

No. 21-4139

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

ANTHONY L. VIOLA,

Petitioner-Appellant

-vs.-

CUYAHOGA COUNTY LAND REUTILIZATION,

Respondent - Appellee

**APPELLANT'S OPENING BRIEF**

Respectfully Submitted,



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June 13, 2022

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**STATEMENT IN SUPPORT OF ORAL ARGUMENT**

Pursuant to Federal Rule of Appellate Procedure and Sixth Circuit Rule 34(a), Petitioner-Appellant hereby respectfully request oral argument on the present appeal. This appeal raises important issues relating to rights guaranteed under the United States Constitution and the fair administration of justice during post-conviction proceedings.

## **JURISDICTIONAL STATEMENT**

The Court of Appeals has jurisdiction of this appeal pursuant to 28 U.S.C. § 1291. The final judgment that is being appealed from disposed of all issues in this cause and was entered on October 28, 2021, and this timely appeal follows.

## STATEMENT OF ISSUES FOR REVIEW

This appeal addresses two aspects of the District Court's ruling.

*First*, the Appellant was ordered to pay restitution following a criminal conviction, but a ledger of restitution disbursements confirms restitution has been distributed to non-victims and that payments by co-defendants have not been credited to the joint and severally liable restitution balance of the Appellant. Because the same mortgage loans, victims and co-defendants were involved in multiple, related civil and criminal cases, and recoveries in related cases were never credited towards the Appellant's restitution balance or against the payoff of government's lien on the Appellant's residential property, that home was lost, thereby injuring the Appellant.

In addition to issues concerning the collection of restitution from co-defendants and distribution of restitution to non-victims, conflicting government documents raise questions as to whether the Appellant's personal residence was seized pursuant to a forfeiture order, and whether or not sales proceeds in excess of the mortgage balance should be credited towards the restitution obligation, if any, or if, in fact, the government's judgment lien was previously satisfied.

*Secondly*, Appellant was tried two times on identical criminal charges by a multi-jurisdictional task force, and an exoneration resulted when substantially

different evidence was introduced at the subsequent trial. A myriad of conflicting rulings have resulted – some courts have held that the Appellant is innocent and was wrongfully convicted, others have found the Appellant is entitled to counsel, and the law firm of Covington & Burling ([www.Cov.com](http://www.Cov.com)) has provided over \$1 million in Pro Bono legal work to assist the Appellant. In contrast, the United States District Court for the Northern District of Ohio has found the Appellant’s legal work frivolous and vexatious. This appeal provides this Court with references to government pleadings where it made admissions of making false statements about evidence, and that it used perjured testimony at the first trial, then requests the Court return this matter to the District Court for an evidentiary hearing to more fully develop a factual record concerning the validity of the Appellant’s legal claims.



## STATEMENT OF THE CASE

Appellant brought suit after newly obtained evidence indicated that the government failed to properly credit the Appellant's restitution balance with a \$1 million payment from a co-defendant who is jointly and severally liable for restitution, newly obtained FBI documents stating the Appellant's property was subject to "forfeiture" even though no forfeiture order was ever issued and a restitution disbursement ledger indicating that restitution collected from co-defendants was distributed to non-victims and not credited to Appellant's restitution obligation.

Appellant was initially convicted and subsequently acquitted on the exact same "mortgage fraud" charges, in cases prosecuted by the same multi-jurisdictional task force. After an initial conviction, the United States filed a lien on the residential property located at 3048 Meadowbrook, Cleveland Heights, Ohio to satisfy its criminal judgment, and this property was subsequently sold without proceeds to the Appellant or credits towards any remaining restitution balance.

The parties submitted contrasting interpretations concerning the waiver of sovereign immunity through the Administrative Procedures Act and whether or not Congress waived sovereign immunity in Quiet Title actions. Significantly, however, the government never contested the authenticity of any of the documents provide to

the Court concerning restitution disbursements to non-victims or the collection of restitution from co-defendants who were jointly and severally liable for restitution.

During the litigation, the government moved the Court to declare the Appellant a vexatious litigator, while Appellant countered with a submission identifying instances when the Department of Justice and the FBI admitted making false statements in court, and that the judge who presided over the second trial stated in writing the Appellant is innocent, wrongfully convicted and that prosecutors committed “misconduct.” Appellant also cited multiple favorable rulings after the second trial and the fact that both the United States District Court in the Western District of Pennsylvania and the United States Court of Appeals appointed counsel to assist the Appellant. The Western District of Pennsylvania even stated it may “sanction” the Justice Department for making false statements about evidenced, Viola v. U.S. Department of Justice, et. al., 15-cv-242 WD Pa., Docket # 155.

Without granting an evidentiary hearing, the district court granted the government’s request to dismiss the claims concerning the lien payoff issues and imposed pre-filing restrictions on the undersigned, and this timely appeal follows.

## STATEMENT OF FACTS

The United States Department of Justice funded and staffed a multi-jurisdictional Mortgage Fraud Task Force to prosecute mortgage fraud cases in Northeast Ohio, Bureau of Justice Assistance Grant # 2009-SC-B9-0080. The task force prosecuted over 1,000 Americans, many simultaneously in both state and federal court. Appellant Anthony L Viola was tried twice, on identical charges, by this Task Force, where prosecutors alleged Appellant devised a scheme to dupe banks including JP Morgan and Citigroup into making mortgage loans that did not meet their underwriting guidelines.

Following a federal conviction in USA v. Viola, 08-cr-506, N.D. Ohio, (guilty verdict and 150 month prison sentence), substantially different evidence was introduced at a subsequent trial, leading to an acquittal on the same charges, Ohio v. Viola, 10-cr-543886 and 10-cr-536877, Cuyahoga County Common Pleas Court. In 2019 and 2020, both the Department of Justice and the FBI admitted making materially false statements about evidence in the criminal matters. The FBI admitted making false statements about evidence because it was “unaware” of over 10,000 records in its own records system, Viola v. Department of Justice, 18-2573, Docket No. 99, while the Department of Justice “regrets” that it made false statements under oath about evidence in the criminal matters, Viola v. Department of Justice, et. al., 15-cv-242, W.D. Pa., Docket No. 116-1. Additionally, Assistant US Attorney Mark

Bennett stated in writing that government witness Kathryn Clover committed perjury when testifying for the government at Petitioner's trial, USA v. Clover, 75-cr-10, Docket No. 46, page 2 ("Clover provided false testimony during the trial").

Following a federal conviction, but prior to the commencement of the second trial, the Task Force's Office Manager, Dawn Pasela, alleged that federal prosecutor Mark Bennett (subsequently fired after having an affair with a Confidential Informant) and state prosecutor Daniel Kasaris suppressed exculpatory evidence before the first trial, then Ms. Pasela provided the undersigned with evidence supporting an actual innocence claim, including FBI 302 Interview summaries with lender employees and loan approval documents that confirmed lenders offered and knowingly approved the loans at issue in the criminal cases, and "waived" key lending conditions, including income, assets and/or down payments. Ms. Pasela also provided evidence of a "double game" by prosecutors – pursuing mutually exclusive theories of criminality concerning the exact same properties and mortgage loans and lenders. Indeed, Pasela's allegations can be confirmed by reviewing Ohio v. Harris, et. al., Case No. 10-cr-551555, Cuyahoga County Common Pleas Court. In the Harris case – again, concerning the exact same properties in the Viola prosecutions – the government alleged that parties to real estate transactions submitted documents to banks seeking 'no money down' mortgage loans, which lender employees and the

banks themselves KNEW did not meet lending guidelines, but which were approved regardless.

When substantially different evidence was introduced at the Viola second trial, an acquittal on the same charges was obtained. Ms. Pasela, who offered to testify as a defense witness and who was subpoenaed to appear in court, was threatened with “federal prison” by Kasaris if she obeyed the subpoena, then found dead in her apartment under mysterious circumstances. No investigation into Pasela’s death has ever taken place and no evidentiary hearing in Appellant’s case has ever been held.

In addition to information that assisted the Appellant establish innocence, Pasela provided information that indicated the Task Force was collecting restitution in a myriad of cases involving the same alleged victims, same co-defendants and same mortgage loans and properties. According to documents provided by Pasela, Task Force officials ascertained that the titled owner of almost all of the mortgage loans in the Viola criminal case was Deutsche Bank National Trust Company as Trustee for Long Beach Loan Trust 2005 WL3. However, this entity was involved with the Justice Department’s multi-billion dollar lender settlements with JP Morgan, whereby the bank paid \$13 billion in civil fraud penalties, admitted knowingly making mortgage loans that did not meet its underwriting guidelines and lying about that practice (including at the Appellant’s criminal trials). Not only did

the bank admit wrongdoing, but it also reached civil fraud settlements with the aforementioned Deutsche Bank National Trust Company as Trustee for Long Beach Loan Trust 2005 WL3 *concerning the exact same properties at issue in the Appellant's criminal prosecution*, see Deutsche Bank v. Federal Deposit Insurance Corp., et. al., Case No. 09-cv-1656, District of Columbia District Court.

Again, issues relating to the proper amount of credits on the judgment lien filed against the Appellant's property do not constitute a collateral attack on the criminal conviction, but are a claim of injury because of the government's failure to institute a proper accounting mechanism to insure that victims receive a recovery for any losses – but not a windfall whereby restitution payments exceed any losses.

## SUMMARY OF THE ARGUMENT

The Court erred in dismissing claims concerning the government's obligation to credit restitution payments to the Appellant's obligation and expressed no concern that the government was distributing restitution to parties not listed on any restitution orders. Moreover, the subsequent exoneration of the Appellant at a second trial, multiple favorable court rulings and sufficient evidence of misconduct by the government were ignored by the district court in stating the Appellant is a "vexatious" litigator.

## ARGUMENT

### **PART ONE: OVER \$15 MILLION IN RESTITUTION HAS BEEN COLLECTED, NONE OF WHICH HAS BEEN FORWARDED TO VICTIMS LISTED ON RESTITUTION ORDERS**

According to reports the Task Force submitted to the Department of Justice to obtain or account for grant funds, over \$15 million in court-ordered restitution has been collected by prosecutors for crime victims. The Disbursement Ledger provided to district court and attached here for the convenience of the Court, **Exhibit A**.

The government collected restitution but misappropriated those funds to pay:

- \$10,000 to the Sheraton Hotel;
- \$5,079 to US Air;
- Nearly \$2,000 to Prosecutor Dan Kasaris (who prosecuted most mortgage fraud cases);
- Former Cuyahoga County Prosecutor Tim McGinty received a \$2,060 laptop and pocketed \$894 in cash; and

- Other entities (including "OhioWho" and "KatKen") received tens of thousands of dollars, according to the "Cash Account Register" that identifies restitution collection and disbursement.

The collection of restitution from co-defendants and diversion of that restitution to individuals or entities not listed as "victims" in restitution orders violates court orders and is unlawful, because restitution orders name specific victims and exact amount of money required to compensate them for losses resulting from criminal activities. Since 2009, over 500 Northeast Ohioans have been ordered by state and federal courts to pay restitution to banks in mortgage fraud cases prosecuted by a Federal-State Mortgage Fraud Task Force. The Task Force obtained Bureau of Justice Assistance Grant # 2009-SC-B9-0080 based on false representations that over \$15 million in restitution was collected and returned to crime victims, but no "victim" has ever received a penny of restitution in any case prosecuted by the Task Force. This Court should consider requiring a forensic accounting for the funds in question.

**PART TWO: RESTITUTION COLLECTED FROM CO-DEFENDANTS WERE NEVER CREDITED TO APPELLANT'S RESTITUTION OBLIGATION**

When defendants are made jointly and severally liable, each is liable for the entire amount, but the victim is entitled to no more than what is required to be made whole, regardless of what portion each of the defendants ultimately contributes, United States v. Rozin, 664 F.3d 1052, 1066-67 (6<sup>th</sup> Cir. 2012). The Appellant has



paid restitution on time for a decade and according to the restitution order in USA v. Viola, 08-cr-506, N.D. Ohio, federal prosecutor Mark Bennett negotiated a settlement of the Gofman criminal matter, and required a \$1 million payment towards restitution in the state proceeding concerning identical victims and properties, but District court erred in its analysis of this credit against the government's lien, stating that the undersigned "claims one of his co-defendants offered to pay \$1,000,000 toward restitution," ruling at page 3. This \$1 million payment was no mere "offer" made out of generosity, but court ordered restitution, which this individual claims was paid, and court order attached as **Exhibit B**. In addition, **Exhibit C** summarizes all of the cases where the same mortgage loans, victims, co-defendants and properties are involved in restitution orders and related civil fraud settlements, but the government has never instituted a proper accounting mechanism to track payments or to know when the lien against the 3048 Meadowbrook property was actually satisfied and should be released.

The ledger presented to the District Court confirms that co-defendant Uri Gofman paid \$1 million. However, failure to credit that towards the Appellant's liability not only causes "the undesirable result of restitution effectuating a double recovery," United States v. Sizemore, 850 F.3d 821, 829 (6th Cir. 2017), but also injured the Appellant, because the lien against the Meadowbrook property was likely satisfied at the time of its sale, depriving the Appellant of equity in his own property.

At the very least, proper accounting mechanism should be in place so that the government can ensure victims do not receive a recovery in excess of any losses sustained, and that judgment liens are recorded as satisfied when the amount of a judgment is paid in full.

**PART THREE: GOVERNMENT AGENCIES DIFFER AS TO WHETHER THE MEADOWBROOK PROPERTY WAS SEIZED, FORFEITED OR SOLD TO PAY LIENS**

Documents obtained from the FBI documents and presented to the district court state the 3048 Meadowbrook property was seized and subject to a forfeiture order, **Exhibit D**. However, the Justice Department says “The United States never seized the property,” Docket # 23-1, page x and that the FBI did not seize the property, Document 23-1, page 6. The government further claims the exhibit “does not mention the Meadowbrook property,” but the documents from the FBI include payment for an appraisal of this exact property and are from the FBI’s “Forfeiture Unit.” The district court ruling stated “The FBI was not plausibly involved in the foreclosure” page 13, but that ruling is contradicted by documents provided in this litigation that describe “seizure” of assets by the FBI’s “Forfeiture and Seized Property Unit,” that describes removing vehicles from the Meadowbrook property for “storage.” These documents confirm the complaint was filed in good faith, and with a solid factual basis, and that Mark Bennett, who negotiated the forfeiture and

restitution in the criminal cases was sued because he is an indispensable party to this litigation, and these issues could not be resolved without Bennett.

At this stage of the litigation, Appellant plausibly argued that the FBI seized the property because the FBI's own documents state as much, and the government never contested the authenticity of those documents or that the restitution ledger was inaccurate or inauthentic. Summary judgment is only appropriate when the record "shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgement as a matter of law." Fed. R. Civ. P. 56(c) but, in this case, the Appellant met his burden and provided significant documentary support for all claims.

**PART FOUR: BASED ON DOCUMENTS ATTACHED TO THE COMPLAINT, THE LIEN ON APPELLANT'S PERSONAL HOME WAS SATISFIED**

Documentary evidence provided to the District Court supports the Appellant's claim that the failure to credit co-defendant Uri Gofman's \$1 million restitution payment caused the 3048 Meadowbrook house to be effectively seized, because Appellant asserts the lien should have been extinguished. This claim, supported by evidence, confirms the claim should proceed to the discovery phase of the litigation.

**PART FIVE: THE ACTIONS OF DEFENDANT FANNIE MAE ARE INEXPLICABLE**

According to Fannie Mae's Form 10-K, filed pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934, filed February 1, 2022, "We work to obtain the highest price possible for the properties sold." In addition, Fannie Mae's own website says it works hard to "minimize losses to its investors" in foreclosures, <https://capitalmarkets.fanniemae.com/mortgage-backed-securities/single-family-mbs>. Except in this case, however, where Fannie Mae sold a \$200,000 house for \$60,000 to the Land Bank, without explanation of why the "Land Bank" benefitted from a non-market sale of the Appellant's property. The government argues that that it is a mere coincidence that the same entity that received forfeited properties also ended up with the Appellant's home, but Appellant argues that the district court erred in dismissing claims, as Plaintiff provided sufficient evidence to defeat summary judgment and to move the case to discovery.

#### **PART SIX: THE APPELLANT'S CLAIMS ARE NOT BARRED BY RES JUDICATA**

Newly discovered evidence presented to the District Court proves the Task Force collects restitution but does not forward funds to victims listed in restitution orders and does not credit criminal defendants with funds collected. As the Supreme Court made clear in Lawlor v. National Screen Service Corp., 349 U.S. 322 (1955), res judicata does not bar a suit, even if it involves the same course of wrongful

conduct as alleged earlier, so long as the suit alleges new facts or a worsening of the earlier conditions.

**PART SEVEN: GIVEN THE FOREGOING FACTS, SUMMARY JUDGMENT IS SIMPLY INAPPROPRIATE**

“[I]n a motion for summary judgment, `credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge. . . . The evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor.” Russo v. City of Cincinnati, 953 F.2d 1036, 1041-42 (6th Cir. 1992). Here, the government never disputed authenticity of documents, while the following material facts remain in dispute:

- What is the proper lien payoff figure on the Meadowbrook property?
- Was there a forfeiture of the Meadowbrook property?
- Why has the Clerk of Court distributed restitution to non-victims?

Under these circumstances, and given the significant amount of documentary support provided in this litigation, discovery is appropriate, the Court’s judgment should be vacated because the Court failed to draw all inferences in favor of the Appellant, as required by law.

**PART EIGHT: THE GOVERNMENT IS NOT IMMUNE FROM SUIT IN QUIET TITLE ACTIONS, AND WHERE THE ADMINISTRATIVE PROCEDURES ACT APPLIES**

Under the Quiet Title Act of 1972 (QTA), the United States, subject to certain exceptions, has waived its sovereign immunity and has permitted plaintiffs to name it as a party defendant in civil actions to adjudicate title disputes involving real property in which the United States claims an interest, 28 U.S.C. § 2409a, 28 U.S.C. § 1346(f), and 28 U.S.C. § 1402(d). In addition, Congress generally has waived the sovereign immunity of the government to authorize suits against government officers for specific relief under the Administrative Procedure Act. Section 702 of the Administrative Procedures Act (APA), 5 U.S.C.S. § 702, provides a general waiver of sovereign immunity where an individual seeks review of “agency action.” The Administrative Procedure Act has the effect of waiving sovereign immunity in actions for review of agency action involving a federal question in instances where non-monetary reliefs are sought, particularly as the Appellant’s suit identified “discrete agency action that it is required to take,” Norton v. S. Utah Wilderness All. 542 US 55, 64 (2004). Here, the United States Attorney’s Office in Cleveland are not following the restitution statutes, which require a basic accounting for payments received by victims listed on restitution orders, and that the government not mix up “forfeiture” and “restitution” in official documents.

Finally, Appellant wishes to alert the court that, on June 6, 2022, the U.S. Supreme Court granted certiorari in Wilkins v. United States, 21-1164, a quiet title action brought by Montana landowners against the federal government and involving the federal Quiet Title Act, which authorizes suits against the federal government “to adjudicate a disputed title to real property in which the United States claims an interest” but provides that such a suit “shall be barred unless it is commenced within twelve years of ... the date the plaintiff or his predecessor in interest knew or should have known of the claim of the United States.” The dispute in Wilkins concerns whether this time bar is jurisdictional or subject to equitable tolling.

**PART NINE: APPELLANT’S LEGAL WORK HAS MERIT, AND THE DISTRICT COURT FAILED TO HOLD THE GOVERNMENT ACCOUNTABLE FOR ITS ACTIONS OR EVEN CONSIDER OTHER COURT RULINGS IN FAVOR OF THE APPELLANT**

The First Amendment guarantees the right of an American citizen to petition the government for redress – especially to clear one’s name after an acquittal at a second trial. Kindly note that it was the government – not the appellant – who prosecuted citizens (including the Appellant, with zero criminal history) simultaneously in both state and federal court on identical charges, and failed to provide exculpatory evidence prior to the first trial. The results of the second trial and a decade-long investigation led by former FBI Agent Robert Friedrick has

continued to unearth new evidence of government misconduct, not limited to issues related to the collection and distribution of restitution.

***Government Intrusion into the Sixth Amendment Right to Counsel***

Prior to the first trial, Prosecutors Bennett and Kasaris directed Task Force Office Manager Dawn Pasela, to pose as a graduate student studying criminal justice and working with local defense attorneys on similar cases. She was ordered to record a series of post-indictment conversations so prosecutors could obtain confidential defense trial strategy information. Prosecutors also gave Ms. Pasela funds to donate towards the Appellant's legal fees so prosecutors could use her cancelled check to identify the law firm's bank account, then tracked investigative expenses and identified potential defense witnesses -- who were promptly threatened with indictment if they testified for the defense.

Following the jury verdict at the first trial, but before federal sentencing or the start of the second trial, Ms. Pasela provided the undersigned with exculpatory evidence prosecutors failed to produce before the first trial. Ms. Pasela offered to testify at the second trial about prosecutorial misconduct. Bennett and Kasaris threatened Ms. Pasela with indictment and federal prison if she appeared in court. Ms. Pasela was found dead in her apartment shortly after her scheduled testimony, but no inquiry into the circumstances surrounding her death has ever been conducted. In May, 2022, new information concerning Ms. Pasela's death became



available and was filed in related litigation, Viola v. Clover, Case No. CV-20-936897, June 1, 2022 filing, attached hereto as **Exhibit E**.

No court – including the district court here – has ever expressed the least bit of concern about the death of Ms. Pasela. Appellant asks this Court to order the government to explain its actions concerning Ms. Pasela and to refer this matter to the Department of Justice Inspector General for a proper investigation.

***Romantic Relationship between Kasaris and Government Witness Kathryn Clover***

The Cuyahoga County Prosecutor’s Office produced over 600 pages of emails between Prosecutor Daniel Kasaris and government witness Kathryn Cover which establish an inappropriate personal and romantic relationship. In addition, family members and colleagues of Kasaris alleged that he had a romantic relationship with government witness Kathryn Clover, who testified in a dozen criminal matters, including two trials of the undersigned. In support of their claims of an affair, multiple individuals provided sworn affidavits and copies of private Yahoo emails from Kasaris (affixed with his official signature) to Ms. Clover that discuss “hand jobs” and “banging in the car.”

Emails produced by the Cuyahoga County Prosecutor confirm that Clover:

- Attended meetings with other government witnesses, helped write indictments and bills of particulars, conducted surveillance of the Appellant’s residence, had access to all government evidence, revealed grand jury information to the public, and committed perjury in court.

- Sent racist emails to Prosecutor Kasaris, who also engaged in similar banter, as Kasaris and Clover discuss conducting surveillance while dressed up as “Africans” or an “orthodox Jew.”
- Kasaris helps Clover with her resume and “modeling” business, and discusses having his “IT guy” alter documents to assist Clover.

### ***Knowing use of perjured testimony to “win” convictions***

Federal Prosecutor Mark Bennett stated in writing that government witness Kathryn Clover “provided false testimony” at criminal trials, yet continued utilizing her as a witness in a dozen other proceedings, USA v. Clover, 10-cr-75, Docket # 46

Government witness Kathryn Clover signed a plea deal with the government, and agreed to provide “substantial assistance” to the government. But shortly after her trial testimony in USA v. Viola, 08-cr-506, N.D. Ohio, she alerted Bennett and Kasaris that she wanted to withdraw her perjured testimony, which falsely claimed Appellant conspired with her to commit mortgage fraud. Clover asked to be recalled to the stand to correct her false testimony, but Bennett and Kasaris refused, stating that her false testimony “was in the interests of justice” and that withdrawing her false statements “jeopardized the outcome of the case.” Later, 600 pages of emails between Kasaris and Clover confirm that Kasaris works with Clover to cover up her previous perjury. And not only did Prosecutors Bennett and Kasaris fail to withdraw Clover’s false testimony, they CONTINUED to utilize her as a government witness in a dozen cases, USA v. Clover, sentencing documents, 10-cr-75, until she finally

recanted her false testimony at the second trial, Ohio v. Viola, 10-cr- 536877. For instance, when Assistant US Attorney Mark Bennett learned that government witness Kathryn Clover committed perjury, he was required under Napue v. Illinois, 360 US 264 (1959) to withdraw that false testimony. There is no basis in law to convict innocent citizens based on perjured testimony, and no basis in law for prosecutors to refuse to withdraw such false testimony – yet the judiciary has enabled the Justice Department’s wrongdoing, then blamed the undersigned for excessive litigation. Yet this case of Clover’s perjury is arguably one of the most heavily documented cases of prosecutors KNOWING that their witness was lying to jurors, and continuing to use false testimony to “win” cases as part of an overall “win at all costs” style of litigation. Will this Court turn a blind eye to this mockery of justice and violation of due process of law?

***Following Government Admissions of Making False Statements about Evidence, multiple Federal courts appoint counsel to assist the Appellant***

After both the FBI and the Department of Justice admitted making materially false statements about evidence in the Appellant’s criminal cases, The United States Court of Appeals for the Third Circuit and the United States District Court Appointed Counsel to Assist the Appellant, while other courts ruled that the Appellant is innocent or that his legal work states claims for relief, **Exhibit F**.

The District court cites dismissed cases (page 7 of ruling) but fails to cite the cases listed above where undersigned was acquitted or courts ruled a complaint stated a claim for relief or the Appellant was entitled to counsel. Kindly note that in the past two years, Pro Bono counsel (Covington & Burling, [www.Cov.com](http://www.Cov.com)) has assigned a half dozen attorneys to assist the Appellant, and the Third Circuit Court of Appeals will soon appoint counsel to represent the Appellant in that Court. However, the District Court's ruling does not address pro bono counsel's role and would actually prevent counsel – and any innocence project now reviewing this matter – from initiating litigation that counsel wishes to pursue.

***False Statements about the existence of a “Conflict of Interest Waiver”***

Joint defense between all defendants who proceeded to the first trial despite timely objection – and those same attorneys also representing government witnesses at the same time – caused the government to concede that an actual “conflict of interest” existed, USA v. Viola, 08-cr-506, N.D. Ohio, Docket # 201, page 18. However, when the undersigned raised the issue of conflicts, the U.S. Attorney in Cleveland falsely informed the federal judiciary that conflict waivers were obtained following an inquiry. In fact, no such inquiry or hearing ever took place, and no such conflict of interest waivers were ever executed. However, The United States Supreme Court has held failure of the trial court to conduct an inquiry into joint defense at trial despite timely objections, or to ascertain whether the risk of conflict

of interests violates the sixth amendment assurance of the assistance of counsel and requires the automatic reversal of any conviction, Holloway v. Arkansas, 435 U.S. 475 (1978).

***Assistant Ohio Attorney General Dan Kasaris Admitted Using a Private Yahoo Account for Official Business***

Assistant Ohio Attorney General Daniel Kasaris used his personal Yahoo email account affixed with his official signature as a prosecutor to continuously email government witness Kathryn Clover, including describing “banging in the car” and “hand jobs from the workers.” Ohio Court of Claims, Viola v. Ohio Attorney General, Case Co, 2020-00507PQ.”

***Newly discovered evidence of wrongdoing by prosecutors***

Within the previous 60 days, the Appellant’s investigative team has obtained new evidence that former Assistant United States Attorney Mark Bennett was recently fired for serious misconduct by the U.S. Attorney in Cleveland – a fact being covered up by government attorneys in this case.

Despite the foregoing list of government misconduct and related rulings in favor of the Appellant, the district court found the Plaintiff’s legal work to lack merit – so eager was the district court to end the Appellant’s access to the courts that the Court’s ruling did not even allow for Pro Bono counsel to file suit! That alone should

cause the ruling to be vacated, Clemons v. Dewine, 2019 U.S. App. LEXIS 13271 (6th Cir. May 1, 2019)(counsel permitted access to courts).

Moreover, the Court's displeasure with the Appellant is misplaced, as the government's own actions (its use of perjured testimony and admissions of making false statements about evidence, just to name two) have been the cause of ongoing litigation and created an effective denial of access to the courts. "It is beyond dispute that the right of access to the courts is a fundamental right protected by the Constitution." Graham v. National Collegiate Athletic Ass'n, 804 F.2d 953, 959 (6th Cir. 1986). Access to courts does not only protect one's right to physically enter the courthouse halls, but also insures that the access to courts will be "adequate, effective and meaningful." Bounds v. Smith, 430 U.S. 817, 822 (1977). Therefore, if a party engages in actions that effectively cover-up evidence and this action renders a plaintiff's state court remedy ineffective, they have violated his right of access to the courts. See Bell v. City of Milwaukee, 746 F.2d 1205, 1261 (7th Cir. 1984) ("To deny such access defendants need not literally bar the courthouse door or attack plaintiffs' witnesses."). Otherwise, to what avail would it be to arm a person with such a constitutional right, when the courtroom door can be hermetically sealed by a functionary who destroys the evidence crucial to his case. A contrary interpretation of this right would encourage "police officials to conceal the circumstances relating to unlawful" conduct, as is the case here. Id.

By presenting a filing to the court, an attorney or unrepresented party certifies that the filing “is not being presented for any improper purpose.” Fed. R. Civ. P. 11(b)(1). Such improprieties include harassment and unnecessary delay. *Id.* The filer also certifies that his claims are warranted by existing law and have evidentiary support. Fed. R. Civ. P. 11(b)(2), (3). The claims made in this litigation are confirmed by key facts, documentary support and based on the proposition that the government is violating the restitution statutes, which limit a victim’s recovery to actual losses and further require the Clerk of Court to reduce the restitution obligation by any amount the victim recovers as compensatory damages for the same loss, 18 U.S.C. 3663(a)(1) and 3664(f)(1)(A); United States v. Elson, 577 F.3d 713, 733-34 (6th Cir., 2009).

Kindly note that both Justice Department and the task force claimed that – concerning the exact same real estate transactions – banks were both innocent victims of mortgage fraud schemes, entitled to restitution for any losses AND that these very same banks were perpetrators of the offense of conviction, and required to repay any subsequent purchasers of mortgage loans. Aside from any due process issues during criminal prosecutions, the exact same mortgage loans ended up in a myriad of restitution orders and civil fraud settlements, without any accounting mechanism to track restitution actually paid to victims by the Appellant’s co-defendants in state court proceedings, or in related civil fraud settlements.

Moreover, these separate proceedings featuring different theories of criminality are contrary to the restitution statutes, as an entity cannot be both a victim and a perpetrator of fraud concerning the same charged conduct, In Re Wellcare, 754 F.3d 1234, 1239-40 (11th Cir., 2014)(collecting cases).

There is no legal basis for district court to ignore appointment of counsel by the Western District of Pennsylvania, government admissions of making false statements to the federal judiciary and the results of the second trial, and only point to cases the Appellant was denied relief – especially when many of those adverse rulings were based on misrepresentations by the government. According to the District Court, the appellant is only “vexatious” in the Northern District of Ohio but that, in matters involving the Justice Department in other jurisdictions, or in state court proceedings in Cuyahoga County, claims asserted by the Appellant are valid and should proceed.

The district court failed to follow Sixth Circuit precedent as set forth in Feathers v. Chevron U.S.A., Inc., 141 F.3d 264, 269 (6th Cir. 1998) because multiple courts have held the Appellant's legal work is not "frivolous," thereby defeating an element of holding the Appellant is vexatious, and the court further erred by not narrowly tailoring the order "to closely fit the specific vice encountered," by noting that the Appellant now has legal counsel, and that counsel should be permitted to pursue claims in this judicial district.

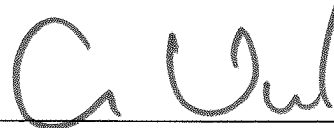


## CONCLUSION

For the foregoing reasons, Appellant Anthony L. Viola respectfully requests that This Court:

- (1) Reverse the District Court's judgment in this matter,
- (2) Because this Court has an independent interest in the fair administration of justice, it should refer the death of Dawn Pasela, and the romantic relationship between Mr. Kasaris and government witness Kathryn Clover, to the appropriate authority to conduct a proper investigation into the matter;
- (3) Order the District Court to hold an evidentiary hearing to more fully develop a factual record concerning the validity of the Appellant's legal work; and
- (4) Appoint counsel to assist the undersigned properly presenting the issues discussed above to the federal judiciary and determine whether issues concerning restitution may impact other defendants who are paying restitution in mortgage fraud cases prosecuted by the Task Force.

Respectfully Submitted



Anthony Viola  
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(330) 998-3290  
MrTonyViola@icloud.com  
June 13, 2022

**TYPE-VOLUME CERTIFICATION**

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), Anthony L. Viola hereby certifies that this brief complies with the type-volume limitation in Rule 32(a)(7)(B) and complies with the typeface requirements in Rule 32(a)(5)(A) and the type-style requirements in Rule 32(a)(6) because this brief has been prepared in proportionally spaced 14-point Times New Roman font.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read 'A. L. Viola', written in black ink.

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Anthony Viola

**CERTIFICATE OF SERVICE**

I, Anthony Viola, hereby swear and affirm that I caused a copy of the foregoing brief to be served upon the following individual, via email and regular U.S. mail, postage prepaid, on this 13th day of June, 2022:

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Respectfully Submitted,



\_\_\_\_\_  
Anthony Viola

# **Exhibit A**

Customer Name:  
Customer ID: FORF.20%

Receipt Number: 121113-2  
Date: 12/11/13  
Reference: 121113-2

<u>ITEM / INVOICE</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
	Dep to LETF - Restitution CR 535936 / Julius Graves			2.50
	Dep to LETF - Restitution CR 535949 / Richard			25.00
	Dep to LETF - Restitution CR 527972 / James Leonl — Viola			16.67
	Dep to LETF - Restitution CR 563627 / Sharon Stucko — Co-defendant			20.00
	Dep to LETF - Restitution CR 536179 / Edreaysa			10.00
	Dep to LETF - Reimb CC Land Revltzn / Uri Gofman — Viola			88,590.05
	Dep to LETF - Dept Homeland Security v. Hasrouni — Co-defendant <b>GOPMAN</b>			7,852.39

Payment Method: Check

Subtotal: 98,516.61  
Sales Tax: 0.00  
98,516.61

Receipt Number: 121113-2  
Date: 12/11/13  
Reference: 121113-2

<u>ITEM / INVOICE</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
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	Dep to LETF - Restitution CR 536179 / Edreaysa			10.00
	Dep to LETF - Reimb CC Land Revltzn / Uri Gofman			88,590.05
	Dep to LETF - Dept Homeland Security v. Hasrouni			7,852.39

ayment Method: Check

Subtotal: 98,516.61  
Sales Tax: 0.00  
98,516.61

Electronically Filed 03/21/2016 10:56 / COMPLAINT / CV 16 857905 / Confirmation Nbr. 702078 / CLMDW

EXHIBIT A - P. 1

**Cuyahoga County Prosecutor's Office  
Cash Account Register  
For the Period From Jan 1, 2012 to Dec 31, 2013  
1000 - PNC-Law Enforcement**

Filter Criteria includes: Report order is by Transaction Date.

Date	Reference	Type	Payee/Paid By	Memo	Payment Am	Receipt Amt	Balance
			Opening Balance			375,152.76	375,152.76
1/1/12	07491	Payment	cleohisup		100.00		375,052.76
1/4/12	010412	Payment	humrescou		100.00		374,952.76
1/4/12	0104121	Payment	paypal		18.48		374,938.28
1/30/12	13012	Recapit	Forfeitures.20%	13012		3,487.82	378,424.10
1/30/12	130121	Receipt	Forfeitures.20%	13012		7,029.23	385,453.33
1/31/12	Annual Fee	Gen. Jrnl.			1,686.86		383,766.47
1/31/12	013112	Payment	lawenf		0.70		383,765.77
1/31/12	07432	Payment	cleohisup		100.00		383,665.77
1/31/12	07433	Payment	cleohisup		100.00		383,565.77
1/31/12	07434	Payment	gerfuacle		50.00		383,515.77
1/31/12	07435	Payment	gerfuacle		50.00		383,465.77
1/31/12	07436	Payment	gerfuacle		50.00		383,415.77
1/31/12	07437	Payment	gerfuacle		50.00		383,365.77
1/31/12	07438	Payment	gerfuacle		50.00		383,315.77
1/31/12	07439	Payment	gerfuacle		50.00		383,265.77
1/31/12	07440	Payment	gerfuacle		50.00		383,215.77
1/31/12	07441	Payment	gerfuacle		50.00		383,165.77
1/31/12	07442	Payment	gerfuacle		50.00		383,115.77
1/31/12	07443	Payment	gerfuacle		50.00		383,065.77
1/31/12	07444	Payment	gerfuacle		50.00		383,015.77
1/31/12	07446	Payment	gerfuacle		50.00		382,965.77
1/31/12	07448	Payment	gerfuacle		50.00		382,915.77
1/31/12	07447	Payment	gerfuacle		50.00		382,865.77
1/31/12	07448	Payment	gerfuacle		50.00		382,815.77
1/31/12	07449	Payment	gerfuacle		50.00		382,765.77
1/31/12	07450	Payment	gerfuacle		50.00		382,715.77
1/31/12	07451	Payment	gerfuacle		50.00		382,665.77
1/31/12	07452	Payment	gerfuacle		50.00		382,615.77
1/31/12	07453	Payment	gerfuacle		50.00		382,565.77
1/31/12	07454	Payment	secofsta		5.00		382,560.77
1/31/12	07455	Payment	secofsta		6.00		382,555.77
1/31/12	07457	Payment	secofsta		5.00		382,550.77
1/31/12	07458	Payment	secofsta		5.00		382,545.77
1/31/12	07459	Payment	secofsta		6.00		382,540.77
1/31/12	07480	Payment	secofsta		5.00		382,535.77
1/31/12	07481	Payment	secofsta		5.00		382,530.77
1/31/12	07482	Payment	secofsta		5.00		382,528.77
1/31/12	07483	Payment	secofsta		5.00		382,520.77
1/31/12	07484	Payment	secofsta		5.00		382,515.77
1/31/12	07485	Payment	secofsta		5.00		382,510.77
1/31/12	07486	Payment	secofsta		5.00		382,505.77
1/31/12	07487	Payment	secofsta		5.00		382,500.77
1/31/12	07488	Payment	secofsta		5.00		382,495.77
1/31/12	07489	Payment	secofsta		5.00		382,490.77
1/31/12	07470	Payment	secofsta		5.00		382,485.77
1/31/12	07471	Payment	secofsta		5.00		382,480.77
1/31/12	07472	Payment	secofsta		5.00		382,475.77
1/31/12	07473	Payment	secofsta		5.00		382,470.77
1/31/12	07474	Payment	disclllaw		250.00		382,220.77
1/31/12	07475	Payment	flitra		105.00		382,115.77
1/31/12	07476	Payment	flitra		1,348.00		380,769.77
1/31/12	07477	Payment	mnjtec		930.20		379,839.57
1/31/12	07478	Payment	mnjtec		4,189.16		375,650.42
1/31/12	07479	Payment	mnjtec		1,793.80		373,856.62
1/31/12	07480	Payment	mnjtec		3,531.00		370,325.62
1/31/12	07481	Payment	cleohisup		100.00		370,225.62
1/31/12	07468	Void Pmnt	secofsta		5.00		370,220.62
2/1/12	07529	Payment	flitra		790.60		369,430.22
2/2/12	07482	Payment	plsame		332.50		369,097.72
2/2/12	07483	Payment	plsame		1,025.05		368,072.67
2/2/12	07484	Payment	plsame		707.75		367,364.92

Electronically Filed 03/21/2016 10:56 / COMPLAINT / CV 16 857905 / Confirmation Nbr. 702078 / CLMDW

EXHIBIT A - 0.2

**Cuyahoga County Prosecutor's Office  
Cash Account Register  
For the Period From Jan 1, 2012 to Dec 31, 2013  
1000 - PNC-Law Enforcement**

Filter Criteria includes: Report order is by Transaction Date.

Date	Reference	Type	Payee/Paid By	Memo	Payment Am	Receipt Amt	Balance
8/28/12	07818	Payment	ptsame		1,539.95		398,325.39
8/28/12	07819	Payment	ptsame		1,044.15		397,281.24
8/28/12	07820	Payment	ptsame		1,754.85		395,526.59
8/28/12	082812	Payment	waf		112.10		395,414.49
8/29/12	082912	Payment	cleunista		350.00		395,064.49
8/30/12	07822	Payment	radbri		220.28		394,844.21
8/30/12	07823	Payment	buscar		799.66		394,044.56
8/30/12	07824	Payment	willis		128.38		393,916.18
8/30/12	07825	Payment	sowign		124.81		393,793.57
8/30/12	07826	Payment	gerfuecle		50.00		393,743.57
8/30/12	07827	Payment	gerfuecle		50.00		393,693.57
8/30/12	07828	Payment	gerfuecle		50.00		393,643.57
8/30/12	07829	Payment	gerfuecle		50.00		393,593.57
8/30/12	07830	Payment	gerfuecle		50.00		393,543.57
8/30/12	07831	Payment	gerfuecle		50.00		393,493.57
8/30/12	07832	Payment	gerfuecle		50.00		393,443.57
8/30/12	07833	Payment	gerfuecle		50.00		393,393.57
8/30/12	07834	Payment	gerfuecle		50.00		393,343.57
8/30/12	07835	Payment	gerfuecle		50.00		393,293.57
8/30/12	07836	Payment	gerfuecle		50.00		393,243.57
8/30/12	07837	Payment	gerfuecle		50.00		393,193.57
8/30/12	07838	Payment	gerfuecle		50.00		393,143.57
8/30/12	07839	Payment	gerfuecle		50.00		393,093.57
8/30/12	07840	Payment	gerfuecle		50.00		393,043.57
8/30/12	07841	Payment	gerfuecle		50.00		392,993.57
8/30/12	07842	Payment	gerfuecle		50.00		392,943.57
8/30/12	07843	Payment	gerfuecle		50.00		392,893.57
8/30/12	07844	Payment	gerfuecle		50.00		392,843.57
8/30/12	07845	Payment	gerfuecle		50.00		392,793.57
8/30/12	083012	Payment	altman		330.00		392,463.57
8/30/12	07821	Void Pmnt	caljul		50.00		392,413.57
8/31/12	083112	Receipt	Forfeitures.20%	083112		22,060.14	414,473.71
8/31/12	0831122	Receipt	Forfeitures.20%	083112		733.65	415,207.36
8/31/12	0831123	Receipt	Forfeitures.20%	083112	KARKA	468,829.03	884,036.39
9/4/12	07847	Payment	filtra		598.20		883,438.19
9/4/12	07848	Payment	filtra		1,041.20		882,396.99
9/4/12	07849	Payment	filtra		789.20		881,607.79
9/4/12	07850	Payment	wilang		97.01		881,510.78
9/4/12	07851	Payment	frifar		55.28		881,455.52
9/4/12	07852	Payment	wolcob		8,457.62		872,997.90
9/4/12	07853	Payment	ohicse		88.00		872,909.90
9/4/12	090412	Payment	paypal		16.48		872,893.42
9/4/12	07846	Void Pmnt	filtra		598.60		872,296.82
9/4/12	07846V	Void Pmnt	filtra		-598.60		872,893.42
9/5/12	07854	Payment	cleohisup		100.00		872,793.42
9/5/12	07855	Payment	cleohisup		100.00		872,693.42
9/5/12	07856	Payment	nicand		199.87		872,493.55
9/5/12	07857	Payment	nicand		289.79		872,203.76
9/5/12	07858	Payment	clemet		360.00		871,843.76
9/5/12	07859	Payment	willis		416.52		871,427.24
9/5/12	07860	Payment	matter		126.21		871,301.03
9/8/12	07861	Payment	ohisupcou		200.00		871,101.03
9/8/12	07862	Payment	ptsame		615.86		870,585.18
9/8/12	07863	Payment	radbri		220.28		870,364.90
9/8/12	07864	Payment	filtra		1,691.00		868,673.90
9/7/12	07865	Payment	filtra		698.20		867,977.70
9/7/12	07866	Payment	filtra		630.20		867,347.50
9/7/12	07867	Payment	clerapcri		520.00		866,827.50
9/7/12	090713	Payment	websto		577.17		866,250.33
9/10/12	07868	Payment	tersim		492.00		865,758.33
9/10/12	07869	Payment	norcoabeh		114.00		865,644.33
9/12/12	07870	Payment	cleohisup		100.00		865,540.89
9/12/12	07870	Payment	cleohisup		100.00		865,450.89

EXHIBIT A-0.3

**Cuyahoga County Prosecutor's Office  
Cash Account Register  
For the Period From Jan 1, 2012 to Dec 31, 2013  
1000 - PNC-Law Enforcement**

Filter Criteria Includes: Report order is by Transaction Date.

Date	Reference	Type	Payee/Paid By	Memo	Payment Am	Receipt Amt	Balance
5/7/13	08812	Payment	ptsame		601.36		1,234,584.49
5/7/13	08813	Payment	ptsame		1,184.65		1,233,379.84
5/7/13	08814	Payment	ptsame		405.65		1,232,974.19
5/7/13	08816	Payment	ptsame		325.00		1,232,649.19
5/7/13	08818	Payment	ptsame		494.00		1,232,155.19
5/7/13	08817	Payment	ptsame		605.15		1,231,550.04
5/7/13	08818	Payment	ptsame		325.00		1,231,225.04
5/7/13	08819	Payment	ptsame		1,237.85		1,229,987.19
5/7/13	08820	Payment	ptsame		325.00		1,229,662.19
5/7/13	08821	Payment	ptsame		325.00		1,229,337.19
5/7/13	08822	Payment	cuycouland	GOPMAN	77,958.44		1,151,378.75
5/7/13	08823	Payment	buscar		748.32		1,150,630.43
5/7/13	08824	Payment	accdata		12,610.00		1,138,020.43
5/7/13	08826	Payment	kasdan		250.45		1,137,769.98
5/7/13	08828	Payment	secofsta		5.00		1,137,764.98
5/7/13	08827	Payment	secofsta		5.00		1,137,759.98
5/7/13	08828	Payment	secofsta		5.00		1,137,754.98
5/7/13	08829	Payment	secofsta		5.00		1,137,749.98
5/7/13	08830	Payment	secofsta		5.00		1,137,744.98
5/7/13	08831	Payment	secofsta		5.00		1,137,739.98
5/7/13	08832	Payment	secofsta		5.00		1,137,734.98
5/7/13	08833	Payment	secofsta		5.00		1,137,729.98
5/7/13	08834	Payment	secofsta		5.00		1,137,724.98
5/7/13	08835	Payment	secofsta		5.00		1,137,719.98
5/7/13	08836	Payment	secofsta		5.00		1,137,714.98
5/7/13	08837	Payment	secofsta		5.00		1,137,709.98
5/7/13	08838	Payment	secofsta		5.00		1,137,704.98
5/7/13	08839	Payment	secofsta		5.00		1,137,699.98
5/7/13	08840	Payment	secofsta		5.00		1,137,694.98
5/7/13	08841	Payment	secofsta		5.00		1,137,689.98
5/7/13	08842	Payment	secofsta		5.00		1,137,684.98
5/7/13	08843	Payment	secofsta		5.00		1,137,679.98
5/7/13	08844	Payment	secofsta		5.00		1,137,674.98
5/7/13	08845	Payment	secofsta		5.00		1,137,669.98
5/7/13	08846	Payment	cuycoucle		50.00		1,137,619.98
5/7/13	08847	Payment	cuycoucle		50.00		1,137,569.98
5/7/13	08848	Payment	cuycoucle		50.00		1,137,519.98
5/7/13	08849	Payment	cuycoucle		50.00		1,137,469.98
5/7/13	08850	Payment	cuycoucle		50.00		1,137,419.98
5/7/13	08851	Payment	cuycoucle		50.00		1,137,369.98
5/7/13	08852	Payment	cuycoucle		50.00		1,137,319.98
5/7/13	08853	Payment	cuycoucle		50.00		1,137,269.98
5/7/13	08854	Payment	cuycoucle		50.00		1,137,219.98
5/7/13	08855	Payment	cuycoucle		50.00		1,137,169.98
5/7/13	08856	Payment	cuycoucle		50.00		1,137,119.98
5/7/13	08857	Payment	cuycoucle		50.00		1,137,069.98
5/7/13	08858	Payment	cuycoucle		50.00		1,137,019.98
5/7/13	08859	Payment	cuycoucle		50.00		1,136,969.98
5/7/13	050713	Receipt	Forfeitures.20%	050713		13,439.48	1,150,409.46
5/7/13	08860	Void Pmnt	cuycoucle		50.00		1,150,359.46
5/7/13	08861	Void Pmnt	cuycoucle		50.00		1,150,309.46
5/7/13	08862	Void Pmnt	cuycoucle		50.00		1,150,259.46
5/7/13	08863	Void Pmnt	cuycoucle		50.00		1,150,209.46
5/7/13	08864	Void Pmnt	cuycoucle		50.00		1,150,159.46
5/7/13	08865	Void Pmnt	cuycoucle		50.00		1,150,109.46
5/10/13	051013	Payment	bankofamerica		748.32		1,149,361.14
5/13/13	051313	Payment	-assample		81.68		1,149,299.46
5/14/13	08866	Payment	dfocla		625.20		1,148,674.26
5/15/13	051513	Payment	-assample		1,999.00		1,146,675.26
5/15/13	08867	Payment	filtra		954.50		1,145,720.76
5/15/13	08868	Void Pmnt	parjos		327.89		1,145,392.87
5/16/13	08869	Payment	parhelpol		40,000.00		1,145,720.76
5/16/13	08869	Payment	parhelpol		40,000.00		1,105,720.76

6/16/2014 09:48:49 03/21/2015 Pnc 08 / COMPLAINT / CV 18 857905 / Confirmation Nbr 2702978 / CLMDW

EXHIBIT A-04



**Cuyahoga County Prosecutor's Office**  
**Cash Account Register**  
**For the Period From Jan 1, 2012 to Dec 31, 2013**  
**1000 - PNC-Law Enforcement**

Filter Criteria Includes: Report order is by Transaction Date.

Date	Reference	Type	Payee/Paid By	Memo	Payment Am	Receipt Amt	Balance
8/19/13		Payment	sherton		3,885.68		805,501.15
8/20/13	08983	Payment	cuycouland	URI GOFMAN	23,010.00		782,491.15
8/20/13	08984	Payment	bilyvo		105.20		782,385.95
8/20/13	08985	Payment	szpet		180.28		782,205.67
8/20/13	08986	Payment	whjja		218.03		781,987.64
8/20/13	08987	Payment	karkri		338.01		781,649.63
8/20/13	08988	Payment	zarsco		289.02		781,360.61
8/20/13	08989	Payment	sowker		261.78		781,118.83
8/20/13	08990	Payment	gofra		231.94		780,886.89
8/20/13	08991	Payment	dabtor		434.08		780,452.81
8/20/13	08992	Payment	thoang		322.07		780,130.74
8/20/13	08993	Payment	mcgilm		894.31		779,236.43
8/20/13	08994	Payment	integro		22,302.33		756,934.12
8/20/13	082013	Receipt	NET PROCEEDS	082013		4,154.55	761,088.67
8/20/13	082013-3	Receipt	ICAC REIMBRSMNT	082013-3		365.00	761,453.67
8/20/13	082013-4	Receipt	GEN FUND REIMBRSM	082013-4		42,718.89	804,172.56
8/21/13	082113	Receipt	NET PROCEEDS	082113		25.00	804,197.56
8/28/13		Payment	Comfort Inn	Slmnt Chgs f	167.88		804,029.68
8/27/13	082713	Receipt	NET PROCEEDS	082713		10,729.20	814,758.70
8/27/13	082713-2	Receipt	NET PROCEEDS	082713-2		998.00	815,756.70
8/28/13		Payment	cropla		5,467.90		810,288.80
8/28/13		Payment	websto		330.15		809,958.65
8/28/13	08995	Payment	kaiken		6,000.00		803,958.65
8/30/13	08996	Payment	ohsupcou		100.00		803,858.65
8/30/13	08997	Payment	ohsupcou		100.00		803,758.65
8/30/13	08998	Payment	secofsta		5.00		803,753.65
8/30/13	09000	Payment	secofsta		5.00		803,748.65
8/30/13	09001	Payment	secofsta		5.00		803,743.65
8/30/13	09002	Payment	secofsta		5.00		803,738.65
8/30/13	09003	Payment	secofsta		5.00		803,733.65
8/30/13	09004	Payment	secofsta		5.00		803,728.65
8/30/13	09005	Payment	secofsta		5.00		803,723.65
8/30/13	09006	Payment	secofsta		5.00		803,718.65
8/30/13	09008	Payment	secofsta		5.00		803,713.65
8/30/13	09009	Payment	secofsta		5.00		803,708.65
8/30/13	09010	Payment	secofsta		5.00		803,703.65
8/30/13	09011	Payment	secofsta		5.00		803,698.65
8/30/13	09012	Payment	secofsta		5.00		803,693.65
8/30/13	09014	Payment	secofsta		5.00		803,688.65
8/30/13	09015	Payment	secofsta		5.00		803,683.65
8/30/13	08860V	Void Print	cuycoucle		-50.00		803,733.65
8/30/13	08861V	Void Print	cuycoucle		-50.00		803,783.65
8/30/13	08862V	Void Print	cuycoucle		-80.00		803,833.65
8/30/13	08863V	Void Print	cuycoucle		-80.00		803,883.65
8/30/13	08864V	Void Print	cuycoucle		-50.00		803,933.65
8/30/13	08866V	Void Print	cuycoucle		-50.00		803,983.65
8/30/13	08998	Void Pmnt	secofsta		100.00		803,883.65
8/30/13	09007	Void Pmnt	secofsta		100.00		803,783.65
8/30/13	09007V	Void Pmnt	secofsta		-100.00		803,883.65
8/30/13	09013	Void Pmnt	secofsta		5.00		803,878.65
8/30/13	09016	Void Pmnt	bogphi		9,500.00		794,378.65
9/3/13		Payment	hyareg		1,740.00		792,638.65
9/3/13	09017	Void Pmnt	ohsupccu		100.00		792,538.65
9/5/13		Payment	Design Pica, Inc.	McGinty Lap	2,080.00		790,478.65
9/5/13	090513	Receipt	GEN FUND REIMBRSM	090513		22,302.33	812,778.98
9/5/13	090513.2	Receipt	Forfeiture, 20%	090513-2		1,413.20	814,192.18
9/5/13		Payment	Nat Org Vic Assn		680.00		813,532.18
9/5/13	09018	Payment	bogphi		8,250.00		805,282.18
9/5/13	09019	Payment	corwil		1,190.77		804,091.41
9/5/13	09020	Payment	ochfra		11,307.39		792,784.02
9/5/13	09021	Payment	eigdis		200.00		792,584.02
9/5/13	09022	Payment	celsh		275.00		792,311.03
9/5/13	09023	Payment	howker		252.50		792,058.53

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EXHIBIT A-0.5

**Cuyahoga County Prosecutor's Office  
Cash Account Register  
For the Period From Jan 1, 2012 to Dec 31, 2013  
1000 - PNC-Law Enforcement**

Filter Criteria includes: Report order is by Transaction Date.

Date	Reference	Type	Payee/Paid By	Memo	Payment Am	Receipt Amt	Balance
11/14/13	09151	Payment	nicand		81.71		827,331.92
11/14/13	09152	Payment	smikes		285.51		827,046.41
11/14/13	09153	Payment	mckler		244.97		828,801.44
11/14/13	09154	Payment	ptsame		2,010.60		824,790.84
11/14/13	09141	Void Pmnt	parhelpol		59,540.00		766,250.84
11/14/13	09141V	Void Pmnt	parhelpol		-59,540.00		824,790.84
11/14/13	09143	Void Pmnt	ussecser		81,830.00		762,960.84
11/14/13	09143V	Void Pmnt	ussecser		-81,830.00		824,790.84
11/15/13	111513	Receipt	GEN FUND	111513		7,138.03	831,928.87
11/15/13	111513-2	Receipt	FORF.20%	111513-2		32,307.48	864,236.35
11/15/13	111513-3	Receipt	ICAC	111513-3		2,841.48	867,077.83
11/15/13	111513-4	Receipt	DTAC	111513-4		23,010.00	890,087.83
11/15/13	111513-5	Receipt	GROSS PROCEEDS	111513-5		124,311.54	1,014,399.37
11/18/13		Payment	actra		385.00		1,014,014.37
11/18/13		Payment	usair		5,079.00		1,008,935.37
11/18/13	09165	Payment	clamet		50.00		1,008,885.37
11/18/13	111813	Receipt	BANK CREDIT	111813		17.86	1,008,903.22
11/19/13	09166	Payment	parhelpol		14,462.08		994,441.16
11/19/13	09167	Payment	ohlinvuni		15,018.29		979,422.87
11/19/13	09168	Payment	ussecser		15,018.29		964,404.58
11/19/13	09169	Payment	ohisupcou		100.00		964,304.58
11/19/13	09160	Payment	ohisupcou		100.00		964,204.58
11/20/13	112013	Receipt	GROSS PROCEEDS	112013		44,498.65	1,008,703.23
11/20/13	112013-2	Receipt	FORF.20%	112013-2		13,824.68	1,022,327.89
11/20/13	112013-3	Receipt	BANK CREDIT	112013-3		839.60	1,023,167.49
11/21/13		Payment	usdis		400.00		1,022,767.49
11/21/13	09161	Payment	ohiosup		100.00		1,022,667.49
11/21/13	09162	Payment	ptsame		4,340.80		1,018,326.69
11/21/13	112113	Receipt	BANK CREDIT	112113		419.80	1,018,746.39
11/22/13		Payment	United Airlines		512.00		1,018,234.39
11/25/13		Payment	actra		35.00		1,018,199.39
11/25/13		Payment	amair		763.60		1,017,435.79
11/25/13		Payment	hyareg		393.56		1,017,042.23
11/25/13	09163	Payment	ohiowho		19,840.00		997,202.23
11/25/13	09164	Payment	natdisalt		1,193.00		996,009.23
11/25/13	09165	Payment	ptsame		2,566.00		993,443.23
11/25/13	112513	Receipt	FORF.20%	112513		18,810.80	1,012,255.03
11/27/13	112713	Receipt	FORF.20%	112713		131.50	1,012,386.53
11/27/13	112713-2	Receipt	ICAC REIMBRMNT	112713-2		5,090.07	1,017,476.60
11/27/13	112713-3	Receipt	GEN FUND	112713-3		2,384.13	1,019,860.73
11/29/13		Payment	natdisalt		7,200.00		1,012,660.73
12/2/13		Payment	sheraton		1,458.00		1,011,202.73
12/3/13	09168	Payment	hyndsight		25,395.00		986,807.73
12/3/13	09167	Payment	spr		818.31		984,989.42
12/4/13		Payment	actra		35.00		984,954.42
12/5/13		Payment	natdisalt		4,955.00		979,999.42
12/5/13		Payment	sheraton		891.00		979,108.42
12/6/13		Payment	spr		818.31		978,290.11
12/10/13		Payment	sheraton		96.00		978,194.11
12/10/13	09168	Payment	buscar		1,006.21		977,188.90
12/10/13	09169	Payment	supccouhi		100.00		977,088.90
12/10/13	09170	Payment	ohiosup		100.00		976,988.90
12/11/13	121113	Receipt	ICAC REIMBRMNT	121113		1,848.10	978,837.00
12/11/13	121113-2	Receipt	FORF.20%	121113-2	SEE DETAIL ATTACHED	*96,518.61	1,075,355.61
12/11/13	121113-3	Receipt	GEN FUND	121113-3		28,233.00	1,103,588.61
12/11/13	121113-4	Receipt	BANK CREDIT	121113-4		98.39	1,103,490.22
12/12/13	09171	Payment	hamcou		3,098.00		1,100,392.22
12/13/13		Payment	amair		821.60		1,099,570.62
12/13/13		Payment	bankofamerica		1,009.21		1,098,561.41
12/16/13		Payment	natbusina		199.00		1,098,362.41
12/16/13		Payment	NJ Business Service		6.25		1,098,356.16
12/16/13		Payment	sheraton		6,149.28		1,092,206.88
12/16/13	09172	Payment	wieand		177.41		1,092,029.47

Electronically Filed 03/21/2016 10:56 AM COMPLAINT / CV 16 857905 / Confirmation No. 702978 / CLMDW

EXHIBIT A-06

# Bureau of Justice Assistance

**Award Title:** Recovery Act Grant Program

**Award Description:**

The Recovery Act Edward Byrne Memorial Competitive Grant Program (Byrne Competitive Program) will help communities improve the capacity of state and local justice systems and provide for national support efforts including training and technical assistance programs strategically targeted to address local needs. This competitive grant announcement focuses on initiatives in eight areas: 1) preventing and reducing violent crime through community-based data-driven approaches; 2) providing funding for neighborhood-based probation and parole officers; 3) reducing mortgage fraud and crime related to vacant properties; 4) hiring of civilian support personnel in law enforcement (training staff, analysts, dispatchers, etc.); 5) enhancing forensic and crime scene investigations; 6) improving resources and services for victims of crime; 7) supporting problem-solving courts; and 8) national training and technical assistance partnerships.

Under category 3, the Cuyahoga County Prosecutor's Office will use the grant to increase their number of law enforcement partners and expand their efforts to aggressively investigate and prosecute fraudulent mortgages within Cuyahoga County. The Cuyahoga County Prosecutors Office convened the Cuyahoga County Mortgage Fraud Task Force in January 2007. Since 2007, the Cuyahoga County Prosecutors Office has indicted 219 defendants for their involvement in fraudulent loans (totaling more than \$55 million), taken on 353 homes. Of the 353 home loans under investigation, 252 of the houses (71 percent) have fallen into foreclosure. The task force is comprised of 12 federal, state, and local law enforcement agencies. The grant funds will be used to hire three additional full-time employees. The increased capacity provided by adding staff is expected to result in criminal indictments being brought against an additional 250 defendants for fraudulent mortgages by the end of the 24-month grant cycle.

CA/NCF

<b>Awardee Name:</b> Cuyahoga County Prosecutors Office	<b>Award Number:</b> 2009-SC-B9-0080
<b>Solicitation Title:</b> BJA FY 09 Recovery Act Edward Byrne Memorial Competitive Grant Program: Reducing Mortgage Fraud and Crime Related to Vacant Properties	<b>Fiscal Year:</b> 2009
<b>Supplement Number:</b> 00	<b>Amount:</b> \$279,950.00
<b>Earmark:</b> No	<b>Recovery Act:</b> Yes
<b>State/Territory:</b> OH	<b>County:</b> Cuyahoga
<b>Congressional District:</b> 11	<b>Award Status:</b> Closed

Exhibit A - 07



**Timothy J. McGinty**  
CUYAHOGA COUNTY PROSECUTOR

October 12, 2012

Melanie Davis  
Grant Manager  
810 7<sup>th</sup> Street N.W.  
Washington, D.C. 20531

Dear Ms. Davis:

Pursuant to your request for written confirmation, our Office desires to close out the Mortgage Fraud Grant. We understand there is a balance and are not requesting an extension.

Our Office successfully investigated and brought to prosecution about 437 defendants constituting mortgage fraud of over 1000 houses and the court orders over \$15,274,334.00 of Restitution and Forfeiture from the offenders back to the Community. The Program was an enormous success. As such, the Task Force consisting of our Office, the County Sheriff, The Attorney General's Office/BCI, Housing and Urban Development, U.S. Postal Inspectors, Local Police Departments, and FBI has concluded its work and is disbanding their operations.

Being mindful of our duty to our taxpayers and residents to avoid further use of their resources on a completed task it is incumbent to not request a further extension.

We are grateful for the stimulus monies extended as it jumpstarted our operation. The personnel who benefitted have been retained as employees, further demonstrating the success of the intended recovery to our economy.

Again, thank you.

  
Criminal Investigations Division Chief

MFU-M. Davis 10-12-12

**OFFICE OF THE PROSECUTING ATTORNEY**  
The Justice Center • Courts Tower • 1200 Ontario Street • Cleveland, Ohio 44113  
(216) 443-7800 • Fax (216) 443-7601

EXHIBIT A - P 8

# **Exhibit B**



72366434

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO  
Plaintiff

URI GOFMAN  
Defendant

2012 FEB 14 P 12:24

Case No: CR-11-557589-A

Judge: DANIEL GAUL

GERALD E. FUERST  
CLERK OF COURTS  
CUYAHOGA COUNTY

INDICT: 2913.02 THEFT; AGGRAVATED THEFT  
1315.55 ADDITIONAL MONEY LAUNDERING  
PROHIBITIONS  
2913.42 TAMPERING WITH RECORDS  
ADDITIONAL COUNTS...

JOURNAL ENTRY

DEFENDANT IN COURT. COUNSEL MICHAEL J GOLDBERG PRESENT.  
COURT REPORTER PRESENT.

ON A FORMER DAY OF COURT THE DEFENDANT PLEAD GUILTY TO THEFT; AGGRAVATED THEFT 2913.02 A(3) F2 AS CHARGED IN COUNT(S) 1 OF THE INFORMATION.

ON A FORMER DAY OF COURT THE DEFENDANT PLEAD GUILTY TO ADDITIONAL MONEY LAUNDERING PROHIBITIONS 1315.55 A(3) F3 AS CHARGED IN COUNT(S) 2, 10 OF THE INFORMATION.

ON A FORMER DAY OF COURT THE DEFENDANT PLEAD GUILTY TO TAMPERING WITH RECORDS 2913.42 A(1) F3 AS CHARGED IN COUNT(S) 3 OF THE INFORMATION.

ON A FORMER DAY OF COURT THE DEFENDANT PLEAD GUILTY TO TAMPERING WITH RECORDS 2913.42 A(2) F4 AS CHARGED IN COUNT(S) 4 OF THE INFORMATION.

ON A FORMER DAY OF COURT THE DEFENDANT PLEAD GUILTY TO TAMPERING WITH RECORDS 2913.42 A(1) F4 AS CHARGED IN COUNT(S) 5, 6, 7, 8 OF THE INFORMATION.

ON A FORMER DAY OF COURT THE DEFENDANT PLEAD GUILTY TO TELECOMMUNICATIONS FRAUD 2913.05 A F4 AS CHARGED IN COUNT(S) 9 OF THE INFORMATION.

ON A FORMER DAY OF COURT THE DEFENDANT PLEAD GUILTY TO ENGAGING IN PATTERN OF CORRUPT ACTIVITY; FORFEITURE 2923.32 A(1) F3 AS CHARGED IN COUNT(S) 11 OF THE INFORMATION.

DEFENDANT TO FORFEIT TO THE STATE: 2722 SCARBOROUGH TO CUYAHOGA COUNTY LANDBANK; \$600,000.00 TO STATE OF OHIO.

THE COURT CONSIDERED ALL REQUIRED FACTORS OF THE LAW.

THE COURT FINDS THAT PRISON IS CONSISTENT WITH THE PURPOSE OF R. C. 2929.11.

THE COURT IMPOSES A PRISON SENTENCE AT THE LORAIN CORRECTIONAL INSTITUTION OF 5 YEAR(S).

3 YEARS ON COUNT 1; 1 YEAR ON COUNTS 2, 3, 4, 5, 6, 7, 8, 9 AND 10; 5 YEARS ON COUNT 11. COUNTS 1 AND 11 TO RUN CONSECUTIVE TO EACH OTHER, FOR A TOTAL OF 8 YEARS. REMAINING COUNTS RUN CONCURRENT TO EACH OTHER AND CONCURRENT TO COUNTS 1 AND 11.

DEFENDANT TO REPORT TO FEDERAL PRISON OR COUNTY JAIL BY 2-15-12. STATE TIME TO RUN CONCURRENT TO FEDERAL TIME ON

1:8 CR 00506. NO STATE DETAINER.

POST RELEASE CONTROL IS PART OF THIS PRISON SENTENCE FOR 5 YEARS MANDATORY FOR THE ABOVE FELONY(S) UNDER R.C.2967.28. DEFENDANT ADVISED THAT IF POST RELEASE CONTROL SUPERVISION IS IMPOSED FOLLOWING HIS/HER RELEASE FROM PRISON AND IF HE/SHE VIOLATES THAT SUPERVISION OR CONDITION OF POST RELEASE CONTROL UNDER RC 2967.131(B), PAROLE BOARD MAY IMPOSE A PRISON TERM AS PART OF THE SENTENCE OF UP TO ONE-HALF OF THE STATED PRISON TERM ORIGINALLY IMPOSED UPON THE OFFENDER.

UNLESS THE DEFENDANT IS SERVING A PRISON TERM THAT CANNOT BE REDUCED UNDER THE LAW, DEFENDANT MAY BE ELIGIBLE TO EARN 1 OR 5 DAYS CREDIT TOWARDS HIS/HER SENTENCE FOR EACH COMPLETED MONTH DURING WHICH THE DEFENDANT PARTICIPATES IN EDUCATIONAL OR OTHER PROGRAMS. IN ADDITION, THE DEFENDANT MAY EARN UP TO 5 DAYS CREDIT TOWARDS HIS/HER SENTENCE FOR SUCCESSFUL COMPLETION OF A SECOND SUCH PROGRAM. THIS EARNED CREDIT IS NOT AUTOMATIC BUT MUST

SENT

02-15-2012 Electronically Filed 01/26/2016 11:26 / CV 16 857905 / Confirmation Nbr. 652247 / CLJML

Sheriff Signature

LORAIN

Uri Sofman  
CR 557589



72366434

BE EARNED BY THE DEFENDANT.

ALL FEES WAIVED.

COSTS WAIVED

FINE(S) WAIVED.

RESTITUTION ORDERED IN THE AMOUNT OF \$1,000,000.00 TO ARGENT (OR ITS SUCCESSORS); PAYABLE THROUGH THE PROBATION DEPARTMENT.

02/08/2012

CPEDB 02/09/2012 08:41:02

Judge Signature

Date

*[Handwritten Signature]* 2/14/12

SENT

02/08/2012 Electronically Filed 01/26/2016 11:26 / / CV 16 857905 / Confirmation Nbr. 652247 / CLJML

# **Exhibit C**



## EXHIBIT C

### The Same Mortgage Loans are listed in a Myriad of Restitution Orders And Related Civil Fraud Settlements

PROPERTY ADDRESS/ MORTGAGE LOAN	<u>USA v. Viola</u> 08-cr-506, ND Ohio Count Number	<u>Ohio v. Viola</u> 10-cr-536977 Count Number
3313 West 55	3	1
1040 East 70	4	1
1670 East 71	5	1
3475 East 76	6	1
979 East 78	7	1
1386 East 92	8	1
2920 East 121	9	1
1074 East 147	10	1
9113 Birchdale	11	1
9809 Orleans	12	1
5815 Portage	13	1
10709 Shale	14	1
3214 Sycamore	15	1
3712 East 77	16	1
3202 West 32	17	1
686 East 130	18	1

PROPERTY ADDRESS/ MORTGAGE LOAN	<u>USA v. Viola</u> 08-cr-506, ND Ohio Count Number	<u>Ohio v. Viola</u> 10-cr-536977 Count Number
9905 Elizabeth	19	1
9013 Laisy	20	1
6731 Gertrude	21	1
1391 Russell	22	1
12805 Bartfield	23	1
1347 East 86	24	72
2341 East 61	25	1
10102 North	26	1
1461 East 112	27	1
1202 East 82	28	1
1680 East 84	29	32
2284 East 86	30	225
3796 Woodbridge	31	55
5209 Luther	32	1
3233 Dellwood	33	1
1328 East 117	34	1
1035 East 69	35	29
3439 East 71	36	20

## HARRIS CASE INDICTMENT COMPARISON

Property Address	<u>USA v. Viola</u> 08-cr-506, ND Oh	<u>Ohio v. Harris</u> 10-cr-551555,
3233 Dellwood	Count 33	Count 83
9809 Orleans	Count 12	Count 85
889 Woodview	404(b) – Burton	Count 38
1687 Colonial	404(b) – Burton	Count 35
2192 Edgewood	404(b) – Burton	Count 28
9013 Laisy	Count 20	Count 11
3212-14 Sycamore	404(b) – Prusk	Count 7
3212 East 77	Count 16	Count 6
12805 Bartfield	Count 23	Count 1
1389-91 Russell	Count 22	Count 1
1347 East 86	Count 24	Count 1
5209 Luther	Count 32	Count 1
7120 Colfax	404(b) – McCarthy	Count 1
739 East 95	404(b) – Snowden	Count 1
5369 Homer	404(b) – Snowden	Count 1
3536 Silsby	404(b) – Burton	Count 1
3219 East Overlook	404(b) – Burton	Count 1
3712 East 77	Count 16	Count 1

Deutsche Bank and its MortgageIT subsidiary were the alleged victims of mortgage fraud schemes, and are currently the beneficiaries of restitution concerning the following properties in USA v. Viola, 08-cr-506, N.D. Ohio:

- COUNT 18 - 686 East 130<sup>th</sup> Street
- COUNT 19 - 9905 Elizabeth Avenue
- COUNT 20 – 9013 Laisy Avenue
- COUNT 21 – 3439 East 71<sup>st</sup> Street

Deutsche Bank National Trust Company as Trustee for Long Beach Mortgage Loan Trust 2005-WL3 is the owner of the following mortgage loans, and was the recipient of millions of dollars in civil fraud settlements concerning the same mortgage loans / transactions:

<u>Property Address / Mortgage Loan</u>	<u>USA v. Viola Count Number</u>
1670 East 71	5
3476 East 76	6
979 East 78	7
2920 East 121	9
1074 East 147	10
9809 Orleans	12
5815 Portage	13
10709 Shale	14
3302 West 32	17
1461 East 112	27
1202 East 82	28
1680 East 84	29
2284 East 86	30
1328 East 117	34
1035 East 69	35

###

# **Exhibit D**

**MEMORANDUM**

From: PS [redacted]  
Office: Forfeiture Unit, Cleveland, 3170

Date: 10/29/2010

b6 -  
b7C

To: FBIHQ, Forfeiture and Seized Property Unit, Finance Division

Subject: Request for Authorization for DOJ Reimbursable Asset Forfeiture Fund  
Expense for Fiscal Year -R

Re: Email (attached) on this date.

Authority is requested to pay the below expense from the FY-R Asset Forfeiture Fund as follows:

Purpose: Forfeiture Drive by appraisal for 3048 Meadowbrook Blvd., Cleveland Hgts, OH  
(Towing seized 08 Mercedes SL300; Storage 08 Cadillac Escalade; Appraisal of Jewelry; Title Search for 25 Beach Rd, Norfolk, VA; etc.; Reimbursement for filing fees.)

Invoice Number: \_\_\_\_\_ & Invoice Date 10/26/2010 Amount of Invoice: \$150.00  
(Amounts over \$3,000.00, contact your Admin Officer or Financial Manager for possible Purchase Order requirement)

Date Invoice Received: 10/29/2010

Case Number: 329E-CV-71645

CATS Number (If applicable):

Seizure Number:

Complete Vendor Name: [redacted]  
(If you paid, enter your name as Vendor and your SSN as the Vendor Number below)

b6 -  
b7C

EFT Vendor Number: [redacted]  
(If Government CreditCard is used, enter "JPM6012100 AT, CV, MM, etc. An Internal Purchase Order must be set up to pay from forfeiture account.)

Forfeiture SOC Code account & Item Number: **552587 FE55 550 41 0000**

Cornucopia Fiscal Year -R (Reimbursable) Program: GN  
Sub-Program: AF

This is a "Reimbursable" Forfeiture Fund for Fiscal Year (Company) -11R.

The Asset Forfeiture Fund is a DOJ Reimbursable Fund, not a Congressional Appropriated Fund

FSPU Date Approved 11/01/2010 (This authorization expires in 90 days)

[redacted]  
Unit Chief  
Forfeiture and Seized Property Unit  
Approved by: [redacted]  
FSPU Supervisor Approved: WPM  
(Initials of Supervisor above indicates approval)

b6 -  
b7C

Field Office: Complete and attach to an email and send to FSPU for approval. Upon return of this form from FSPU, Print and attach with original invoice with a Draft Request Form (FD 794) to your Third Party Draft Office for processing and payment.

File a copy in each seizure file.

Third Party Draft Office: This form indicates approval to process this expense from the Forfeiture Account indicated. Amounts over the approved amount must be authorized prior to processing.

- FSPU:
- 1 - FSPU Forfeiture Examiner Paralegal - (Copy for Expense Control File)
  - 1 - Each Seizure File (Review expense data entry in CATS)
  - 1 - FSPU, FSA Forfeiture Analyst (AFF Budget file)

\$21

From; [Redacted]  
Grafton, Ohio 44044

# STATEMENT

b6 -  
b7C

DATE		
October 26 2010		
TO		
FBI		
ADDRESS		
1501 Lakeside Ave.		
CITY	STATE	ZIP
Cleveland	Ohio	44114
TERMS		AMOUNT PAID

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
10-26-10	Fee for drive-by appraisal of property located at 3048 Meadowbrook Blvd. Cleveland Heights, Ohio 44118			\$ 150.00

9621

6-7505-2410 5518

Nov 2 2010

By *[Signature]* \$ 150.00

*One hundred and no/100ths*

CENTURY FEDERAL CREDIT UNION  
CLEVELAND, OHIO 44199

*Memo: FBI Appraisal*

b6 -1,-  
b7C -1,

FEDERAL BUREAU OF INVESTIGATION  
FACSIMILE COVER SHEET

PRECEDENCE

Immediate

Priority

Routine

CLASSIFICATION

Top Secret

Secret

Confidential

Sensitive

Unclassified

TO

Name of Office:

**USA Cleveland**

Facsimile Number:

[Redacted]

Date:

**12/19/2011**

b6 -

Attn:

**AUSA**

[Redacted]

Room:

Telephone Number:

[Redacted]

b7C

FROM

Name of Office:

**Cleveland FBI**

Number of Pages: (including cover)

**3**

Originator's Name:

**PS**

[Redacted]

Originator's Telephone Number:

[Redacted]

Originator's Facsimile Number:

[Redacted]

b6 -

Approved:

[Redacted]

b7C

b7E

DETAILS

Subject:

**Release of Lis Pendens filed with Cuyahoga County Recorder on 12/19/2011. Original to follow in mail or personal delivery.**

Special Handling Instructions:

Brief Description of Communication Faxed:

WARNING

Information attached to the cover sheet is U.S. Government Property. If you are not the intended recipient of this information disclosure, reproduction, distribution, or use of this information is prohibited (18.U.S.C. § 641). Please notify the originator or local FBI Office immediately to arrange for proper disposition.

*Class V*

*329 F-cv-71645-FFI - 11*



FEDERAL BUREAU OF INVESTIGATION  
**PAYMENT REQUEST**

**DRAFT TYPE**

Request Type: <input type="radio"/> Advance <input checked="" type="radio"/> Expense	Payment Type: <input checked="" type="radio"/> Commercial <input type="radio"/> Confidential	Forfeiture or Drug Related?: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Catalog: <b>CW Services &amp; Expenses</b>
--	--	--	---

**INFORMATION ABOUT THE REQUESTING EMPLOYEE**

Official Bureau Name: (Last, First, Middle)		Social Security Number:	Date of Request: <b>11/02/2010</b>
Division: <b>CV</b>	Section: <b>OA</b>	Unit: <b>Forfeitures</b>	File Number: <b>329E-CV-71645</b>

**INFORMATION ABOUT THE REQUESTED PAYEE**

Payee Name:	Social Security or Taxpayer ID Number:
-------------	--

Justification:  
**Drive-by appraisal of real property. Appraiser did not want to provide EFT information so PS [ ] paid the invoice with personal check #5518.**

**DETAILS ABOUT THE REQUESTED DRAFT**

To be completed by Finance Only		Description:	Amount:
Catalog:	Item Number:		
		<b>Drive-by appraisal - 3048 Meadowbrook, Cleveland...</b>	<b>\$150.00</b>
Total:			<b>\$150</b>

**APPROVAL**

	Signature	Date
Supervisor:	_____	_____
SAC / ASAC / AO / SAS:	_____	_____
Supply Technician:	_____	_____
Draft Approval Officer:	_____	_____
Procurement Authority:	_____	_____

**OBLIGATION PROCESSING**

Vendor Number:	Group Number:	Obligation Number:	Follow Up Date:
Cost Center:	Squad or RA:	Document Number:	Draft Number:
Signature of Cashier:			Date:

**EXPENSE PROCESSING**

Document Number:	Draft Number:	Signature of Cashier:	Date:
------------------	---------------	-----------------------	-------

FEDERAL BUREAU OF INVESTIGATION  
PAYMENT REQUEST

*Forfeiture file*

DRAFT TYPE

Request Type: <input type="checkbox"/> Advance <input checked="" type="checkbox"/> Expense	Payment Type: <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Confidential	Forfeiture or Drug Related?: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Catalog: <b>CW</b>
--	--	--	-----------------------

**FY 2012 R**

INFORMATION ABOUT THE REQUESTING EMPLOYEE

Official Bureau Name: (Last, First, Middle)	Social Security Number:	Date of Request: <b>12/20/2011</b>
Division: <b>CV</b>	Section: <b>OA</b>	Unit: <b>Forfeitures</b>
Telephone Number:	File Number: <b>329F-CV-71645</b>	

b6 -  
b7C

INFORMATION ABOUT THE REQUESTED PAYEE

Payee Name:	Social Security or Taxpayer ID Number:
-------------	--

b6 -  
b7C

Justification:  
**Filing fee for releasing Lis Pendens filed on property in Cuyahoga County**

DETAILS ABOUT THE REQUESTED DRAFT

To be completed by Finance Only			
Catalog: <b>FE55</b>	Item Number: <b>552587</b>	Description: <b>Release of Lis Pendens</b>	Amount: <b>\$28.00</b>
Total:			<b>\$28</b>

APPROVAL

<i>GN AF</i>	Supervisor:		Date: <b>12/20/2011</b>
	SAC / ASAC / AD / SAS:		<b>12/23/11</b>
	Supply Technician:		
	Draft Approval Officer:		<b>12/29/11</b>
	Procurement Authority:		

b6 -  
b7C

OBLIGATION PROCESSING

Vendor Number: <b>0276665741</b>	Group Number: <b>CV</b>	Obligation Number:	Follow Up Date:
Cost Center: <b>3170</b>	Squad or RA: <b>OA</b>	Document Number: <b>CEKPCV2R/362/103</b>	Draft Number:
Date: <b>12/28/11</b>			

EXPENSE PROCESSING

Document Number:	Draft Number:	Signature of Cashier:	Date:
------------------	---------------	-----------------------	-------

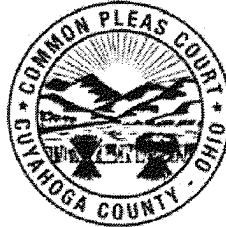
b6 -1  
b7C -1

DEC 29 2011

EFT: <b>4557779</b>
POS: <b>1363010</b>

DEC 23 2011

# **Exhibit E**



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**MOTION TO...**  
**June 1, 2022 18:36**

Confirmation Nbr. 2565104

ANTHONY VIOLA

CV 20 936897

vs.

KATHRYN CLOVER

**Judge: HOLLIE L. GALLAGHER**

Pages Filed: 8

**Court of Common Pleas in the State of Ohio  
County of Cuyahoga**

ANTHONY L. VIOLA,

Plaintiff

-vs.-

KATHRYN CLOVER,

Defendant

CASE NO: CV-20-936897

Judge: Hon. Hollie Gallagher

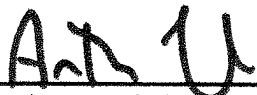
**MOTION TO TAKE JUDICIAL  
NOTICE**

Now comes the Plaintiff, respectfully requesting that This Court take note that counsel for the Defendant, Kathryn Clover, asserted in a pretrial call today that she was immune from suit because she served as an employee of the Cuyahoga County Prosecutor's Office. However, during criminal trials, Clover was portrayed as a "fact witness" by federal and state prosecutors. This filing asks the Court to require an explanation from counsel as to whether or not Clover was employed by the Prosecutor's Office and, if so, in what capacity.

In addition to the foregoing, newly obtained sworn statements provided by the family of former Cuyahoga County Prosecutor's Office employee Dawn Pasela support the spoliation claim in this matter and are attached hereto as **Exhibit A**. These sworn statements were obtained by the undersigned within the previous five (5) days.

Thank you very much for your consideration.

Respectfully Submitted,

  
\_\_\_\_\_  
Anthony Viola  
2820 Mayfield Road # 205  
Cleveland Heights, OH 44118  
MrTonyViola@ICloud.com  
June 1, 2022

**CERTIFICATE OF SERVICE**


I, Anthony Viola, hereby swear and affirm that I caused a copy of the foregoing pleading to be served upon the following individual, via regular U.S. mail, postage prepaid, and via email, on this 1st day of June, 2022:

Jaye Schlachet, Esq.  
Counsel for Kathryn Clover  
55 Public Square – Suite 1300  
Cleveland, Ohio 44113  
Email: [JAYE@SCHLACHETLAW.COM](mailto:JAYE@SCHLACHETLAW.COM)

Rose Kapturasky  
562 Edwards Lane  
Campbell, Ohio 44405

David Comstock, Esq.  
Counsel for Daniel and Susan Kasaris  
3701B Boardman-Canfield Road  
Canfield, OH 44406

Respectfully Submitted,

  
\_\_\_\_\_  
Anthony Viola

**AFFIDAVIT OF EDWARD PASELA**

STATE OF OHIO  
COUNTY OF CUYAHOGA

I, Edward Pasela, depose and state under oath as follows:

1. I was the Father of Dawn Pasela, who died on April 25, 2012.
2. For the last three years of her life, Dawn worked for the Cuyahoga County Mortgage Fraud Task Force, first as a contract employee and then as a county employee. Dawn was recruited to work at the task force by Arvin Clar. Then Assistant Cuyahoga County Prosecutor Daniel Kasaris was Dawn's boss. While at the task force, she worked with FBI agents. In fact, she was told if she finished two more subjects, and with her background and experience, she could work for the FBI.
3. Dawn served in the capacity of office manager. One of her duties was to maintain the task force's files. After Dawn worked there for a while, she said she was concerned that things were being taken from the files and not returned. She also said some individuals had signed her name when they took the files, and she feared they were hiding them from attorneys representing the people the task force was investigating. She particularly expressed concern about the way the case against Anthony Viola and Susan Alt were being handled. Dawn showed me photos she had taken of files haphazardly stacked in the hallway, which made them easily accessible to almost anyone.
4. Dawn also mentioned that some computers in the office had disappeared, and she couldn't find out why or where they went.
5. Although Dawn was not trained as an investigator, she was asked to go to a fundraising event for Anthony Viola after he had been indicted and to secretly record what was said. Kasaris gave Dawn money and told her to write a check for Viola's defense fund so the prosecutors could determine at which bank the fund was being maintained. Dawn wondered about the propriety of these tactics.
6. Dawn continued to attend events sponsored by Viola's supporters and eventually began to sympathize with him because she felt that prosecutors were withholding documents that could help in his defense.

7. As her disenchantment over what was going on at the task force grew, Dawn began drinking excessively. This finally led to her termination. The task force later asked her to come in to discuss reinstatement, but she declined.
8. During Viola's second trial, Dan Kasaris showed up at our house, with another individual, wanting to come in and search for computers and hard drives. He was very insistent that I let him into my house. I refused, and told him we had no computers from his office and that he was welcome to return with a search warrant.
9. After the task force learned that Dawn had been subpoenaed to testify on Viola's behalf, two investigators came to her apartment to pressure her to reveal what Viola wanted her to testify about. She told me that the two men said that it would be wise for her to leave Ohio for a while and that if she testified for Viola, she could end up in federal prison. As a result, Dawn did not testify.
10. Dawn was so frightened that the investigators might return that she moved into our house for 10 or more days and stopped drinking. She also parked her car in our garage so no one would see it. Dawn eventually began to feel stronger physically and emotionally and moved back to her apartment.
11. When we visited Dawn the day before she died, I could tell that she started drinking again, and we urged her to stop.
12. I was concerned about Dawn and could not reach her on the phone, so I went to her apartment to check on her. When she did not answer the door, I requested a welfare check. During previous welfare checks, one or two officers showed up within 20 – 30 minutes. In this case, six police officers immediately arrived on the scene. They refused to let me into my daughter's apartment, physically held back in the hallway, refusing to allow me access to the apartment. I was never allowed into the apartment to view Dawn's body.
13. After I left Dawn's apartment to tell my wife Karen what happened, my daughter Christine arrived at Dawn's apartment. Police officers told her that she was not allowed to see Dawn's body. No one in my family ever saw Dawn's body and no one in my family was ever asked to identify Dawn's body.
14. In my personal opinion, Kasaris contributed towards my daughter's death because
  - The way he treated her was wrong
  - The unprofessional tactics that were used in the office made my daughter extremely upset and she did not know how to handle what was going on with the files and computers.



- Dawn was also threatened with prosecution for violating a confidentiality agreement. but we have proof that she never signed any such agreement.

15. I believe that there should be a full investigation into the actions of Kasaris as well a new investigation into my daughter's death.

Further I sayeth naught.

  
Edward Pasela

Sworn and subscribed in my presence this 25 day of May, 2022.

  
NOTARY PUBLIC



ANDREW SCHMIDT  
Notary Public, State of Ohio  
My Commission Expires  
January 2, 2024

## AFFIDAVIT OF KAREN PASELA

STATE OF OHIO  
COUNTY OF CUYAHOGA

I, Karen Pasela, depose and state under oath as follows:

1. I was the mother of Dawn Pasela, who died on April 25, 2012.
2. Dawn worked for the Cuyahoga County Mortgage Fraud Task Force, first as a contract employee and then as a county employee. Dawn was recruited to work at the task force by Arvin Clar. Then Assistant Cuyahoga County Prosecutor Daniel Kasaris was Dawn's boss. While at the task force, she worked with FBI agents. In fact, she was told if she finished two more subjects, and with her background and experience, she could work for the FBI.
3. Dawn served in the capacity of office manager. One of her duties was to maintain the task force's files. After Dawn worked there for a while, she said she was concerned that things were being taken from the files and not returned. She also said some individuals had signed her name when they took the files, and she feared they were hiding them from attorneys representing the people the task force was investigating. She particularly expressed concern about the way the case against Anthony Viola and Susan Alt were being handled. Dawn showed me photos she had taken of files haphazardly stacked in the hallway, which made them easily accessible to almost anyone.
4. Dawn also mentioned that some computers in the office had disappeared, and she couldn't find out why or where they went. Dawn also mentioned that Katheryn Clover was frequently in the Prosecutor's Office, accessing files and evidence.
5. Although Dawn was not trained as an investigator, she was asked to go to a fundraising event for Anthony Viola after he had been indicted and to secretly record what was said. Dan Kasaris gave Dawn money and told her to write a personal check for Viola's defense fund so the prosecutors could determine at which bank the fund was being maintained. Dawn wondered about the propriety of these tactics.
6. Dawn was told that she had to continue to attend events sponsored by Viola's supporters wearing a wire, or her job would be in jeopardy. I was very alarmed and afraid for my daughter's safety and advised her not to wear a wire. However, Dawn felt she had no choice but to comply with her boss's orders.

7. Eventually, Dawn began to sympathize with Viola because she felt that prosecutors were withholding documents that could help in his defense.
8. As her disenchantment over what was going on at the task force grew, Dawn began drinking excessively. This finally led to her termination. The task force later asked her to come in to discuss reinstatement, but she declined.
9. After Dawn was no longer working at the task force, she told me she was meeting with Viola. I was very worried about Dawn and I was concerned that if she tried to help Viola, she could be prosecuted. I urged not to get involved.
10. During Viola's second trial, Dan Kasaris showed up at our house, with another individual, wanting to come in and search for computers and hard drives. He demanded entry into my house but my husband Edward refused, and told him we had no computers from his office and to return with a search warrant.
11. After the task force learned that Dawn had been subpoenaed to testify on Viola's behalf, two investigators came to her apartment to pressure her to reveal what Viola wanted her to testify about. Dawn called me one morning, upset and crying, saying that the two men said that it would be wise for her to leave Ohio for a while and that if she testified for Viola, she could end up in federal prison. As a result, Dawn did not testify.
12. Dawn was so frightened that the investigators might return that she moved into our house for 10 or more days and stopped drinking. She also parked her car in our garage so no one would see it. Dawn eventually began to feel stronger physically and emotionally and moved back to her apartment.
13. During Viola's second trial, when Dawn was staying at our house, I heard Dawn speaking to Viola. She was crying and so upset that she was visibly shaking. She said she was too upset to talk more about what was going on during the trial.
14. When we visited Dawn the day before she died, I could tell that she started drinking again, and we urged her to stop.
15. After Dawn was found dead in her apartment, the police refused to allow my husband Ed to see Dawn's body. When my daughter Christine arrived at Dawn's apartment, police officers told her that she was not allowed to see Dawn's body. No one in my family ever saw Dawn's body and no one in my family was ever asked to identify Dawn's body.
16. Later, Ed called the Cuyahoga County Coroner, requesting to see Dawn's body. When the Coroner called back, they were adamant that I should not come because

you want to remember her the way she was and that she looked bad. I was insistent and wanted to see my daughter but I was again told not to go to the Coroner's Office. I was told to wait to see Dawn at the funeral parlor.


17. At the funeral parlor, when I first saw Dawn's body at a private viewing, I was shocked at the way her face looked. Many other family members told me the same thing, which I thought at the time was the result of a poor makeup job. Because of our complaints, the funeral home redid Dawn's makeup before the public viewing. Even after the second makeup job, family members who did not see Dawn at the private viewing commented that Dawn did not look natural.

18. I agree with my husband Ed's opinion, which is that Kasaris contributed towards my daughter's death because

- The way he treated her was wrong
- The unprofessional tactics that were used in the office made my daughter extremely upset and she did not know how to handle what was going on with the files and computers.
- Dawn was also threatened with prosecution for violating a confidentiality agreement, but we have proof that she never signed any agreement.

19. I believe that there should be a full investigation into the actions of Kasaris as well an entirely new investigation into my daughter's death.

Further I sayeth naught.

  
Karen Pasela

Sworn and subscribed in my presence this 25 day of May, 2022.

  
NOTARY PUBLIC



ANDREW SCHMIDT  
Notary Public, State of Ohio  
My Commission Expires  
January 2, 2024

# **Exhibit F**

ALD-098

February 14, 2019

**UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

C.A. No. **18-2573**

ANTHONY VIOLA, Appellant

VS.

UNITED STATES DEPARTMENT OF JUSTICE, ET AL.

(W.D. Pa. Civ. No. 1:15-cv-00242)

Present: BIBAS, Circuit Judge

Submitted is Appellant's motion for appointment of counsel in the above-captioned case.

Respectfully,

Clerk

ORDER

---

Upon consideration of the factors set out in Tabron v. Grace, 6 F.3d 147, 155–56 (3d Cir. 1993), Appellant's motion for appointment of counsel is granted. The Clerk is directed to locate and appoint counsel for Appellant and then issue a new briefing schedule. In addition to any other issues the parties wish to address in their briefs, the parties shall address: (1) whether the District Court properly considered documents outside the pleadings in ruling on the Task Force's motion to dismiss, see Fed. R. Civ. P. 12(d); Rose v. Bartle, 871 F.2d 331, 339 n.3 (3d Cir. 1989); Pension Benefit Guar. Corp. v. White Consol. Indus., Inc., 998 F.2d 1192, 1196 (3d Cir. 1993); and (2) whether the District Court provided a sufficiently detailed analysis in granting the FBI's and DOJ's motion for summary judgment, in order to establish that a careful de novo review of the agencies' disclosure decisions has taken place, see Van Bourg, Allen, Weinberg & Roger v. NLRB, 656 F.2d 1356, 1358 (9th Cir. 1981) (per curiam); Founding Church of Scientology of Washington, D.C., Inc. v. Bell, 603 F.2d 945, 950 (D.C. Cir. 1979)).

By the Court,

s/Stephanos Bibas  
Circuit Judge

Dated: April 3, 2019

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>ANTHONY L. VIOLA,</b>	)	
<b>Plaintiff</b>	)	
	)	
<b>vs.</b>	)	<b>C.A. No. 15-242 Erie</b>
	)	
	)	<b>District Judge Susan Paradise Baxter</b>
<b>UNITED STATES DEPARTMENT OF</b>	)	
<b>JUSTICE, FEDERAL BUREAU OF</b>	)	
<b>INVESTIGATION, et al.,</b>	)	
<b>Defendants.</b>	)	

**ORDER**

AND NOW, this 13<sup>th</sup> day of January, 2020;

IT IS HEREBY ORDERED that, pursuant to 28 U.S.C. §1915(e)(1) and the order of court dated March 24, 1999, entered pursuant to the resolution of the Board of Judges of the United States District Court for the Western District of Pennsylvania In re: Funding of Plan for the Appointment of Counsel in Select Pro Se Prisoner Civil Rights Actions (Miscellaneous No 99-95), the Clerk of Court is directed to “request” a lawyer to consider entering an appearance on behalf of Plaintiff in the above-captioned case, and to notify all parties once an attorney has accepted.

IT IS FURTHER ORDERED that the Clerk of Court is directed to provide counsel with a copy of the complaint, any amended complaint, all answers and pretrial narrative statements should any exist and shall provide counsel with any additional pleadings or documents as requested by counsel.

/s/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
United States District Judge



THE COURT OF COMMON PLEAS

COUNTY OF CUYAHOGA

JUSTICE CENTER

1200 ONTARIO STREET

CLEVELAND, OHIO 44113

DANIEL GAUL

Judge

(216) 443-8706

February 17, 2017

Anthony L. Viola - ID #32238-160  
McKean Federal Correctional Institution  
P.O. Box 8000  
Bradford, PA 16701

Dear Tony:

I hope you are as well as a person can be in federal prison.

Just thought I would write to express my feelings of regret on your continued incarceration. I had hoped that your exoneration in my courtroom would have assisted you in overturning your federal conviction.

In any case, I am writing to inform you that there is a newly elected Cuyahoga County Prosecutor. His name is Mike O'Malley. His office may be willing to take a fresh look at Daniel Kasaris' misconduct in your case. If Kasaris participated in your federal case, O'Malley's office may be able to intervene, or at least support a post-release remedy before Judge Nugent.

Anyway, this is just a thought. Please let me know if I may assist you in any way.

I regard you as an extremely decent man and I do hope you will have your conviction overturned.

Sincerely,

Daniel Gaul  
Judge

DG/mlt





115246807

**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

ANTHONY VIOLA  
Plaintiff

KATHRYN CLOVER  
Defendant

Case No: CV-20-936897

Judge: WANDA C JONES

**JOURNAL ENTRY**

DEFENDANT'S MOTION FOR THIS COURT TO DISMISS PLAINTIFF'S COMPLAINT ON THE BASIS OF CIV.R. 41(B)(1) FOR FAILURE TO PROSECUTE IS DENIED. CASE LAW PROVIDES THAT CIV.R. 41(B)(1) IS APPROPRIATE AFTER DRAWN OUT, PROTRACTED SITUATIONS. MOREOVER, COURTS MUST PROCEED CAUTIOUSLY IN DISMISSING CASES PURELY ON PROCEDURAL GROUNDS. QUONSET HUT, INC. V. FORD MOTOR CO., 80 OHIO ST. 3D 46. 684 N.E.2D 319 (1997). PLAINTIFF'S COMPLAINT, THOUGH INARTFULLY DRAFTED, DOES STATE CLAIMS OF INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AND SPOILIATION, AND REQUESTS MONETARY RELIEF. IN ADDITION, THE COMPLAINT IS 10 PAGES LONG WITH APPROXIMATELY 35 PARAGRAPHS AND 2 CLAIMS FOR RELIEF. AT THESE VERY EARLY STAGES OF LITIGATION, COURTS ARE BETTER SITUATED TO CONSIDER CIV.R. 12 MOTIONS. AS DEFENDANT HAS MADE CLEAR THAT THIS IS NOT A CIV.R. 12 MOTION BUT RATHER A MOTION SEEKING SOLELY TO INVOKE CIV.R. 41(B)(1), THE MOTION IS DENIED. THIS RULING DOES NOT ESTOP DEFENDANT FROM FILING A CIV.R. 12 MOTION IN ACCORDANCE WITH THE TIME FRAME SET FORTH IN THE CIVIL RULES.

Judge Signature

11/30/2020

11/30/2020

RECEIVED FOR FILING  
12/01/2020 07:26:25  
NAILAH K. BYRD, CLERK

No. 18-2573

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IN THE  
**United States Court of Appeals for  
the Third Circuit**

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**ANTHONY VIOLA,**

*Plaintiff-Appellant,*

v.

**UNITED STATES DEPARTMENT OF JUSTICE, ET AL.,**

*Defendants-Appellees.*

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On Appeal from the United States District Court for the Western District of  
Pennsylvania, No. 1-15-cv-00242

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**BRIEF OF APPELLANT ANTHONY VIOLA**

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July 15, 2019

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