In The United States District Court
For The District Of Columbia

BRET D. LANDRITH Apt. 209, 5308 SW Tenth St. Topeka, KS 66604 bret@bretlandrith.com 1-913-951-1715	)	**Case No. 12-cv-01916-ABJ**
SAMUEL K. LIPARI 803 S. Lake Drive Independence, MO 64064 saml@medicalsupplyline.com 1-816-365-1306	)	
Plaintiffs	)	
vs.	)	
Hon. JOHN G. ROBERTS, JR., Chief Justice of the United States 1 First St. NE Washington, DC 20543	)	**MOTION TO AMEND**
In his official capacity as head of the Judicial Conference of the United States	)	

REPLY MEMORANDUM IN SUPPORT
OF LEAVE TO AMEND COMPLAINT UNDER RULE 15

Comes now the plaintiffs, BRET D. LANDRITH and SAMUEL K. LIPARI, appearing *pro se* and make the following memorandum in reply to defendant's memorandum opposing leave to amend and to serve the attached second amended complaint.

INTRODUCTION

The defendant CHIEF JUSTICE ROBERTS' arguments against leave to amend are based on a renewed invitation to this court to commit plain error and rule contrary to

established controlling precedent for this jurisdiction. The fundamental error or intentional misrepresentation by CHIEF JUSTICE ROBERTS concerns the objectively frivolous argument that since the plaintiffs' claims against CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER are directly under the First, Fourth, Fifth and Sixth Amendments of the constitution rights for prospective injunctive relief instead of a statute, this court lacks subject matter jurisdiction which is not cured by the addition of HOLDER as a defendant. The defendant has not refuted the clearly established precedent for this jurisdiction and under numerous Supreme Court rulings that this court has jurisdiction over claims for injunctive relief to enjoin ongoing violations of the constitution under 28 U.S.C. § 1331. See *Bell v. Hood*, 327 U.S. 678 (1946) and *Bolling v. Sharpe*, 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884 (1954) where this court was reversed for holding that there was no subject matter jurisdiction for a claim under the constitution.

The reason CHIEF JUSTICE ROBERTS continues to intentionally misrepresent the facts of the express averments in the plaintiffs' complaints as insufficiently pled statutory damages claims instead of claims for injunctive relief against ongoing and future violations of constitutional rights is that each preceding complaint and now the proposed second amended complaint identify official policies of CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER that both defendants knew violated the clearly established constitutional rights of American citizens to be free from warrantless wiretapping and extrajudicial deprivations of property in retaliation for their vindication of federal statutory and constitutional rights . In this way, CHIEF JUSTICE ROBERTS obviously attempts to have the court erroneously apply the damages standard

to wrongly dismiss the plaintiffs' claim for injunctive relief against the identified policies of CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER that foreseeably lead to ongoing violations of the plaintiffs' constitutional rights.

In the latest incarnation of CHIEF JUSTICE ROBERTS' repeated attempts to procure a dismissal through fraud on this court, CHIEF JUSTICE ROBERTS now misrepresents material facts in the complaint to falsely state that the plaintiffs are seeking relief under criminal statutes including 18 U.S.C. §§ 241, 242, 245 and 15 U.S.C. §§ 1,2 (Sherman Act) criminal conduct when the Complaint ECF No. 1, First Amended Complaint ECF No. 11 and now the proposed Second Amended Complaint ECF No. 17 expressly alleges (ECF No. 17 2nd Amd. Cmplt. pgs. 9-10, ¶¶ 28-31) misconduct in the form of First Amendment retaliation against the plaintiffs for protected advocacy that exposed ongoing criminal violations of by federal and state officials violating the plaintiffs' clearly established rights under *Leeke v. Timmerman*, 454 U.S. 83, 85-86, 102 S.Ct. 69, 70, 70 L.Ed.2d 65 (1982) and *In re Quarles*, 158 U.S. 532, 535-36, 15 S. Ct. 959, 960-61, 39 L. Ed. 1080 (1895).

The defendant CHIEF JUSTICE ROBERTS also frivolously argues that the proposed amended complaint comes too late, despite the delays being wholly due to CHIEF JUSTICE ROBERTS' repeated lack of diligence and procurement of extensions over the objection of the plaintiffs who were prejudiced (this court must protect the diligent plaintiffs' rights from injury due to delay *Jackson v. Beech*, 636 F.2d 831, 835-36 (D.C.Cir.1980).), and despite the fact that each amendment was promptly made in the FRCP and District of Columbia Local Rule allotted time periods, and despite that the amendments were unnecessary but for the continuing out of court misconduct of CHIEF

JUSTICE ROBERTS to violate the plaintiffs' clearly established First, Fourth, and Fifth Amendment rights through continued wiretapping, disruption of the plaintiffs' business, and harassment of the plaintiffs' family members and business associates in retaliation for bringing the present action.

The plain error of CHIEF JUSTICE ROBERTS' argument is that by the controlling statute, the Second Amended Complaint comes at the earliest stage in the action, before any pretrial conference has been scheduled and before any discovery has commenced. Furthermore, CHIEF JUSTICE ROBERTS' memorandum does not address the plaintiffs' notice that the new claims and the alleged conduct of ATTORNEY GENERAL ERIC HOLDER have already been treated as if tried by consent of the parties in the pleadings related to the motions to dismiss and that leave should be freely given to amend on this separate Fed.R.Civ.P. 15(b)(2) basis.

The new claims against CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER allege their creation, administration, and enforcement of policies that the defendants know violate the clearly established constitutional rights of the plaintiffs to be free from discriminatory enforcement of attorney character and fitness standards where federal courts prevent the plaintiff LANDRITH from practicing law and prevent the plaintiff LIPARI from having counsel for LANDRITH having correctly briefed issues in vindication of an African American client and his American Indian witness' race based federal statutory civil rights, and federal courts place attorneys (like Keene Umbehr, and Donna L. Huffman described in the complaints) willing to vindicate the federal statutory civil rights of the nation's most vulnerable citizens under the control of corrupt state officials' chilling extortion to unlawfully restrain their advocacy while

federal courts permit ATTORNEY GENERAL ERIC HOLDER's employee attorneys to make a pattern and practice of wholesale misrepresentations of clearly established law and the written facts in pleadings to tribunals (as detailed in the plaintiffs' Second Amended Complaint) without disbarment and the judges who permit this conduct in their federal courtrooms while having evidence of the constitutional injury to those same litigants do not even receive public censure.

POINTS IN SUPPORT OF LEAVE TO AMEND

1. The defendant CHIEF JUSTICE ROBERTS has again lied about serving pleadings on the plaintiffs via email due to this court's prevention of electronic filing privileges for the plaintiffs and on this basis alone, the court is required to deny the defendant's proposed order due to the disadvantage and prejudice the plaintiffs continue to suffer as identified in the Plaintiffs' Second Motion for Leave For Electronic Filing, not docketed by the Clerk of the Court and later concealed as part of ECF No. 17.

New Claims Allege Unlawful Conduct Outside of The Defense of This Action

2. The defendant CHIEF JUSTICE ROBERTS misrepresents the factual averments in the proposed Second Amended Complaint as mere misconduct by in their capacity as CHIEF JUSTICE ROBERTS' defense counsel:

> "the new claims are directed towards what Plaintiffs perceive as misconduct by Defendant's attorneys in defending against Plaintiffs' claims. Accordingly, Defendant urges this Court to deny this motion and to rule on Defendant's dispositive motion and dismiss this case with prejudice. ECF No. 14."

ECF No. 21 Pg. 1)

3. In actuality, that misconduct was added in the First Amended Complaint by right under ECF No. 11 Pgs. 22-40.

New Claims Have Already Been Tried By Consent

4. The Complaint and Amended Complaint detail the misconduct of US Attorneys not defending CHIEF JUSTICE ROBERTS in this action: (District of Kansas USA Barry R. Grissom ECF No. 11 pgs. 20-21, ¶¶ 67- 69; pg. 24 ¶84; pg. 30 ¶100; US Attorney General Eric Holder ECF No. 11 pg. 34 ¶116; pgs. 36, ¶¶ 123- 124; and the Amended Complaint clarifies that which Chief Justice JOHN G. ROBERTS, JR. is responsible for the conduct of and the conduct of Attorney General Eric Holder:

> "123. When **US Attorney General Eric Holder is carrying out these violations of the plaintiffs' First Amendment Rights as part of a judge protection policy**, he is reporting to the defendant Chief Justice JOHN G. ROBERTS, JR. by statute. 124. Chief Justice JOHN G. ROBERTS, JR. **through his agent Attorney General Eric H. Holder, Jr. and the USDOJ in direct response to the plaintiffs' present lawsuit** redoubled their disruptive surveillance of the plaintiffs, even stopping their phone service and committed other acts to interfere with SAMUEL K. LIPARI's medical supply business **to violate the plaintiffs' First, Fourth and Fifth Amendment rights for the purpose of defending Chief Justice JOHN G. ROBERTS, JR. through extrajudicial means**." [Emphasis added].
>
> First Amended Complaint ECF No. 11 pg. 36, ¶¶ 123, 124.

5. In seeking to dismiss ECF No. 1 (Complaint) and ECF No. 11 (Amended Complaint) the material substance of the new claims- discriminatory enforcement of attorney character, and fitness by CHIEF JUSTICE ROBERTS and the warrantless wiretapping by official, though unpublished policy of CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER; have already been addressed without objection by the parties making them tried by consent under Fed.R.Civ.P. 15(b)(2) and

which CHIEF JUSTICE ROBERTS memorandum (ECF No. 21) does not refute that they have already been tried by consent.

Newly Charged Conduct Has Already Been Found To Violate Fourth Amendment

6. The specific conduct alleged against CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER in the proposed Second Amended Complaint is as an unpublished expansion of the USA PATRIOT Act that has already been found to violate the constitution's Fourth and Fifth Amendment in identical circumstances complained of by the plaintiffs when it was challenged by the plaintiff BRET D. LANDRITH's law school classmate Brandon Mayfield, when Mayfield, like Landrith was targeted for having represented in the US Attorney's prejudiced view an undesirable racial minority in a parental rights termination case where (like in LANDRITH's case related to representation of the American Indian child *Baby C* and his natural father of American Indian descent David M. Price in a State of Kansas parental rights termination appeal), the government officials were participating in a racketeering conspiracy to profit from injuring large numbers of American citizens.

7. The case *Mayfield v. U.S.,* 504 F.Supp.2d 1023 (D. Or., 2007) concerned the US Attorney Karin Immergut's objectively baseless charging of attorney Brandon Mayfield with the Madrid, Spain train bombings and the deaths of over a hundred people, because Mayfield voluntarily represented the African American Muslim Jeffrey Leon Battle in defending termination of parental rights by state officials.

8. US Attorney Karin Immergut used the elementary school Spanish language homework of Mayfield's young daughter as the probable cause to charge Mayfield with the commission of a crime in Spain, a country where Mayfield had never been, and where

the Spanish authorities knew and reported that Brandon Mayfield was not involved in the plot by elite Spanish security forces to politically retain a conservative Prime Minister supporting the deployment of Spanish troops to the war in Iraq. See *Madrid 3/11 train bombing suspects linked to Spanish Security Services, Bomb squad link in Spanish blasts* by Edward Owen, London Times, 20 June 2004

9. The US Attorney General ordered electronic eavesdropping of all of Brandon Mayfield's communications and those of his family members, and the break in and searching of Mayfield's law office and home (conduct identical or equal to that alleged by the plaintiffs LANDRITH and LIPARI in the proposed Second Amended Complaint) under the Foreign Intelligence and Security Act ("FISA") (as it has been amended by the USA PATRIOT ACT Public Law 107–56—OCT. 26, 2001) 50 U.S.C. § 1804 (electronic surveillance under FISA) and 50 U.S.C. § 1823 (physical searches under FISA).

10. The District of Oregon court found the USA PATRIOT Act amendments to FISA that allow federal agents to circumvent Fourth Amendment probable cause requirements when investigating persons suspected of crimes, 50 U.S.C. §§ 1804 and 1823, as amended by the Patriot Act, violate the Fourth Amendment of the United States Constitution.

11. The US Attorney General argued then as he does here against LANDRITH and LIPARI that Mayfield lacked standing and his action was over past harms when in fact the complaint like each of LANDRITH and LIPARI's complaint alleged imminent danger of future injury that is likely due to present and continuing violations,

> "Plaintiffs' claims allege an on-going "case" or "controversy" providing this court with jurisdiction to adjudicate plaintiffs' claims pursuant to Article III.
>
> Specifically, plaintiffs establish standing with an on-going actual injury-in-fact which is concrete and particularized; that is, the government's continued retention

> of derivative FISA materials collected by covert surveillance and searches from Mayfield, his wife, and their children. "Derivative FISA materials" are defined as follows: "[A]ny materials, in whatever form or place, derived directly or indirectly from or related to the FISA take as defined herein[.]" Settlement Agreement, Def's Ex. 1. The government provides that derivative materials may include photocopies or photographs of documents from confidential client files in Mayfield's law office, summaries and excerpts from the computer hard drives from the Mayfield law office and plaintiffs' personal computers at home, analysis of plaintiffs' personal bank records and bank records from Mayfield's law office, analysis of client lists, websites visited, family financial activity, summaries of confidential conversations between husband and wife, parents and children, and other private activities of a family's life within their home. These materials, in a derivative form, have been distributed to various government agencies. The continued retention by government agencies, of this, material constitutes a real and continuing injury-in-fact to plaintiffs.
>
> Moreover, the cases relied upon by the government to support its contention that plaintiffs lack standing are distinguishable. These cases focus on claims that a past injury might occur again. Plaintiffs do not rely on their past injury. Rather they continue to suffer a present, on-going injury due to the government's continued retention of derivative material from the FISA seizure."

Mayfield v. U.S., 504 F.Supp.2d 1023 at 1034 (D. Or., 2007).

Strategy Of Alleging A Sufficient Complaint Under *Twombly* is "Incomprehensible"

12. When the defendants in the plaintiffs' Medical Supply Chain litigation could no longer rely upon unlawful heightened pleading standards in excess of FRCP Rule 8 to prevent the plaintiffs from challenging their hospital supply monopoly that scientific and popular published reports were leading to the deaths of 18,000 Americans Case (*Medical Supply v. Novation, et al* W.D. of MO. Case 4:05-cv-00210-ODS Document 1-1 Filed 03/09/2005 Page 16 of 116), the defendants had the case transferred to the District of Kansas to have it dismissed for failing to state a claim under Rule 12(b)(6) despite having a table of contents with each Sherman Act claim element and the page number where each element appeared as a bold headline with the supporting facts including the express agreements to restrain trade and allocate market share, excerpts from publicly traded Novation cartel member press releases claiming exclusive contract awards in the

Novation Cartel and the standard Neoforma electronic supply market share allocation contract by misrepresenting to Judge Carlos Murguia that the complaint was "incomprehensible." See *Med. Supply Chain, Inc. v. Neoforma, Inc*., 419 F. Supp. 2d 1316, 1333-36 (D. Kan. 2006) and *Medical Supply Chain, Inc. v. Neoforma, Inc.,* 508 F.3d 572 (10th Cir., 2007).

Facts Related to the "Outlandishness" of The Allegations

13. Since the filing of the original complaint by the plaintiffs who are both natural citizens of the United States and have not traveled or done business overseas since before the 2001, the court recognized newspapers of record are reporting ATTORNEY GENERAL ERIC HOLDER's involvement in electronic surveillance appearing to violate the Wiretap Act and FISA for the purpose of widespread covert monitoring of journalists, surreptitiously accessing their computers and offices to take business records, wiretapping the cloakrooms of Congress, and recording the majority of domestic and international phone calls. See i.e:

"Classified documents show rules for NSA surveillance without a warrant," Washington Post :

> "Document two: A six-page document signed on July 15, 2010, by Attorney General Eric H. Holder Jr. and David C. Gompert, acting director of national intelligence, declares that procedures are in place to ensure that the surveillance targets people "reasonably believed" to be located outside the United States and to prevent the "intentional acquisition" of communications within the United States.
>
> Document three: A nine-page exhibit signed by Holder on July 28, 2009, outlines the procedures used by the NSA to target foreigners reasonably believed to be located outside the United States.
>
> Document four: A nine-page exhibit signed by Holder on July 28, 2009, outlines the procedures used by the NSA to minimize the collection of data from U.S. persons."

"Holder Says U.S. Seeking More Disclosure on Surveillance" Bloomberg News by Phil Mattingly - Jun 21, 2013

> "Revelations from a former National Security Administration contractor have revived the national debate over the reach of federal government's national security surveillance programs.
>
> Holder said there is "the need for more to be declassified, more to be discussed" about the government's secret collection of telephone and Internet data under a law passed in the wake of the Sept. 11, 2001, terrorist attacks.
>
> That includes more information about the two data collection programs revealed by Edward Snowden, the former Booz Allen Hamilton (BAH) Corp. employee who worked as a contractor for the National Security Agency. Snowden, who fled to Hong Kong, has been charged with espionage in a
>
> sealed complaint filed by federal prosecutors, according to two U.S. officials.
>
> Records Collection
>
> One of those, called Prism, monitors the Internet activity of foreigners believed to be located outside the U.S. and plotting terrorist attacks. Under another, Verizon Communications Inc (VZ). was compelled to provide the NSA with customers' telephone records.
>
> Snowden, during an Internet question-and-answer session on the website of the Guardian newspaper, said the programs were "nakedly, aggressively criminal acts" that were "wrong no matter the target."
>
> U.S. lawmakers and civil-liberties groups have sought more information on the programs, which Snowden leaked to the U.K.'s Guardian newspaper and the Washington Post.
>
> ACLU Suit
>
> The American Civil Liberties Union filed suit against the government for violating citizens' privacy. The group's deputy legal director, Jameel Jaffer, said the phone record collection is "a gross infringement of the freedom of association and the right to privacy."

"Jailed Qwest CEO claimed that NSA retaliated because he wouldn't participate in spy program" By Greg Campbell Daily Caller News Foundation 06/13/2013

> "In court papers filed during his 2007 insider trading trial, former Qwest CEO Joseph Nacchio claimed that Denver-based Qwest was denied lucrative NSA

contracts he believed to be worth $50-$100 million, after Nacchio refused to involve Qwest in a secret NSA program that he thought would be illegal.

Subsequent reporting at the time revealed that it was a domestic wiretapping program in which the NSA wanted to snoop on Qwest's vast telephone network without court orders.

President George W. Bush's administration has said that warrantless wiretapping only began after 9/11, as part of the NSA's Terrorist Surveillance Program.

Sources familiar with the request to Qwest, quoted anonymously in the New York Times in 2007, "say the arrangement could have permitted neighborhood-by-neighborhood surveillance of phone traffic without a court order, which alarmed them."

Nacchio claimed that the NSA retaliated for his refusal by leaving Qwest out of a $2 billion NSA infrastructure program called Groundbreaker, which was split among numerous contractors, including Verizon.

Verizon, it was recently revealed, was required by court order to give the NSA telephone records from millions of its customer as part of a sweeping surveillance program."

"Senators Grill Attorney General Holder On Whether Verizon Surveillance Targeted Them, Too" by Andy Greenberg, Forbes Magazine 6/06/2013

"Can you assure us no members of the Capitol building were monitored?" asked Kirk. When Holder said he wouldn't be able to answer that question in an "open forum," Kirk interrupted him. "I think the correct answer is 'we stayed within our lane and we did not spy on members of Congress."

The chairwoman of the Senate Appropriations Committee, Barbara Mikulski, agreed that Kirk raised "a very important point," and called for a classified hearing to discuss the issue.

Kirk went on to ask whether the Judiciary might also be caught up in the NSA's dragnet, which was revealed Wednesday when the Guardian newspaper obtained a top secret order from the FBI sent to Verizon Business Services Network on the NSA's behalf, demanding that it turn over to the NSA data on all of its American subscribers' calls for a three month period. When you jump out of the executive branch lane, you want to make sure you're not gaining new intel on separated powers," Kirk said. "I would hope we get absolute assurance no Supreme Court justice is involved in this Verizon thing."

Holder responded that, "there was no intention to do anything of that nature to spy on members of Congress or members of the Supreme Court," but

wouldn't explicitly state that other branches of government weren't included in Verizon's data.

Senator Lindsay Graham took the opportunity to defend the NSA's phone surveillance practices. "The purpose of the Patriot Act...is to make sure we're aware of terrorist activity, disrupting plots abroad and at home. It's not to gather intelligence on the judicial and legislative branches," he said."

"For secretive surveillance court, rare scrutiny in wake of NSA leaks "

By Peter Wallsten, Carol D. Leonnig and Alice Crites, Washington Post June 22, 2013.

"Roberts and an aide vet judges as candidates for the secret court. The contenders, who have undergone Senate confirmation for their original judicial posts, are screened again using an unusually exhaustive FBI background check that examines their lives "going back to birth," according to a person with knowledge of the process. Candidates are told to withdraw if anything in their lives could prove embarrassing — the chief justice reads each FBI report. He has rejected candidates for traits such as excessive alcohol use, the person said.

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Some judges were outraged that they had not been aware of the Bush administration's warrantless wiretapping operation, which was first reported by the New York Times in late 2005. One member of the panel, U.S. District Judge James Robertson, resigned in protest, confiding to colleagues that he was concerned the program may have been illegal and could have tainted the court's work.

One person close to the court, speaking on the condition of anonymity to discuss the secretive body, said the newly revealed orders indicate a shift in which the court blesses the bulk collection of Americans' communications data to make investigations easier rather than weighing the merits of violating the privacy of one person on a case-by-case basis. Before this change, the person said, "it was one warrant at a time."

"Bush-Era Nsa Whistleblower Makes Most Explosive Allegations Yet About Extent Of Gov't Surveillance — And You Won't Believe Who He Says They Spied On" By Jason Howerton, The Blase Jun. 20, 2013

> "They went after–and I know this because I had my hands literally on the paperwork for these sort of things–they went after high-ranking military officers; they went after members of Congress, both Senate and the House, especially on the intelligence committees and on the armed services committees and some of the–and judicial," Tice told Peter B. Collins on Boiling Frog Post News.
> He went on: "But they went after other ones, too. They went after lawyers and law firms. All kinds of–heaps of lawyers and law firms. They went after judges. One of the judges is now sitting on the Supreme Court that I had his wiretap information in my hand. Two are former FISA court judges. They went after State Department officials. They went after people in the executive service that were part of the White House–their own people."

14. Despite these revelations giving weight to the plausibility of and providing this court evidentiary judicial notice of under Federal Rules of Evidence Rule 201 (b)(2) of the plaintiffs' allegations against ATTORNEY GENERAL ERIC HOLDER, the defendant CHIEF JUSTICE ROBERTS states that the plaintiffs should be deprived of the right to present their specific evidence because their "allegations against the Attorney General are outlandish" (ECF No. 21 Pg. 6).

15. The plaintiff SAMUEL LIPARI still has not had his ability to enter the nationwide market for hospital supplies restored to him and his business automobile, the Audi 2004 Audi A8 L sedan, VIN # W AUMl44E84N023747 is not in his driveway, therefore CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER are still under the subject matter jurisdiction of the plaintiffs' claims in this court because these are ongoing matters requiring vindication in federal courts where under the facts of the complaint , amended complaint, and proposed Second Amended Complaint, CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER enforce specific unconstitutional policies that make seeking that relief futile.

16. The plaintiff BRET D. LANDRITH still has not had his right to earn a living restored to him free from negative reporting in federal databases supporting civil rights

crimes of state officials, the Western District of Missouri US District Court has not contacted him to remedy the failure to have had judges vote (ECF No. 17 2nd Amd. Cmplt. pgs. 14-15, ¶47) on whether he is to be reciprocally disbarred without a hearing for seeking to lawfully vindicate the civil rights of an African American through constitutionally protected advocacy in federal court and for representing the American Indian infant *Baby C* and his American Indian father David M. Price in the State of Kansas courts, and no hearing has been scheduled for LANDRITH's admission into the Western District of Oklahoma (ECF No. 17 2nd Amd. Cmplt. pgs. 17-18, ¶¶ 55-60)

17. Similarly the plaintiff BRET D. LANDRITH has not been able to receive any rulings in the State of Kansas courts on US constitutional claims or federal statutory rights after disbarment as a *pro s*e citizen representing himself consistent with the US Supreme Court on a set of materially indistinguishable facts. *Williams v. Taylor,* 529 U.S. 362, 405-06, 120 S.Ct. 1495, 1519-20 (2000) and continues to suffer from the application of clearly established federal law in an objectively unreasonable manner (Id. at 409, 120 S.Ct. at 1521) even in the rare circumstances the plaintiff is in federal courts having concurrent jurisdiction, therefore CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER are still under the subject matter jurisdiction of the plaintiffs' claims in this court because these are ongoing matters requiring vindication in federal courts where under the facts of the complaint , amended complaint, and proposed Second Amended Complaint, CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER enforce specific unconstitutional policies that make seeking that relief futile.

18. No federal judge in the Eighth or Tenth Circuit or state judge in Missouri or Kansas is likely to follow the clearly established federal law in matters concerning the plaintiffs unless CHIEF JUSTICE ROBERTS is ordered to change his administrative policy so that federal judicial ethics complaint reporting is publicized with the judge's name as shown by the results in *Med. Supply Chain, Inc. v. Neoforma, Inc.,* 419 F. Supp. 2d 1316 (D. Kan. 2006) ECF No. 11 pg. 13 ¶¶ 43-45; pgs. 44-45 ¶¶ 126-128, pgs. 36-39 ¶¶ 126-128, pg. 48 *Landrith v. Kansas Atty. Gen.* 2012 WL 5995342 (D. Kan. 2012) ECF No. 11 pg. 32-33 ¶¶ 109-110, pgs. 36-39 ¶¶ 126-128 , *Landrith v.Bank of New York Mellon, et. al,* Case No. 12-CV-02352 (D. Kan. 2013) ECF No. 11 pgs. 36-39 ¶¶ 126-128, and by plaintiff SAMUEL LIPARI's cases in Missouri State courts.

19. The plaintiffs will not be able to earn a living until ATTORNEY GENERAL ERIC HOLDER is restrained from warrantless wiretapping of the plaintiffs' electronic communications and the prior restraint of the plaintiffs business and political publication.

AUTHORITIES IN SUPPORT OF LEAVE TO AMEND

The proposed Second Amended Complaint alleges that others reporting to CHIEF JUSTICE JOHN G. ROBERTS, JR'.s including the proposed new defendant ATTORNEY GENERAL ERIC HOLDER participated in the ongoing creation, administration and enforcement of policies violating the plaintiffs' clearly established constitutional rights. The official policies complained of including extrajudicial or warrantless surveillance, censorship of the plaintiffs' political and business web page publishing, and disruption of the plaintiffs' telephone and email communications in which ATTORNEY GENERAL ERIC HOLDER is alleged to be carrying out Chief Justice JOHN G. ROBERTS, JR'.s secret or unpublished USA PATRIOT Act policy

(ECF No. 11 pg. 35-36 ¶¶ 120-125) to protect federal judges and their rulings from public knowledge under 28 U.S.C. § 331, and which the First Amended Complaint alleges was "redoubled" after the filing of the plaintiffs original Complaint ECF No. 1. Both previous complaints have fully included all material allegations against ATTORNEY GENERAL ERIC HOLDER in a nondefendant capacity prior to the filing of the proposed Second Amended Complaint and therefore are already "tried by consent" under Fed.R.Civ.P. 15(b)(2). As allegations the defendant and his counsel already had full notice of in each prior complaint, Chief Justice JOHN G. ROBERTS, JR. cannot now complain of being prejudiced or inconvenienced by the proposed Second Amended Complaint making ATTORNEY GENERAL ERIC HOLDER a defendant. Also, ATTORNEY GENERAL ERIC HOLDER has a very large staff at Main Justice of which none are engaged in presiding over trials scheduled months or even years in advance and therefore would relieve Chief Justice JOHN G. ROBERTS, JR. of the need to personally testify about the operational conduct of the complained of policies against the plaintiffs. Therefore Chief Justice JOHN G. ROBERTS, JR. would experience the opposite of prejudice and inconvenience by the inclusion of ATTORNEY GENERAL ERIC HOLDER as a defendant.

Similarly, when Chief Justice JOHN G. ROBERTS, JR. personally chose to embody and repeatedly commit every complained of act by the Kansas and Missouri US Attorneys described in the complaint and First Amended Complaint in the prosecution of his own defense before this court; when Chief Justice JOHN G. ROBERTS, JR. to make repeated ad hominem attacks on the plaintiffs in this court; and when when Chief Justice JOHN G. ROBERTS, JR. chose to totally abandon any duty of candor or diligence

through that same defense, the plaintiffs' made that conduct part of the First Amended Complaint. Now, when the plaintiffs find themselves repeatedly exposed to the extrinsic fraud and retaliation outside of this court through the bad faith extensions on statutory pleading deadlines obtained by Chief Justice JOHN G. ROBERTS, JR. without any showing of excusable neglect and in the face of the plaintiffs' repeated oppositions and proffered evidence to this court that Chief Justice JOHN G. ROBERTS, JR. through ATTORNEY GENERAL ERIC HOLDER was using the time to further injure the constitutional rights of the plaintiffs, their close associates and family members to obstruct justice, the discriminatory enforcement of attorney character and fitness standards between what has been experienced by the plaintiffs and that which Chief Justice JOHN G. ROBERTS, JR. generously indulges the government attorneys working for ATTORNEY GENERAL ERIC HOLDER is already "tried by consent" under Fed.R.Civ.P. 15(b)(2).

The plausibility of the allegations in the plaintiffs' Amended Complaint and proposed Second Amended Complaint is further supported with the additional facts and averments that ATTORNEY GENERAL ERIC HOLDER's reporting on "matters relating to the business of the courts" included warrantless wire surveillance and interference with SAMUEL LIPARI'S business email, political campaign and Medical Supply websites (ECF No. 11 pgs. 40-48, incorporating by reference ¶¶ 1-133 that includes Blocking of LIPARI's business account email pg. 34 ¶¶114-6; Censorship of LANDRITH and LIPARI's online publishing of the public documents filed in this court pgs. 34-35 ¶¶117-9; Censorship of LIPARI's online document database pg. 39 ¶ 131) in

furtherance of an unpublished addition to the USA PATRIOT ACT or more properly a policy of the Judicial Conference under Chief Justice JOHN G. ROBERTS, JR. :

> "120. The **plaintiffs were told of the secret part or unpublished part of USA PATRIOT Act to address citizens posting information about the courts on the Internet** by Michael Lynch who was working with Judge Duff of the Northern District of Illinois and Sidney J. Perceful to uncover what Judge Duff and Perceful believed was a massive network for the corrupt procurement of court rulings in several states by an organized crime enterprise. " [Emphasis added]

Amended Complaint ECF No. 11 pg. 35, ¶120). The proposed Second Amended Complaint retains these averments of supporting facts, exceeding the bare bones elements of Fourth Amendment violation wiretapping claims.

The Proposed Second Amendment is Early in the Pretrial Phase of the Case

The parties are still at the beginning of this litigation. There has been no pretrial conference and discovery has not commenced. It is so early in the litigation that a scheduling order has not even been set. Pursuant to the Civil Justice Reform Act, 28 U.S.C § 471 et seq., the scheduling order issued from a pretrisal conference, in accordance with Rule 16(b) of the Federal Rules of Civil Procedure. The scheduling includes dates for filing a joint proposed pretrial order and conducting a pretrial conference. The trial date shall be set at the pretrial conference.

The plaintiffs promptly made each amendment after each suggestion by the defendant in a Rule 12(b)(6) motion that the complaint before the court was deficient. Each of the defendant's Rule 12(b)(6) motions were delayed by the defendants motions for extensions without a showing of excusable neglect and over the objection of the plaintiffs. The plaintiffs did not even wait till the court had ruled on the defendant's Rule 12(b)(6) motions This court cannot use CHIEF JUSTICE ROBERTS argument that the

proposed Second Amended Complaint is too late in the litigation as a basis to deny leave to amend: “The diligent party must be protected lest he be faced with interminable delay and continued uncertainty as to his rights." *Jackson v. Beech*, 636 F.2d 831, 835-36 (D.C.Cir.1980).

The Misrepresentation That *Ashcroft v. Iqbal* Prevents Injunctive Relief

CHIEF JUSTICE ROBERTS in yet another intentional misrepresentation of controlling case law to this tribunal for the express purpose to defraud the court and further violate the plaintiffs’ constitutional right to redress, maintains that the claims against himself and ATTORNEY GENERAL ERIC HOLDER must be dismissed because the “incoherent” complaint fails to allege a direct participation by either CHIEF JUSTICE ROBERTS or ATTORNEY GENERAL ERIC HOLDER in the many felony violations of the plaintiffs’ constitutional rights detailed with specificity and supporting facts in the complaint, First Amended Complaint and the proposed Second Amended Complaint. The false basis provided for this particular fraud on this court by CHIEF JUSTICE ROBERTS is the Supreme Court holding in *Ashcroft v. Iqbal*, 129 S. Ct. 556 U.S. 662 at 1948 (2009) that because vicarious liability is inapplicable to *Bivens* (*Bivens v. Six Unknown Named Agents*, 403 U.S. 388, 395-397 (1971)) and § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution.

The objective baselessness of this *Ashcroft v. Iqbal* argument can be readily seen by CHIEF JUSTICE ROBERTS’ wholesale misrepresentation of the facts of each complaint which clearly allege CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER adopted plans and policies (including a secret unpublished

version of the USA PATRIOT Act for the purpose of warrantless surveillance and censorship of web site publications to "defend" members of the federal judiciary) that are detailed as having an affirmative link to all of the constitutional injuries alleged in each the plaintiffs' complaints. This is precisely why CHIEF JUSTICE ROBERTS maintains the complaints are incomprehensible, utilizing the fraud on the court technique of the *Med. Supply Chain, Inc. v. Neoforma, Inc.,* 419 F. Supp. 2d 1316 (D. Kan. 2006) defendants to provide cover for Kansas District Court Judge Carlos Murguia's conduct to obstruct justice on his own court. See *Root Refining Co. v. Universal Oil Products Co*. 169 F.2d 514 (3rd Circuit, 1948).

Ashcroft v. Iqbal limited, supervisory liability for government officials based on an employee's or subordinate's constitutional violations but does not end the ability of a plaintiff to impose monetary damages liability upon a defendant-supervisor who creates, promulgates, implements, or in some other way possesses responsibility for the continued operation of a policy the enforcement (by the defendant-supervisor or her subordinates) of which "subjects, or causes to be subjected" that plaintiff "to the deprivation of any rights . . . secured by the Constitution . . . ."*Dodds v. Richardson*, 614 F.3d at 1199. *Dodds v. Richardson* 614 F.3d 1185 at1199 (10th Cir. 2010). The similar rule against respondeat superior liability in *Monell v. New York City Department of Social Services,* 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1977), like *Ashcroft v. Iqbal* clearly does not bar the plaintiffs' claims or prevent liability of a government official for an actual policy: "an informal custom "amoun[ting] to 'a widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well settled as to constitute a custom or usage with the force of law [citing the second factor in *Hinton*

v. City of Elwood, 997 F.2d 774, 782 (10th Cir. 1993)']" *Bryson v. City Of Okla. City* (10th Cir., 2010).

Neither the plaintiffs' complaint ECF 1, The First Amended Complaint ECF 11, nor the proposed Second Amended Complaint ECF 17 make claims based on criminal statutes and instead relief is sought directly under the First Amendment, Fourth Amendment, and Fifth Amendments of the constitution.

CHIEF JUSTICE ROBERTS has now lied to this court by misrepresenting the express facts pled in the proposed Second Amended Complaint in what clearly is the belief that Judge Amy Berman Jackson will not read the complaint and dismiss the plaintiffs' claims as the *Medical Supply Chain* defendants were able to similarly procure:

> "Plaintiffs point to no jurisdictional basis for the claims that they make, except to aver that criminal laws have been violated. *See e.g.,* ECF No. 17-3 at 56-57, 63…under settled case law, there is no private cause of action permitted based on a defendant's alleged violation of criminal statutes"

ECF 21 at pg. 6

The proposed Second Amended Complaint, like the preceding complaints clearly alleges CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER created, maintained, and administered specific policies causing the foreseeable violations of the plaintiffs' Fourth Amendment and Fifth Amendment rights and this surveillance is alleged to have specifically used to violate the plaintiffs First Amendment and Sixth Amendment rights to seek redress in the courts, violate the plaintiffs' First Amendment Rights to political and business speech, and their Fifth Amendment rights to Due Process, along with their constitutional property rights to pursue their right to earn a living.

The complaints supplemented these allegations with additional facts including how the plaintiffs' learned of the secret USA PATRIOT act policy CHIEF JUSTICE

ROBERTS and later ATTORNEY GENERAL ERIC HOLDER were enforcing against them, including that this policy was revealed by Northern District of Illinois Judge Brian Barnett Duff during the investigation of then Judge Marc Philip which resulted from information turned over by the former *Greylord* subject who was then the Chief Bankruptcy Judge of Northern District of Illinois (Judge Eugene R. Wedoff who was not identified by name in the complaints) and who related the information about the secret part of the USA PATRIOT Act to the plaintiffs as the complaints specifically aver through Michael Lynch, Former CEO of McCook Metals and Sidney J. Perceful, a Commissioner in the Federal Mediation Service. See page 36 of the plaintiffs' proposed Second Amended Complaint, ECF Doc. 17.

The reason that CHIEF JUSTICE ROBERTS' objectively baseless *Ashcroft v. Iqbal* argument that the complaints must be dismissed because they do not allege direct personal participation by CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER in each of the constitutional injuries to the plaintiffs is beyond mere frivolousness and is instead intended to be another "malign if not corrupt influence" on Judge Amy Berman Jackson to commit fraud on her own court and obstruct justice in this proceeding under *Root Refining Co.*169 F.2d 514 is that each of the plaintiffs' complaints and now the proposed Second Amended Complaint expressly state the claims against CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER are made against them only in their official capacity. And, each complaint expressly states all claims are solely for prospective injunctive and declaratory relief and not for monetary damages. It is settled law that claims for injunctive relief against the head of a government agency to restrain an official policy that violates constitutional rights. The

plaintiffs' complaints describe circumstances where CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER are liable to "declaratory, or injunctive relief where ... the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." *Monell*, 436 U.S. at 690, 98 S.Ct. 2018.

ROBERTS' Spurious "M.C. Escher" or "Fractal" Pleading Standard

CHIEF JUSTICE ROBERTS' urges that this court hold the plaintiffs to an unlawful heightened pleading standard that the plaintiffs cannot find in any current relevant case law. For the purpose of refuting this new heightened pleading standard, the plaintiffs will refer to it as the "M.C. Escher" or "Fractal" Pleading Standard. Previously, in the motion to dismiss the First Amended Complaint, CHIEF JUSTICE ROBERTS' argued that the plaintiffs failed to meet the requirement of *Bell Atlantic Corp. v. Twombly*, 550 U .S. 544, 570 (2007). Despite the fact that the plaintiffs bring only claims for relief in equity under the constitution, traditionally governed by Rule 8 notice pleading and not claims of an antitrust conspiracy arising from inferred agreements to restrain trade based only on price coincidences.

In this third bite at the apple, CHIEF JUSTICE ROBERTS' now complains that the plaintiffs make their claims "Without providing sufficient information for Defendant or undersigned counsel to ascertain what conduct supports their assertions, Plaintiffs point generally to a number of alleged events. "(ECF No. 21 Pg. 2).

CHIEF JUSTICE ROBERTS seems to be arguing (ECF No. 21 Pg. 2-3) that the supplemental averments the plaintiff use to give background and support to the material

facts required under the elements of each of the plaintiffs claims along with the allegations of “who, what, where and when” information for each material fact element and help to establish the “plausibility” of each allegation of a material fact must itself be supported by still more tiers of supporting averments so that those averments and the material fact elements they support eventually, maybe CHIEF JUSTICE ROBERTS will have sufficient information from which to commence discovery and the exchange of evidence between the parties.

The plaintiffs do not label this new argument of CHIEF JUSTICE ROBERTS as Nineteenth Century Formalism, in vogue before the Federal Rules of Civil Procedure adopted Rule 8 Notice Pleading precisely to eliminate the need for plaintiffs to allege every detail in the initial pleadings of a case: "the root purpose of [Rule 15(b)] is to combat `the tyranny of formalism,'" the court held that the rule could not "be so liberally construed as to empty Rule 8(a) of its meaning." Id. (quoting *Rosden v. Leuthold*, 274 F.2d 747, 750 (D.C.Cir.1960)).

The plaintiffs have instead taken to calling CHIEF JUSTICE ROBERTS’ new standard the “M.C. Escher” or “Fractal” Pleading Standard. Both names are appropriate because of the resemblance to the fascinating drawings of M.C. Escher where every image repeats again in ever smaller detail seemingly to infinity and to the images Mathematicians have found or created from equations that are made up of infinite tiers of smaller repeated images. Like Formalism, the “M.C. Escher” or “Fractal” Pleading Standard accomplishes the purpose of allowing federal judges to dismiss with prejudice plausible claims that point to evidence reasonably likely to be produced at a trial that clearly shows a victim has been injured by the acts of the defendants that violate law. In

the word used by CHIEF JUSTICE ROBERTS in his first motion to dismiss "disgruntled", this new standard solves the problem of "disgruntled" judges having to face victims of the replacement corporate-syndicalist government shredding every constitutional limitation CHIEF JUSTICE ROBERTS and swore to uphold under the old republic.

The problem for CHIEF JUSTICE ROBERTS is that while in his other capacity from that as chief administrator of the courts and as a sitting judge of our nations' highest court, CHIEF JUSTICE ROBERTS and that courts' majority have repeatedly shown that interpreting *Twombly*, 550 U .S. 544 as having eliminated the notice pleading and plain statement of fact requirement of FRCP Rule 8 is erroneous. In *Swierkiewicz v. Sorema N.A*., 534 U.S. 506, 514 (2002), a pre-*Twombly* case, the court stated that "[a] requirement of greater specificity for particular claims is a result that must be obtained by the process of amending the Federal Rules, and not by judicial interpretation." Id. at 515

The Court held in *Erickson v. Pardus*, 551 U.S. 89 (2007), which it decided a few weeks after *Twombly*, under Rule 8, "[s]pecific facts are not necessary; the statement need only 'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" *Id*. at 93 (quoting *Twombly*, 550 U.S. at 555 (alteration in original)); see also *al-Kidd v. Ashcroft*, 580 F.3d 949, 977 (9th Cir. 2009) ("*Twombly* and Iqbal do not require that the complaint include all facts necessary to carry the plaintiff's burden.").

While the 12(b)(6) standard does not require that the plaintiffs establish a prima facie case in their complaint, the elements of each alleged cause of action help to determine whether the plaintiffs have set forth plausible claims. See *Swierkiewicz*, 534 U.S. at 515; see also *Twombly*, 550 U.S. at 570.

NO FUTILITY

The plaintiffs proposed Second Amended Complaint is not barred by futility. In Count V, "Cause Of Action For Injunctive Relief, Against Attorney General Eric S. Holder, Under the Fourth and Fifth Amendments, Of the United States Constitution, Against Warrantless Surveillance, Malicious Prosecutions, and Extra Judicial Seizures of Plaintiffs' Property" at ECF no. 17 2nd Amd. Cmplt. pgs. 56-64, the plaintiffs' proposed Second Amended Complaint sufficiently states an ongoing violation of the plaintiffs' Fourth Amendment rights by CHIEF JUSTICE ROBERTS and ATTORNEY GENERAL ERIC HOLDER's expansive unpublished USA PATRIOT Act surveillance.

In 1967, the Supreme Court held that a New York statute authorizing electronic surveillance violated the Fourth Amendment because: (1) "it did not requir[e] the belief that any particular offense has been or is being committed; nor that the `property' sought, the conversations, be particularly described;" (2) it failed to limit the duration of the surveillance to impose sufficiently stringent requirements on renewals of the authorization; and (3) the statute "has no requirement for notice as do conventional warrants, nor does it overcome this defect by requiring some showing of special facts." *Berger v. New York*, 388 U.S. 41, 58-60, 87 S.Ct. 1873, 18 L.Ed.2d 1040 (1967).

The proposed Second Amended Complaint alleges the surveillance is warrantless and that it has continued since 2006, despite LANDRITH and LIPARI never being charged with a crime. The Warrantless wiretapping under the secret USA PATRIOT Act policy described in the plaintiffs' complaints violates the constitution and the Fourth Amendment the same way that the New York State policy did in *Berger v. New York*, 388 U.S. 41, 58-60.

The plaintiffs expressly are not seeking claims for damages under the Wiretap Act in any of their complaints before this court. Although the Wiretap Act in large part was created to create procedures for electronic surveillance by government officers that comply with the requirements of the Fourth Amendment as articulated by the Supreme Court. See *United States v. United States District Court*, 407 U.S. 297, 302, 92 S.Ct. 2125, 32 L.Ed.2d 752 (1972) ("Much of Title III was drawn to meet the constitutional requirements for electronic surveillance enunciated by this Court."); *Attorney General John Mitchell v. Forsyth*, 472 U.S. ___, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985). Subject to certain specified exceptions, the Wiretap Act prohibits the intentional interception of wire, oral, and electronic communications unless specifically authorized by a court order. See 18 U.S.C. §§ 2510-22. Those who violate the Act are subject both to criminal prosecution and civil liability. 18 U.S.C. §§ 2511, 2520.

The plaintiffs' complaint, amended complaint, and proposed Second Amended Complaint describe an unpublished policy or widespread practice (the secret USA PATRIOT Act) not meeting any of the limitations under the Wiretap Act and therefore is per se or facially in violation of the plaintiffs' Fourth Amendment rights under *United States v. United States District Court*, 407 U.S. 297, 302, 92 S.Ct. 2125, 32 L.Ed.2d 752 (1972).

The proposed Second Amended Complaint sufficiently alleges discriminatory enforcement of attorney character and fitness requirements by CHIEF JUSTICE ROBERTS:

> "67. The US District courts permit US Department of Justice attorneys in their capacity as defense counsel and agents for US District court judges and clerks including US Attorney Barry R. Grissom to misrepresent clearly established controlling precedent in court while preventing Kansas citizens from having

> counsel that will vindicate their federal constitutional rights.
> 68. US Attorney Barry R. Grissom in *Landrith v. Kansas Attorney General Derek Schmidt, et al.;* KS Dist. Court Case no. 12-cv-02161 was permitted to repeatedly misrepresent the controlling precedent for the jurisdiction for whether *Pulliam v. Allen,* 466 U.S. 522, 536-543 (1984) abrogates immunity of federal judges and clerks for prospective injunctive relief when the Tenth Circuit in a published decision *Martinez v.*
>
> *Winner,* 771 F.2d 424 at 436 (C.A.10 (Colo.), 1985) has expressly determined federal judges are not immune from prospective injunctive relief under the constitution.
> 69. US Attorney Barry R. Grissom in *Landrith v. Kansas Attorney General Derek Schmidt, et al.;* KS Dist. Court Case no. 12-cv-02161 is now being indulged by the US District of Kansas judge to permanently restrain the plaintiff BRET D. LANDRITH's ability to seek redress in federal court because he has with diligence accurately applied the controlling precedent of the jurisdiction that federal judicial officials are not immune from prospective injunctive relief and that the admissions committee members of the Western District of Oklahoma and the Clerk of the Court have violated the plaintiff BRET D. LANDRITH's right to Due Process regarding his admission under from *Mattox v. Disciplinary Panel of U.S. Dist. Ct. for Dist. of Colo.,* 758 F.2d 1362, 1369 (10th Cir. 1985) and *In re Martin,* 400 F.3d 836 at 841 (10th Cir., 2005).

ECF No. 17 2nd Amd. Cmplt. pgs. 21-22, ¶¶ 67-69 and generally pgs. 24-41 describing the grossly unethical conduct of US Attorneys defending CHIEF JUSTICE ROBERTS.

CHIEF JUSTICE ROBERTS continues to advocate that this court judicially nullify 28 U.S.C. § 1331 and violate the prior Supreme Court reversal of the District of Columbia in *Bolling v. Sharpe*, 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884 (1954):

> "Plaintiffs have yet to establish a jurisdictional basis for their lawsuit, except to point to a case involving a federal judge in the Fifth Circuit, who was successful in this District Court in obtaining some relief from the imposition of discipline on him by a Fifth Circuit Judicial Conference review committee. *See McBryde v. Committee to Rev. Cir. Council Conduct,* 83 F.Supp.2d 135 (D.D.C. 1999). That is simply not the case here. Unlike the Plaintiffs here, Judge McBryde did have standing to sue; he could trace the harm that he encountered directly to the action of the Defendants when he was disciplined as a federal judge under an authorizing statute. Unfortunately, Plaintiffs have failed to trace the harms they allegedly suffered by the hands of the federal judiciary to an action of the Chief Justice. There is simply no waiver of sovereign immunity for their cause of action, and even if there were, they lack standing to proceed with the claims they make."

(ECF No. 21 Pg. 7).

The Supreme Court in *Bolling v. Sharpe*, 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884 (1954) held that the Fifth Amendment and § 1331 created a remedy for unconstitutional racial discrimination in the D.C. public school system. It is clearly established law that the plaintiff may seek relief directly under the constitution. *Bell v. Hood*, 327 U.S. 678, 681-83 (1946)(federal court has jurisdiction to entertain complaint seeking recovery directly under the Constitution).

Similarly the controlling precedent *Pulliam v. Allen,* 466 U.S. 522 (1984) has established that judges are not immune from the prospective injunctive relief being sought by the plaintiffs and CHIEF JUSTICE ROBERTS has failed to differentiate this precedent or to make an argument for new law.

Despite the plaintiffs being burdened with repeated misrepresentations of the controlling precedent for this jurisdiction including *McBryde v. Committee to Rev. Cir. Council Conduct,* 83 F.Supp.2d 135 and the repeated citation to that authority expressly stating that this court lacked subject matter jurisdiction under the judge discipline authorizing statute but did have subject matter jurisdiction under the First Amendment of the constitution, to the point the plaintiffs were forced to seek sanctions against CHIEF JUSTICE ROBERTS, CHIEF JUSTICE ROBERTS continues to misrepresent the law to this tribunal for the purpose of depriving the plaintiffs of their clearly established rights.

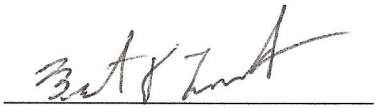
CONCLUSION

The defendant CHIEF JUSTICE ROBERTS is continuing to invent reasons for dismissing the plaintiffs claims and seeks to deny the proposed Second Amended Complaint for reasons that violate the settled law of this jurisdiction and the clearly established precedent of the Supreme Court. The results will be to waste this court's resources and to knowingly expose the plaintiffs to further injury of their constitutional rights, just as this court has done each time it has granted extensions for CHIEF JUSTICE ROBERTS. Judges in the District of Kansas and the Western District of Missouri knew they would not be reversed upon appeal due to the "Code of Silence" described in the plaintiffs' complaint. Each pleading by CHIEF JUSTICE ROBERTS in this court is so reckless and obvious in its misrepresentations of easily verifiable facts and law that they reinforce the appearance that CHIEF JUSTICE ROBERTS is inviting this court to also participate in this same the "Code of Silence" and violate the plaintiffs' clearly established constitutional rights. However, this repeated subtext of CHIEF JUSTICE ROBERTS is not in the court or even the judicial branch's interest and contrary to its every public policy.

The plaintiffs are no longer in the provinces. This action is before the District of Columbia because these serious impediments to substantial justice for litigants before the federal courts will be remedied. This action is the judicial branch's second chance to do so after the failure of CHIEF JUSTICE ROBERTS' modification of 28 USC § 360 (b) to attempt to address the corruption. Other branches of government stand ready under constitutional powers to improve citizens' access to justice should this court or CHIEF JUSTICE ROBERTS negligently fail their basic duties.

Whereas for the above reasons, the plaintiffs respectfully request that the court affirmatively disassociate itself with those judicial branch officials who facilitate violations of the constitution and the legislated public policy through the "Code of Silence" and require the defendants to answer the plaintiffs' Second Amended Complaint and to schedule a telephonic pretrial conference under Federal Rule of Civil Procedure Rule 16.

Respectfully submitted,



Bret D. Landrith
Plaintiff appearing *pro se*

Samuel K. Lipari
Plaintiff appearing *pro se*

CERTIFICATE OF SERVICE

The plaintiff's hereby certify that they have served the defendant's counsel by email and by ship to print copy on June 27 2013.

Ms. Claire Whitaker,
Assistant U.S. Attorney
Judiciary Center Building
555 Fourth St., N.W., Rm. E4204
Washington, D.C. 20530
Claire.Whitaker@usdoj.gov
Attorney for Defendant Hon. JOHN G. ROBERTS, JR.

BRET D. LANDRITH
Apt. 209, 5308 SW Tenth St.
Topeka, KS 66604
bret@bretlandrith.com
1-913-951-1715
Plaintiff appearing *pro se*

SAMUEL K. LIPARI
803 S. Lake Drive
Independence, MO 64064
saml@medicalsupplyline.com
1-816-365-1306
Plaintiff appearing *pro se*