merits*" of the case on Appeal

when Judges Daughtrey, McKeague, and Van Tatenhove had otherwise issued an Order a year earlier stating those merits would be litigated; and because these judges were still "*stalling*" the case when they had otherwise been "*served*" by Plaintiff many months before with a "*Motion to Expedite*" a hearing on the matter. **That "*Motion to Expedite*" had included a copy of "Exhibit #8" as seen in this instant Complaint as a sworn and notarized "*Affidavit of Earl Hocquard*", the witness to the most recent crimes against Mr. Schied in 2009. (*See* "Exhibit N")** [9] (Bold emphasis added)

58. Subsequently, shortly after Plaintiff David Schied filed his complaint on the "*mishandling of judicial misconduct complaint No. 06-09-90141 against Lawrence P. Zatkoff*" ("Exhibit M") and his complaint on the rest of the judges of the Sixth Circuit Court ("Exhibit N"), **the three Sixth Circuit Court judges of Alice M. Batchelder, Eugene E. Siler, Jr., and Julia Smith Gibbons dismissed Plaintiff's "*Claim of Appeal*", the U.S. District Court "*civil rights*" case that had been filed over a year prior by attorney Daryle Salisbury.**

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[9] "Exhibit N" is the "*judicial misconduct complaint*" that Mr. Schied filed on judges Alice M. Batchelder; Damon J. Keith; Gilbert S. Merritt; Cornelia G. Kennedy; Boyce F. Martin, Jr.; Ralph B. Guy, Jr.; James L. Ryan; Danny J. Boggs; Alan E. Norris; Richard F. Suhrheinrich; Eugene E. Siler, Jr.; Martha C. Daughtrey; Karen Nelson Moore; R. Guy Cole, Jr.; Eric L. Clay; Ronald L. Gilman; Julia S. Gibbons; John M. Rogers; Jeffrey S. Sutton; Deborah L. Cook; David W. McKeague; Richard Allen Griffin; Raymond M. Kethledge; and Helene N. White. **Plaintiff David Schied filed these separate judicial misconduct complaints on all these judges under suspicion that they were intentionally delaying any action on the "*case on Appeal*" from Judge Paul Borman's U.S. District Court. Mr. Schied believed that any finding in Plaintiff's favor on the U.S. District Court case originally filed by attorney Daryle Salisbury, would "*open a whole can of worms*" in proving the "*judicial misconduct*" of all of the other judges, including Lawrence P. Zatkoff for his "*striking*" the Evidence against judges Daughtrey, McKeague, and Van Tatenhove, and against Danny Boggs and Alice Batchelder for their disregard of Mr. Schied's persistent criminal complaints. A ruling in Plaintiff's favor would surely demonstrate that all of the previous federal court "Orders" provided "preferential treatment" to the friends and relatives in the "peer group" of these judges, including U.S. Department of Justice officials, Michigan judges and other State government officials also "*covering up*" this snowballing "*continuum*" of criminal offenses.**

59. **Plaintiff perceived the dismissal of that case on Appeal as an act of defiance against the earlier Sixth Circuit Court judgment of judges Daughtrey, McKeague, and Van Tatenhove which had otherwise provided Mr. Schied with the assurance that the "*merits*" of Mr. Schied's civil and criminal allegations – as placed in that "*Petition for Writ of Mandamus*" and "*Motion for Criminal Grand Jury Investigation*" – would indeed be "*heard*" and appropriately ruled, based upon the "*merits*" of Plaintiff's case.** (Bold emphasis added)

60. Therefore, Mr. Schied wrote a letter to Judicial Council of the Sixth Circuit, filing along with it "*supplementary information regarding the earlier judicial misconduct*" complaints he had filed earlier on all of the judges of the Sixth Circuit Court, but this time with added focus on the auxiliary actions of judges Batchelder, Siler, and Gibbons. **(*See* "Exhibit O")**

61. **As of the date of the filing of this instant U.S. District Court filing** (of "*Response*" to attorney Michael Weaver's clients, the Defendants' "*Notice of Removal*").....it should be noted that **the "judicial misconduct" complaints against District Court judge Lawrence P. Zatkoff** ("*Exhibit M*") **and the other judges of the Sixth Court** ("*Exhibit N*"), **including an address of the "*supplemental information*" filed about judges Batchelder, Siler, and Gibbons** ("Exhibit O"), **HAVE NOT BEEN RESOLVED AND ARE STILL PENDING.**

ATTORNEY WEAVER'S "*FRAUD*" AS AN "*OFFICER OF THE COURT*" HAS BEEN BROUGHT TO THE ATTENTION OF HIS "*PEERS*" AS WELL AS TO STATE AND FEDERAL JUDGES

62. In 2008, Mr. Schied attempted to use several means by which he might alert courtroom officials and the judiciary about the unethical conduct of the Plunkett-Cooney law firm and

the need for sanctions against attorney Michael Weaver because of his persistent and repeated fraud upon each court in which he appeared against Plaintiff David Schied.

63. On January 14, 2008 (1/14/08), Plaintiff filed a formal letter of "*Complaint*" with Michigan's **Attorney Grievance Commission**, along with a "*Request for Investigation of an Attorney*" form. The form listed five (5) different courts in which Michael Weaver had committed "*fraud upon the court*". The courts were listed as follows as provided also in the attached documents compiled together as **"Exhibit P"**.

    a) Washtenaw County Circuit Court – 04577CL

    b) Michigan Court of Appeals – 267023

    c) Ingham County Circuit Court – 07-1256-AW

    d) Michigan Court of Appeals – (this was the Ingham County case then soon to be filed)

    e) United States District Court for the Eastern District of Michigan – 2:08-cw-10005

64. The narrative portion of the Complaint addressed to the Attorney Grievance Commission consisted of fifteen (15) pages of direct reference to Weaver's fraudulent actions and how they violated various elements of Michigan Rules of Professional Conduct and Michigan Court Rules. The following is a list of the key documents of Evidence sent along with that narrative in support of Mr. Schied's *complaint* about attorney Michael Weaver (as quoted).

    In Quotes:

    a) *Transcript of Washtenaw County Circuit "Motion Hearing" dated 10/26/2005;*
    b) *"Brief in Support of Defendants' Response to Plaintiff's 'Motion for Partial Summary Disposition" as dated October 18, 2005 to the Washtenaw County Circuit Court;*
    c) *"Brief on Appeal of Defendants-Appellees" as dated 2/21/06 in the Michigan court of Appeals;*
    d) *"Application for Leave to Appeal" to the Michigan Supreme Court dated 8/4/06;*
    e) *"Brief in Opposition to Plaintiff's-Appellant's Application for Leave to Appeal" (to the Supreme Court";*
    f) *"Brief of Support of Motion for Summary Disposition" dated October 8, 2—7 to the Ingham County Circuit Court;*

g) *Three sworn Affidavits (along with meeting minutes) of Claudia Gutierrez, Donnie Reeves, and Linda Soper.*

End Quotes

65. The documents listed above essentially were the documents being presented then by Plaintiff David Schied in proof that attorney Michael Weaver had committed fraud upon all of the previous courts in which he had appeared. **These documents, like the documents presented to Judge Borman's federal court, also demonstrate that each of the judges charged with the "*DUTY*" of reviewing certain sets of these documents "*dismissed*" each of Plaintiff's preceding cases based upon a similar disregard for the rational arguments presented by Plaintiff through the various attorneys he had hired to make these underlying facts of the Defendants' criminal offenses known to those courts.** (Bold emphasis added)

66. The documents referenced by the Attorney Grievance Commission (AGC) complaint speak for themselves. The narrative Complaint to the AGC was itself very detailed and with direct reference to the Evidence available by inclusion with the listed documents. That 15-page narrative provided a significant outline of Weaver's "*contempt of court*", and while providing the backdrop for what motivated that *fraud upon the court* – i.e., to protect the CRIMINAL "*guilt*" of his clients as the "*Defendants*" in those previous cases.

67. A little later that same year (2008) came Judge Borman's dismissal of the U.S. District Court case referenced above. In attempt to clarify to the Sixth Circuit Court of Appeals the extent to which attorney Michael Weaver has been perpetuating FRAUD upon every court in which he has appeared against Plaintiff David Schied, Plaintiff himself filed the above-referenced "'*Motion for Writ of Mandamus' in the United States Court of Appeals for the Sixth Circuit*" along with his "*Appeal*" of the civil rights case that Judge Borman dismissed while holding "*sanctions in abeyance*" over the heads of Plaintiff and his attorney Daryle Salisbury.

68. In the course of filing his "*motion*", and as the newly entitled "*forma pauperis*" litigant, Plaintiff was compelled to file a "*correction of statement*" with the Sixth Circuit Court when he misquoted attorney Weaver on a single – but highly significant – word in the filing of his previous documents with the Sixth Circuit Court. Plaintiff therefore placed his "*correction*" of the statement into a 12-page court filing entitled, "*Notice of Error and Correction of Statement in Previous Court Filings*". **(*See* "Exhibit Q")**

69. This "*Notice of Error*..." document significantly outlines the number of ways that attorney Michael Weaver had not only defrauded the U.S. District Court but also the other previous courts in which he has appeared in opposition to Plaintiff David Schied. **The document also described how, because of Weaver's actions, the door was opened for a subsequent chain of events to occur in the courts of Michigan resulting in more violations of Mr. Schied's civil and Constitutional rights, by essentially "*re-convicting*" and "*resentencing*" Mr. Schied for an otherwise *set-aside*, *pardoned*, and *expunged* 1977 criminal offense.** (Bold emphasis added)

70. **This subjugation of Mr. Schied to be re- "*convicted*" without a jury trial, and while subjecting Mr. Schied to yet additional years with "*disabilities and penalties*" as a result of that re-conviction, has amounted to nothing less than "*Double Jeopardy*", a gross violation of the United States Constitution. Yet these illegal actions are justified by NOTHING except an all out government "*cover up*" of an erroneous 2003 FBI criminal history document revealing the more significant FACT that the Texas Department of Public Safety had been GROSSLY NEGLIGENT in the maintenance and dissemination of criminal history over the preceding quarter century.** (Bold emphasis added)

WASHTENAW COUNTY CIRCUIT COURT AND THE MICHIGAN COURT OF APPEALS

71. The "*chain of events*" initially leading up to this gross "*miscarriage of justice*" in three levels of Michigan courts, is depicted by both the 15-page "*Complaint*" filed with the Attorney Grievance Commission ("Exhibit P") and the 12-page "*Notice of Error*..." filed in the Sixth Circuit Court ("Exhibit Q"), and can be summed up as follows:

a) Michael Weaver's "*fraud upon the court*" prompted Washtenaw County Circuit Court judge Melinda Morris to issue a "*Motion to Compel*", effectively ordering Mr. Schied to explain in deposition the circumstances surrounding his having received a "*set aside*" in 1979 and a "*pardon*" in 1983. During that testimony, in order for Mr. Schied to explain what the "*set aside*" meant when it stated on its face that the "*plea was withdrawn*", **Mr. Schied was forced to admit that he had once pled guilty to the crime for which the 2003 FBI report had listed a "*conviction*" but had otherwise failed to include mention of the FACT that the "*set aside*" had the effect of "*withdrawing the* (guilty) *plea* and "*dismissing the (underlying) indictment.***

b) During that deposition testimony, in order to explain what the "*full pardon*" meant when it stated on its face that Mr. Schied was being pardoned of a "*conviction*", **Mr. Schied was forced to admit that he had once been adjudicated of the crime** in 1977, but while yet unable to explain in 2004 how or why such a "*conviction*" could possibly still "*exist*" on a 2003 FBI criminal history report. [10]

[10] The early termination of "*probation*" and the "*set aside*" Mr. Schied received in 1979 was *supposed* to have "*wiped clean*" the record of a "*conviction*" and provided Mr. Schied then with a "*second chance*" in society "*without penalties or disabilities*". At the time of his deposition testimony in 2004, Mr. Schied was also unable to explain why it was that **the 2003 FBI report also neglected to mention anything about that Texas governor's full pardon and full restoration of Mr. Schied's civil rights.**

c) Then, based again upon Weaver's "*fraud upon the court*", Michigan Judge Melinda Morris allowed attorney Weaver to enter Mr. Schied's admissions of "*guilt*" and "*conviction*" as "*MATTERS OF FACT*" **without providing "Full Faith and Credit" to either the "*letter*" or the "*spirit*" of the "set aside" and "*pardon*" documents; and without exploring the question of why Mr. Schied might even NEED a governor's full pardon in 1983 after having received a "*set aside*" that included a "*withdrawal of plea*" and a "*dismissal of indictment*" in 1983. Judge Morris also prejudicially admitted "*guilt*" and a "*conviction*" as "*matters of fact*" without ever further exploring Mr. Schied's persistent protests about the 2003 FBI report being ERRONEOUS to begin with; and while Mr. Schied was still protesting the denial of his right to keep his job – as otherwise provided under federal statute – while "*challenging and correcting*" that erroneous FBI criminal history document.**

d) Subsequently, **Judge Melinda Morris dismissed the case just shortly after she had starting to probe the question about why Mr. Schied might ever need a governor's "*full pardon*" on an offense that had already been "*set aside*".** In answer to that question, attorney Michael Weaver once again provided the answer by perpetuating "*fraud upon the court*". He did so by pretending to read to Judge Morris directly from the Texas court "*Order of Expunction*" that Mr. Schied received in 2004 as a result of his successful "*challenge and correction*" of the 2003 erroneous FBI report. In comparing the "*Hearing Transcript*" from that day in Judge Morris courtroom to the Texas "*Order of Expunction*" itself, it is clear that in reading to the judge **Weaver substituted his own word – "*conviction*" for the word "*arrest*" actually written in the document so to mislead the court about the meaning of the "expungement" Order and the Texas**

expunction law on which that document was based. Weaver did this to convince the Court that Mr. Schied would "*have to go beyond*" already having a set-aside and pardon in order to legitimately make the claim of having "*no conviction*" on a 2003 job application.....**the claim by which the Lincoln Consolidated Schools' case entirely depended. (*See* "Exhibit R")** [11] (Bold emphasis added)

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[11] "Exhibit R" is a copy of the entire "*Motion Hearing*" transcript from Judge Morris' courtroom. All of the above events were seen to have played out in Court on the day Washtenaw County judge **Melinda Morris disregarded the multiple objections of Plaintiff's attorney and instead took Plunkett-Cooney attorney Michael Weaver's words at face value, dismissing Plaintiff's complaint.** Note in particular what appears on page 32 of the "*Motion Hearing*" when Weaver misrepresented the words actually written in the Texas court "*Order of Expunction*". **In ruling to support Weaver's reasoning that Mr. Schied would have to "*go beyond*" having a set aside and pardon to claim "*no conviction*" a quarter-century later, Judge Melinda Morris – and the Michigan Court of Appeals again a year later – completely disregarded the significance of both Texas and federal case law, and Texas attorney general opinions, all providing clarification to Judge Morris' question about "*Why would Mr. Schied need a pardon if he already had a set-aside?*"** (*See* page 22 of the "*Hearing Transcript*") **First,** there was the cases of "*United States of America v. Armando Sauseda*" in 2000 and "*Rudy Valentino Cuellar vs. State of Texas*" in 2002 in which the Texas Court of Appeals clarified that the type of set aside that Mr. Cuellar received (and the type of set aside the Mr. Schied received) under Texas Code of Crim. Proc. Article 42.12, in accompaniment of an "*early termination order*" of probation, meant that the offender's "*conviction*" was "*wiped away*" and "*no longer exists*". **Second**, there was the Texas attorney general Opinion (No. DM-349) of Dan Morales in 1995 which state, **"*Because nothing remains to be pardoned after charges are dismissed and the defendant is discharged pursuant to Article 42.12* (set aside law), *we are of the opinion that any purported pardon of an offense issued after dismissal and discharge would be a nullity for lack of an object [to pardon]*". He also opined, "*Article 55.01 of the Code of Criminal Procedure grants a right of expunction of arrest records and files when a person has been convicted and then pardoned, but it does not empower the governor to pardon an ARREST.*" Third**, there was the Texas attorney general Opinion (No. JC-0396) of John Cornyn stating that **the *definition* of a "*conviction*" does not pertain to anyone who has received an executive "*pardon*" or a court order of "*expungement*". Fourth**, there is the Texas "*expunction*" statute itself (*Ch.55, Texas Code of Crim. Proc.*) which describes the legal effects of a Texas court "*Order of Expunction*" as being related to **only "*all records related to the ARREST*"**, which is all that should have otherwise been remaining of Mr. Schied's "*record*" had the Texas Department of Public Safety maintained *accurate* records since 1979 and 1983 and leading up to the erroneous FBI report issued to the Lincoln Consolidated Schools in 2003 based upon those inaccurate Texas records.

72. **The Michigan Court of Appeals' 2006 "*decision*" affirmed the Washtenaw County Circuit Court's decision to "*dismiss*" Mr. Schied's case; again, without any address of Mr. Schied's right to "*challenge and correct*" the erroneous FBI report and his federal statutory right to keep his job while undergoing that process.** Similarly, **The Court of Appeals judges Cavanagh, Fort Hood, and Servitto, like Judge Morris, disregarded the symbiotic effect of Mr. Schied having BOTH a set-aside and pardon, and while completely disregarding the fact that the "*violations of public policy*" claim of Mr. Schied's attorney included notices to the Courts that the dissemination of criminal history by the Lincoln Consolidated Schools, which was otherwise known to have been set aside and/or pardoned and expunged, is a CRIMINAL MISDEMEANOR offense under both Texas and Michigan laws. (*See* "Exhibit S")** [12] (Bold emphasis added)

73. In July 2006, when recommending to the Michigan Education Association that legal funding be provided to Mr. Schied to take this case to the Michigan Supreme Court, attorney Joseph Firestone put it this way: **(*See* "Exhibit T")**

> "*As the Court [of Appeals] held.... [The judges] 'conclude that while the 1979 early termination order relieved plaintiff from the order of conviction and the legal liabilities arising therefrom, the early termination order did not erase the existence of the 1977 conviction such that plaintiff could deny truthfully in September 2003 that any conviction ever existed'* [13] *....In my opinion* [the Court of Appeals'

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[12] "Exhibit S" consists of the entire "*Complaint and Jury Demand*" that was initially filed on May 25, 2004 (5/25/04) against Sandra Harris and others at the Lincoln Consolidated Schools, a document that was "*amended*" a year later when Mr. Schied took up legal representation from an attorney hired by the Michigan Education Association (MEA) to handle the case. Note that on the page containing "paragraph 34", it points out that under Michigan's Revised School Codes (MCL 380.1230 and MCL 380.1230a), "*a member of the governing body of the school SHALL NOT disclose the* (FBI criminal history) *report or its contents to any person who is not directly involved in evaluating the applicant's qualifications for employment*". In fact, these statutes of the Revised School Codes point out that anyone doing so is committing a "*CRIMINAL MISDEMEANOR OFFENSE*".

[13] The actual statement that Mr. Schied "*checked*" on a employment form provided to him with his job application in 2003 actually stated, "*I have not been convicted of, or pled guilty or no*

decision] *ignores, or casts-off without acceptable explanation, Texas case law interpreting their set aside statute. In particular, Cuellar v Texas, 70 SW3d 815 (Tex Crim App 2002), is the controlling law on this issue. Cuellar addresses both the conviction's and the convict's status.* ***Cuellar is clear that the conviction is wiped away****, thus resulting in the convict's change of status. The individual's status does not change independent of the conviction's extermination.*"

74. When subsequently filing his "*Appellant's Brief*" with the Michigan Court of Appeals, attorney Joseph H. Firestone specifically cited many of the arguments, the statutes and the case law citations as referenced above. On page 15 of his "*brief*", Firestone specifically called attention to the following, which was written right on the face of the FBI report received by the Lincoln Consolidated Schools superintendent Sandra Harris in 2003:

> "*If the information on the record is used to disqualify an applicant, the official making the determination...for...employment SHALL provide the applicant the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record.* ***The deciding official SHOULD NOT DENY... employment based on the information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.*** *(Emphasis added)*" **(*See* "Exhibit U")**

75. This MEA attorney Firestone once again cited Michigan's own "*public policy*" by pointing out to the Michigan Court of Appeals the following on pages 18-19 (of "Exhibit U"):

> "*The Michigan legislature has clearly expressed the public policy effect of a court order setting aside a conviction under Michigan law: 'Upon the entry of an order [setting aside a conviction] pursuant to section 1 [MCL 780.621(9)], the applicant, for purposes of the law, SHALL be considered not to have been previously convicted, except as provided in this section and section 3.' MCL 780.622 (emphasis added)....*"

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contendere (no contest) to any crimes". **It should therefore be noted that when issuing this ruling the Michigan Court of Appeals conducted a "*play on words*" here to construct their own "*fraud*" upon the public by drafting a document falsely claiming that Mr. Schied had actually denied, on a 2003 job application, that any conviction "*ever existed*" when that was not actually the case.** It should also be noted that when checking the box of "*denial*" of this statement Mr. Schied had been depending upon his 1979 Texas "*set aside*" which, on its face stated a "*withdrawal of plea*" and "*dismissal of indictment*". He had also been relying upon his lawyer's assurances and the judge's statements in 1979, as well as existing case law (i.e., the "*Cuellar v. Texas*" case) offering the assurance that the 1977 "*conviction*" had been "*wiped away*".

And,

> *"This public policy is further demonstrated in MCL 780.623(5) which prohibits disseminating information relating to a conviction which has been set aside and provides for the incarceration and civil fines for those who improperly disseminate such information....* ***'a person, other than the applicant, who knows or should have known that a conviction was set aside under this section and who divulges, uses, or publishes information concerning a conviction set aside under this section is guilty of a misdemeanor punishable by imprisonment*** *for not more than 90 days or a fine of not more than $500.00 or both.'"*

76. Even more significant to this "*Plaintiff's Response*" to Plunkett-Cooney attorney Michael Weaver's *"Notice of Transfer"* in this instant case, is that even on March 7, 2006 (2/7/06) Plaintiff's attorney Joseph Firestone was warning the Michigan Court of Appeals about the unethical tactics that Weaver was using when "*misrepresenting*" the FACTS to the courts. (Bold emphasis added)

77. **For instance, attorney Firestone sought to dedicate an entire section of his "*Appellant's Reply Brief*" to pointing out (on the bottom of page 4 and top of page 5 of "Exhibit V") that "*Appellees continue to rely on 'facts' that they know to be erroneous*".** Mr. Firestone went on to state:

> *"Uncontroverted affidavits (exs C, D, and E) presented by Mr. Schied directly dispute Appellees 'factual' assertions regarding the information provided to the superintendent* [Harris] *at the so-called pre-termination meetings.* ***By ignoring these affidavits, Appellees MISREPRESENT material facts to this Court****....Each affidavit submitted by Mr. Schied attests to the facts that the set aside order and the pardon were presented to the superintendent and that Mr. Schied attempted to explain the documents. Each demonstrates that the superintendent was unwilling to listen or to consider the documents. In the face of these affidavits, however, Appellees continue to assert that the documents were not shared and no explanations were forthcoming. (Appellee' brief at 5-6) Yet without having challenged the affidavits,* ***APPELLEES' STATEMENTS CONSTITUTE FACTUAL MISREPRESENTATIONS OF THE RECORD. APPELLEES' BRIEF SHOULD BE CAREFULLY SCRUTINIZED AND MISSTATEMENTS SHOULD NOT BE TOLERATED BY THIS COURT****."*
>
> **(Bold emphasis added)** **(*See* "Exhibit V")**

78. That ruling by the Michigan Court of Appeals was made while completely disregarding Plaintiff's notice to them that Superintendent Sandra Harris and the Lincoln Consolidated Schools had been CRIMINALLY "*converting to personal use*" and disseminating the 2003 FBI document.

79. **That decision by the Michigan Court of Appeals judges Mark Cavanagh, Deborah Servitto, and Karen Fort Hood, to "*dismiss*" Mr. Schied's case and then to place that ruling in an "*UNPUBLISHED*" decision**, despite knowing that the case had clearly set new "*PRECEDENCE*" by the refusal of these judges to their "*duties*" to litigate clear conflicts of laws, **was itself a *criminal* violation by these judges of Mr. Schied's civil and Constitutional rights.** (Bold emphasis added)

80. The Court of Appeals' ruling not only closed the door to law enforcement doing anything either about these crimes, it also opened the door for the Northville Public Schools to begin CRIMINALLY "*converting to personal use*" the 2003 Texas court "*Order of Expunction*". It was about the time of this Court of Appeals' ruling decision that the Northville Public Schools banded with the Lincoln Consolidated Schools to begin a campaign of "*retaliation*" against Plaintiff David Schied and his family, as they thereafter went about repeatedly disseminating those "*nonpublic*" documents to other employers and to the public under the Freedom of Information Act.

THE ILLEGAL "*PRECEDENCE*" SET BY THE MICHIGAN COURT OF APPEALS LED TO TWO OTHER LAWSUITS BROUGHT BY THE PLAINTIFF

"*Schied v. Northville Public Schools*" in Wayne County Circuit Court (2007)

81. Michigan attorney Daryle Salisbury handled the subsequent case against the Northville Public Schools in 2007, and he was dumbfounded when **Wayne County Circuit Court judge Cynthia Diane Stephens dismissed Mr. Schied's case with a ruling that denied "*full faith and credit*" to ALL of Mr. Schied's Texas clemency documents, while ruling that "*expungement laws are actually a MYTH*", and that "*schoolteachers, at least in Michigan, are subject to a life sentence*". (*See* "Exhibit W")**

82. That 2007 ruling of Michigan judge Cynthia Diane Stephens, **who subsequently was provided a *promotion* to the Michigan Court of Appeals** where she now resides, was one reason for attorney Salisbury taking the "*miscarriages of justice*" of BOTH the "Lincoln Consolidated" case and the "Northville Schools" case, along with the injustice of the Ingham County Circuit Court, to Judge Paul D. Borman in 2008, in the U.S. District Court for the Eastern District of Michigan, Southern Division.

"*Schied v. State of Michigan, Jennifer Granholm, et. al*" in Ingham County Circuit Court (2008)

83. By 2005, when Mr. Schied began to see that the Michigan judges intended NOT to "*litigate*" or even acknowledge the crimes against Plaintiff, as being reported by Plaintiff's attorneys in legal "*briefs*", Mr. Schied spent 2005 and every following year since then formally reporting these crimes to law enforcement through various "crime reports".

84. The problem Mr. Schied found as a "*crime victim*" however was that his "crime victims rights" were being violated by law enforcement officers who were "*derelict in their duties*" and "*perjured*" their own formal "*incident reports*" to prosecutors; and by prosecutors who acted with "*gross negligence*" and by "*abusing their prosecutorial discretion*" when refusing to acknowledge that crimes had been committed and when refusing to issue indictments. Instead, they pointed to the single ruling of the Michigan Court of Appeals in 2006, even as it regarded the illegal dissemination of the Texas court "*Order of Expunction*" by the Northville Public Schools, as providing these school districts with the entitlement to disseminate the over three-decade old single teen offense that (for which only probation had been issued and terminated early along with a dismissal of indictment, set aside of judgment, fully pardoned with a restoration of full civil rights, and with the remaining ARREST record expunged).

85. Law enforcement and prosecutors *fraudulently* relied upon that Court of Appeals "*unpublished*" ruling, repeatedly stating that they "saw no evidence of a crime", or at most claiming that Michigan's Revised School Codes entitled school officials to share information about "unprofessional conduct" with other school districts; while persistently refusing to acknowledge that the Plaintiff was continually referring to the dissemination of "*nonpublic*" criminal history under the *Freedom of Information Act*.

86. Those who cited the 2006 Michigan Court of Appeals ruling as justifying the dissemination of the Texas court "*Order of Expunction*" also disregarded the FACT that the ruling never referenced that Texas court Order except to state that if Mr. Schied had it in 2003 when he had applied for a job with the Lincoln Consolidated Schools, then the District would NOT have been justified in terminating his employment based upon their premise that Mr. Schied

had "misrepresented" his still having a "conviction" a quarter-century after having received a set aside AND a governor's full pardon and moving on with his life.

87. In 2006 and again in 2007, Mr. Schied took the "malfeasance of duty" of Michigan law enforcement and prosecutors to the Michigan Attorney General Mike Cox and to the Michigan Governor Jennifer Granholm. They too did nothing except to again refer to the 2006 Court of Appeals ruling and, like the U.S. Attorney Stephen J. Murphy before he became a U.S. District Court judge, suggested that Mr. Schied hire an attorney and "*litigate*" the "*criminal*" matter through the courts....a task that clearly the Courts had demonstrated a refusal to do. Mr. Schied found himself in another "*catch-22*" as a result of Michigan government's refusal to do their job and to reinforce his rights under the laws of Texas, of Michigan, and of the United States.

88. Thereafter in 2007, Mr. Schied, being without money and under the constant threat of no longer being able to support his dependent family, filed a civil lawsuit with the Ingham County Circuit Court, in request of a "*Writ of Mandamus for Superintending Control*" and for a judge to issue an Order for Michigan government officials to simply do their job. Mr. Schied, as a crime victim with a formally "*sworn*" and "*notarized*" criminal complaint, also issued his demand that the Court convene a Grand Jury to "*hear*" the facts and *see* Mr. Schied's "*evidence*" of a "*conspiracy to deprive*" and "*criminal corruption*" by Michigan government. By that time, Mr. Schied had also filed formal complaints with the Michigan Department of Civil Rights and with the Michigan Department of Education, only to see those complaints similarly "*dismissed*", so he named those agencies also in his lawsuit and complaint about Michigan government's criminal violation of the RICO Act.

PLUNKETT-COONEY ATTORNEY MICHAEL WEAVER DEFRAUDED THE INGHAM COUNTY CIRCUIT COURT

89. Michael Weaver's "*Lincoln Consolidated Schools*" clients were named by Plaintiff as criminal co-defendants in the 2007 Ingham County Circuit Court case because of the Evidence that then "*new*" crimes had been committed by the public dissemination of the "*nonpublic*" 2003 FBI criminal history report again in 2006 under the *Freedom of Information Act*. Yet in response to the clear Evidence that his clients were continuing a "*pattern of criminal*" behavior, Weaver not only issued fraudulent statements to that Court on behalf of Sandra Harris and the Lincoln Consolidated Schools' Board of Education, the Plunkett-Cooney law firm also took on the "*defense*" of the Northville City Police Department as his clients while committing FRAUD UPON THE COURT on their behalf too.

90. In filing his "*Motion for Summary Disposition*" under Oath of Truthfulness in that 2007 case in Ingham County, Weaver again filed FRAUDULENT DOCUMENTS with the intent of "*misleading*" the Court. With statements similar to those he used in 2004 and 2005 – to which attorney Joseph Firestone was referring as "*misrepresenting material facts*" in the "*Schied v. Sandra Harris and the Lincoln Consolidated Schools, et al*" case in Washtenaw County Circuit Court – attorney Michael Weaver made the following fraudulent claims as seen in quotes: **(*See* "Exhibit X")**

In quote:

a) "*Plaintiff previously initiated litigation against Dr. Sandra Harris...[making] allegations identical to those allegations made in Plaintiff's instant Complaint...Without a doubt,* ***the allegations against Dr. Harris and Lincoln arise***

out of ONE EVENT – Plaintiff's termination as a probationary employee of Lincoln. (*See* page 1 para 1-2 "Exhibit X") [14]

b) "*Plaintiff initiated this Complaint by filing a Complaint...[referring] to greater than 160 exhibits. However,* ***no exhibit was served upon these Defendants***". (*See* bottom of page 1 and top of page 2) [15]

c) "*[The 2003 FBI criminal history report received by Sandra Harris] prompted the scheduling of a pre-termination hearing...* ***held with Plaintiff and various members of the school board. During that meeting meeting...Plaintiff refused to allow Dr. Harris and others to review documents Plaintiff had brought with him – documents that Plaintiff alleged said confirmed the dismissal of his indictment.***" (Bottom paragraph of page 4) [16]

d) "*...a letter was sent to Plaintiff that Plaintiff from Dr. Harris. The letter confirmed that* ***the school board was still of the opinion*** *that Plaintiff had misrepresented his criminal history on his employment his employment application and...was exercising its option to terminate his employment*". [17]

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[14] This statement failed to recognize the Allegations and Evidence of FACT that the 2006 dissemination of the 2003 FBI report to Plaintiff's wife in 2006 under the Freedom of Information Act is A COMPLETELY SEPARATE OFFENSE.

[15] This statement was false in that Mr. Schied provided proof to the Court that ALL the named co-defendants had been "*served*" with a Complaint and all exhibits of Evidence, and at a great financial cost to the Plaintiff for copying and delivering all of those documents to the defendants.

[16] The "*various members of the school board*" were actually representative officers of the teacher's local union who later had filed "*sworn*" Affidavits with witness testimonial to the FACT that they personally had handed "Dr." Sandra Harris copies of Mr. Schied 1979 Texas "*set aside*" and 1983 Texas governor's "*full pardon and restoration of full civil rights*" documents and that Sandra Harris had simply "*walked out*" on the meeting when Mr. Schied was attempting to explain how those documents justified his right to keep his job while "*challenging and correcting*" the erroneous information contained in the 2003 FBI report Harris was otherwise using to justify her termination of Mr. Schied's employment WITHOUT just cause. NOTE: This is precisely the type of statement that attorney Joseph Firestone was referring to in his "Reply Brief" to the Michigan Court of Appeals in 2006 (page 5 of "Exhibit V") when he wrote, "*Uncontroverted affidavits (exs C, D, and E) presented by Mr. Schied directly dispute Appellees 'factual' assertions regarding the information provided to the superintendent* [Harris] *at the so-called pre-termination meetings.* ***By ignoring these affidavits, Appellees MISREPRESENT material facts to this Court....Each affidavit submitted by Mr. Schied attests to the facts that the set aside order and the pardon were presented to the superintendent and that Mr. Schied attempted to explain the documents. Each demonstrates that the superintendent was unwilling to listen or to consider the documents. In the face of these affidavits, however, Appellees continue to assert that the documents were not shared and no explanations were forthcoming.*** *(Appellee' brief at 5-6)* ***Yet without having challenged the affidavits, Appellee' statements constitute factual misrepresentations of the record. Appellees' brief should be carefully scrutinized and misstatements should not be tolerated by this court.***"

[17] The termination of David Schied was the sole discretion of Sandra Harris. Meeting minutes taken by the union show that Harris had promised Plaintiff and his union "*representatives*" at the end of the second meeting before hastily "*walking out*", that she would thereafter inform the

e) "*Discovery ensued [following Plaintiff filing suit in 2004] and Plaintiff's first deposition was taken on October 28, 2004. During that deposition,* ***Plaintiff refused to produce the documents he had brought with him and terminated the deposition***." (*See* middle of page 5) [18]

f) "***Plaintiff's deposition was continued on June 28, 2005...During that deposition, Plaintiff admitted that the December 20, 1979 order of dismissal did not indicate he could truthfully deny his....'conviction'***." (Midle of bottom paragraph on page 5) [19]

g) "*Plaintiff further admitted that the State of Texas had on its record his conviction for....*" (See bottom of page 5) [20]

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school board about having received the "*set aside*" and "*pardon*" documents, and promising to call the Texas Department of Public Safety about why the FBI report received by the District did not include that "*clemency*" information. In fact, Harris simply wrote the "*termination*" letter without doing either of these actions as promised. In his "brief" to the Ingham County court, Weaver therefore was misrepresenting the "*opinion*" of the school board at the time Sandra Harris had otherwise unilaterally terminated Mr. Schied's employment.

[18] When filing his "*Motion to Compel*" Mr. Schied to go back and answer deposition questions, the transcripts show that attorney Weaver admitted that Mr. Schied had brought a "*three-foot* (3') *high stack of documents*" in with him. **In fact, by the October 2004 deposition, Mr. Schied had already successfully "*challenged and corrected*" the erroneous FBI report and was in possession of a Texas court "*Order of Expunction*" explicitly giving Mr. Schied the right to withhold statements – even under Oath – about the specific events related to the "*expunged*" 1977 arrest. Though the deposition transcript itself shows that Mr. Schied proffered to show Mr. Weaver ALL of the "*three-foot high*" documentation about Mr. Schied's successful contributions to society the previous quarter-century since receiving a "*second chance*" and "*probation*" for the 1977 offense, Weaver was the one to get extremely upset at the deposition, issuing threats to "*confiscate and label as evidence*" all of Mr. Schied's prized "*original*" documentation of his life in the film and television business and as a book author. THAT was the reason for Mr. Schied leaving the room with his personal belongings; so to keep Weaver from being further victimized by Weaver's "*abuse of his authority*" as an "*officer of the court*".**

[19] The "*order of dismissal*" referenced by Weaver was actually entitled "*Early Termination Order of the Court Dismissing the Cause*", which was the "*early termination*" of probation that included a "*withdrawal of plea*", a "*dismissal of indictment*", and a "*set aside of judgment*". Mr. Schied had believed therefore, that for the previous quarter-century this document had "*wiped clean*" all remnants of a "*conviction*". Therefore, during deposition testimony, Mr. Schied could not reasonably dispute Weaver's claim that the "*order of dismissal did not indicate* [Mr. Schied] *could not deny the...conviction*" because **the "*set aside*" document had eradicated the "*conviction*", leaving no "*conviction*" related to Mr. Schied to begin with.** Furthermore, at the time, Mr. Schied did not have access to the "*Texas v. Cuellar*" or the "*U.S v. Sauseda*" cases, or to the two Texas attorney general opinions (DM-349 and JC-0396) clarifying that "no conviction exists" after receipt of EITHER a "*set aside*" OR a governor's "*full pardon*".

[20] Though this statement was "*true*", the manner in which it is presented by attorney **Weaver was "*misleading*" to the Court by Weaver's OMISSION of the fact that Plaintiff had been all along been attempting to assert his right to "*challenge and correct*" both the Texas**

h) "*Plaintiff's claims are barred by the applicable statute of limitations*". [21] (Top of p.6)

i) "Plaintiff's claims are barred by 'res judicata and collateral estoppels....Plaintiff admits that his claim is barred by res judicata and collateral estoppels..." (Middle of page 7) [22]

j) "*Harris, the highest elected or appointed official in the District is entitled to summary disposition as a matter of law...MCL 619.1407(5) provides for absolute immunity for the highest appointed or elected official at all levels of government...if he or she is acting within the scope of his or her...executive authority...There is no dispute that Defendant Harris was acting in the course and scope of her employment as Superintendent of the school. Indeed, Plaintiff's Complaint does not indicate, in any way, that Superintendent Harris acted outside of the scope of her authority or outside of her role as Superintendent...*" (Middle of page 9) [23]

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record and the resulting FBI report that was issue to the Lincoln and Northville public schools in 2003 and 2004 respectively.

[21] **All of Weaver's statements in support of this claim, again, ignore Plainiff's the FACTUAL ALLEGATIONS of the "*Ingham County Circuit Court*" complaint** that the Lincoln Consolidated Schools had committed "*theft of government property*" (i.e., the 2003 FBI report) and "*converted*" that federal government document "*to personal use*" by **disseminating the FBI report again in 2006**, along with other "*nonpublic*" government documents (i.e., the Texas "*order of dismissal and set aside*" and Sandra Harris' two defamatory letters) **to the public under the Freedom of Information Act.** Instead, Weaver MISLEADINGLY referred to the events leading up to the 2004 "*Schied v. Sandra Harris and Lincoln Consolidated Schools*" case as if Plaintiff, simply because he was acting without an attorney as a "*pro se*" litigant", was ignorantly continuing to rely upon those "*same*" earlier claims for a subsequent case.

[22] *See* footnote #21 above

[23] In *Gravel v United States*, 408 U.S. 606 (1972) the Supreme Court, interpreting the constitutionally-derived executive privilege, has long recognized that, *"[t]he so-called **executive privilege has never been applied to shield executive officers from prosecution for crime.**"* (*Gravel v. United States*, 408 U.S. at 627). The Court held that **neither absolute nor qualified immunity can be relied upon to protect interference with the criminal process or grand jury investigations.** Moreover, in the oft-cited *Monroe v Pape* 365 US 167 (1961), the Court said that **actions undertaken by those who would claim immunity: "*Should be read against the background of tort liability that makes a man responsible for the natural consequences of his actions.*"** 365 US at 187, 81 S Ct, 484 (1961). Binding state precedent and federal precedent under 42 U.S.C. Sec. 1983 both show that the Common **Law does not support "*absolute immunity*" from tort liability.** The Supreme Court, and lesser Federal and State courts have made it quite clear that immunity must be granted very sparingly. Indeed, in *Scheuer v Rhodes*, 416 US 232 (1974) the Supreme Court turned aside arguments for immunity as it applied to governors. In *Wood v Strickland*, 420 US 308 (1975) the Supreme Court refused to give immunity to members of school boards, and in *Hazo v Geltz*, 537 F2d 747 (3d Cir. 1976) the federal court insisted that court personnel performing many of their functions were entitled to only "*good faith immunity*". As the law stands, there is no "*absolute judicial immunity*"; and many cases show that judges indeed have no "*immunity*" against misconduct in office, or where their actions exceed their official jurisdiction. In *Gomez v Toledo*, 446 U.S. 635 (1979) the Court spoke to the concern among plaintiffs that they had an impossible burden to meet by showing in their pleadings that the acts of the defendants were both

k) "*Plaintiff's Complaint must be dismissed and sanctions awarded pursuant to MCR 2.114 [because] Plaintiff's Complaint clearly* ***makes arguments against these Defendants which are identical to those allegations in Plaintiff's previous claims***." (Bottom of page 15 of "Exhibit X") [24]

A CONCISE SUMMARY AND A "*CALL TO HELP*" BY MICHIGAN ATTORNEY DARYLE SALISBURY

91. When attorney Daryle Salisbury experienced first-hand what was happening in the State courts, and while understanding – **as a premiere and highly esteemed Michigan "*divorce*" attorney** – the detrimental impact that these government violations were having upon Mr. Schied's marriage, his finances, and all other of his family's relationships here in Michigan, Mr. Salisbury put out a written plea on Mr. Schied's behalf. The letter he provided to Mr. Schied, addressed "*To Whom It May Concern*", asked that ANYONE ELSE who is available assist in the matter of these unjust 2006 and 2007 Michigan court rulings. (***See* "Exhibit Y"**)

92. Mr. Salisbury's letter stated in part as follows:

> "*Perhaps you will glean from this request enough information to pique your interest in helping David Schied challenge and contest a series of State (Michigan and Texas) and Federal statutes that when juxtaposed provide conflicting and so far,* ***detrimental, application to David Schied's life and employment****....**It does seem***

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unreasonable and in bad faith. The Court went on to instruct: "***Since qualified immunity is a defense, the burden of pleading it rests with the defendant.*** *See Fed. Rule Civ. Proc. 8c* ***(defendant must plead any "matter constituting an avoidance of affirmative defense")***" Id. In *Miranda v. Arizona* 384 U.S. 436 [1966], Chief Justice Warren delivered the opinion of the court stating in part: "*As Mr. Justice Brandeis once observed: 'Decency, security and liberty alike demand that government officials SHALL be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously.* ***Our Government is the potent, the omnipotent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means ... would bring terrible retribution. Against that pernicious doctrine, this Court should resolutely set its face.***" *Olmstead v. United States*, 277 U.S. 438, 485 (1928) (dissenting opinion). (page 479)

[24] To save space in this "*Response*" document, Plaintiff suggests this Court review the "*Burr in the Saddle*" metaphor, as initially presented by attorney Daryle Salisbury and detailed above, for clarification. Most importantly, **while the multiple cases brought forth by Plaintiff David Schied have certain "*similarities*" they are not "*identical*" since NEW VIOLATIONS PRESENT NEW INJURIES not previously litigated.**

that with these inopposite statutes being applied in different contexts, in different state Courts, that <u>David Schied's equal protection and due process rights are being subverted</u> by <u>each Court picking and choosing</u> which state's statute is superior, in a given situation, without examining the effect and intent of the pardon, set-aside, and expungement statutes and the statutory protections afforded a person in David Schied's situation**.....[Michigan judges'] *application of the Michigan School Code criminal history check (i.e., MCL 380.1230) ignores both the meaning and the intent of Michigan's expungement statutes and Michigan's full faith and credit application of the Texas set-aside, Texas Governor's pardon and Texas expungement statutes....* ***This dichotomy in applying these different Michigan and Texas statutes to David Schied's situation certainly <u>raises due process and equal protection concerns</u> and raises a <u>federal</u> question regarding the Title VII of the Civil Rights Act provisions*** [as referenced elsewhere in the letter]...."

93. The significance of this letter is clear. By 2007 it was clear that the judges of the State of Michigan were ruling "*out-of-hand*" and in a repeated "*<u>PATTERN</u>*" of violating numerous of Plaintiff's civil and Constitutional rights. What is significant about what has occurred since the writing of this letter is that that "*pattern of <u>CRIMINAL</u> violations*" of Plaintiff's civil and Constitutional rights has extended to the U.S. District Court for the Eastern District of Michigan (Southern Division) as well as to the Sixth Circuit Court of Appeals and their respective offices of the Michigan <u>Judicial Tenure Commission</u> and the <u>Judicial Council for the Sixth Circuit</u>.

94. It is clear therefore, from the information and <u>Evidence</u> provided above and by attachment to this "*<u>Response</u>*" and "*<u>Motion for Sanctions</u>*", that the "*fraud*" upon the court perpetuated by the PLUNKETT-COONEY law firm and attorney Michael Weaver has far-reaching effects in both State and Federal courts.

PRAYER FOR "*RELIEF*" AND PLAINTIFF'S "*DEMAND FOR REMAND OF CASE BACK TO WASHTENAW COUNTY CIRCUIT COURT*"

95. The above Statements and Evidence, both submitted and included by reference, present this Court with reasonable proof that Defendants and their attorney have no justification for bringing the "*Notice of Removal*" of Plaintiff's NEW case from the Washtenaw County Circuit Court to the U.S. District Court.

96. Therefore, Plaintiff demands that Defendants' "*removal*" action be "*reversed*", with an "Order" from this U.S. District Court REMANDING this case back to the Washtenaw County Circuit Court for a proper TRIAL BY JURY.

97. Plaintiff requests that sanctions and other costs be also applied in accordance with the "*Motion for Sanctions*..." that has been filed jointly with this "*Plaintiff's Response*" to the fraudulent action perpetrated upon both Michigan and United States judges, by Defendants' PLUNKETT-COONEY attorney MICHAEL D. WEAVER.

I solemnly declare that the above statements are true to the best of my information, knowledge and belief.

Respectfully submitted,

Dated: January 27, 2009 By: 

MOTION FOR SANCTIONS AGAINST AND THEIR ATTORNEY MICHAEL WEAVER FOR "*FRAUD*" AND "*CONTEMPT*" *UPON STATE AND FEDERAL COURTS*

98. Plaintiff fully incorporates paragraphs 1-97 above herein by reference, inclusive of all Statements, Evidence and references to other documents contained in the State and Federal court files of the cases referenced herein, as if they were provided in their entirety and verbatim.

99. Fed. R. Civ. P. 11 provides for sanctions against parties or attorneys for frivolous, or in other ways "*contemptuous*" or "*retaliatory*" actions. Based on the Statements and Evidence presented in the accompanying "***Plaintiff's Response** to Defendants' Notice of Removal*", ***sanctions* are indeed warranted pursuant to Fed. R. Civi. P. 11.**

100. Through the accompanying "***Plaintiff's Response** to Defendants' Notice of Removal*", **Plaintiff has presented this Court with ample proof that Defendants and their Plunkett-Cooney attorneys, and particularly attorney Michael D. Weaver, have a long history of "*contempt*" and committing "*fraud upon the Court*"; and that they are NOW committing new acts of fraud upon this U.S. District Court for the Eastern District of Michigan, Southern Division.**

101. Furthermore, on Monday, January 25, 2010, Plaintiff made reasonable and diligent attempts to personally contact counsel, including sending a letter by email to Defendants' attorney Michael Weaver, regarding concurrence in relief sought by this motion; and that concurrence has been denied. **("Exhibit Z")**

102. In considering the Evidence that Defendants have previously (and unsuccessfully) petitioned that other Courts to issue sanctions against *pro se* Plaintiff and CRIME VICTIM David Schied, even **as based on Defendants' own clear "*FRAUD*" upon those other courts – to also include THIS U.S. District Court – Plaintiff therefore requests**

"<u>*RELIEF*</u>" from <u>this</u> Court by his "*Motion*" for this U.S. District Court to levy <u>Sanctions</u> against Defendants, against attorney MICHAEL WEAVER, and against the PLUNKETT-COONEY law firm, for perpetuating such <u>fraud</u> AGAIN upon THIS federal Court.

I solemnly declare that the above statements are true to the best of my information, knowledge and belief.

Respectfully submitted,

Dated: January 27, 2009 By: