

NO. 20-2204

Leo Stoller, Michael Stoller

Plaintiffs/Appellant

v.

Walworth County, Valerie Etzel, Walworth County Treasurer, Randy Timms, District 1, Walworth County Supervisor, William Norem, District 2, Walworth County Supervisor, Tim Brellenthin, District 3, Walworth County Supervisor, Paul Yvarra, District 4, Walworth County Supervisor, Charlene Staples, District 5, Walworth County Supervisor, Kathy Ingersoll, District 6, Walworth County Treasurer, David Weber, District 7, Walworth County Supervisor, Daniel G. Kilkenny, District 8, Walworth County Supervisor, Susan M. Pruessing, District 9, Walworth County Supervisor, Kenneth H. Monroe, District 10, Walworth County Supervisor, and Nancy Russell, District 11, Walworth County Supervisor, Defendants John Doe 1-X et al.,

Defendants/Appellees

Appeal from
Judge J.P. Stadtmuller
Eastern District of
Wisconsin (Milwaukee)
Decision(s) Dated
07-02-20
Doc 144&145
17-CV-01349

U.S.C.A. - 7th Circuit
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Appeal from the United States District Court
For the Eastern District of Wisconsin
Case No 17 CV 1349
Honorable Judge J.P. Stadtmueller

**BRIEF AND REQUIRED SHORT APPENDIX OF
PLAINTIFF/APPELLANT LEO STOLLER
ORAL ARGUMENT REQUESTED**

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UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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| No. 20-2204 | <p>LEO D. STOLLER, et al., Plaintiffs - Appellants</p> <p>v.</p> <p>WALWORTH COUNTY, et al., Defendants - Appellees</p> |
| Originating Case Information: | |
| <p>District Court No. 2:17-cv-01349-JPS Eastern District of Wisconsin District Judge J. P. Stadtmueller Clerk/Agency Rep Gina M. Colletti</p> <p>Case filed: 07/07/2020 Case type: cv/pri Fee status: Due Date of Judgment: 07/02/2020 Date NOA filed: 07/07/2020</p> | |

APPELLANT'S OPENING BRIEF

/s/Leo Stoller E.D.¹
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¹ The Executive Director of Americans for the Enforcement of Attorney Ethics (AEAE) Since 1974
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CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

20-2204

Appellate Court No. _____

Short Caption: Leo Stoller et al v Walworth County, Wisconsin, et al.

To enable the judges to determine whether recusal is necessary or appropriate, an attorney for a non-governmental party or amicus curiae, or a private attorney representing a government party, must furnish a disclosure statement providing the following information in compliance with Circuit Rule 26.1 and Fed. R. App. P. 36.1.

The Court prefers that the disclosure statement be filed immediately following docketing, but, the disclosure statement must be filed within 21 days of docketing or upon the filing of a motion, response, petition, or answer in this court, whichever occurs first. Attorneys are required to file an amended statement to reflect any material changes in the required information. The text of the statement must also be included in front of the table of contents of the party's main brief. Counsel is required to complete the entire statement and to use N/A for any information that is not applicable if this form is used.

PLEASE CHECK HERE IF ANY INFORMATION ON THIS FORM IS NEW OR REVISED AND INDICATE WHICH INFORMATION IS NEW OR REVISED.

(1) The full name of every party that the attorney represents in the case (if the party is a corporation, you must provide the corporate disclosure information required by Fed. R. App. P. 26.1 by completing item #3):

Leo Stoller pro se

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

(3) If the party or amicus is a corporation:

i) Identify all its parent corporations, if any, and

Walworth County, Wisconsin

ii) list any publicly held company that owns 10% or more of the party's or amicus' stock:

Attorney's Signature: _____ Date: _____

Attorney's Printed Name: _____

Please indicate if you are Counsel of Record for the above listed parties pursuant to Circuit Rule 3(d). Yes _____ No _____

Address: _____

Phone Number: _____ Fax Number: _____

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CONSTITUTIONAL PROVISIONS VIOLATED

Ill.Const.1970, art. I, §§ 4, 12; U.S. Const. Amd. I. The Bill of Rights to the Illinois Constitution provides that “all persons may speak, write and publish freely,” Ill.Const.1970, art. I, § 4.

Illinois and Federal Constitutions prohibition laws abridging freedom of speech and the ability of citizens to petition the government, including the courts, for the redress of grievances.

Ill.Const.1970, art. I, §§ 4, 12; U.S. Const. Amd. I.

JURISDICTIONAL STATEMENT

The District Court had jurisdiction of the case that is docketed as pursuant to 28 U.S.C. § 1331. The District Court had supplemental jurisdiction of the Defendants/Appellants' State Law claim(s) pursuant to 28 U.S.C. § 1367.

The United States Court of Appeals for the Seventh Circuit has jurisdiction over this appeal pursuant to 28 U.S.C. §1291, and in accordance with Fed. R. App. P. 3 and Fed. R. App. P. 4, because this case involves an appeal from a final judgment issued by the Milwaukee Wisconsin Trial Court Judge J.P. Stadmueller entered his judgment in this case on July 2, 2020.

The July 2, 2020 Order and Judgment in a Civil Case disposed of all parties' claims and constitute a final judgment. Judge J.P. Stadmueller dismissed the Plaintiff/Appellants' Second Corrected Amended Complaint (**Appendix 6**) with prejudice.

The United States Court of Appeals for the Seventh Circuit has jurisdiction over this appeal pursuant to 28 U.S.C. §1291, and in accordance with Fed. R. App. P. 3 and Fed. R. App. P. 4, because this case involves an appeal from a final judgment issued by the district court Judge J.P Stadmueller.

Plaintiffs' Complaint organizes six classes of Defendants; Wisconsin State Defendants, Walworth Defendants, Como Defendants, Como Property Owners, Douglas Defendants, and Lawyers, Assignees, agents, John Doe 1 through 10.

PARTIES

Plaintiffs

1. Leo Stoller
2. Michael Stoller

Defendants

3. Walworth County Defendants: Valerie Etzel, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel Kilkenny, Susan Pruessing, Kenneth Monroe, and Nancy Russell.
4. Lake Como Wisconsin Defendants: Sanitary District, Gary Duffy, Ron SOjka, Joe Roberts and Rich Scholze.
5. Donald Crowley, Diana Crowley.
6. Delevvan Lake Assembly Defendants: Michael Connolly, Steven Schamidt, Henry Rackiewicz and Bill Winters.
7. State of Wisconsin Defendants: State of Wisconsin and Anthony Steven Evers.
8. Lawyers, Assignees, agents, John Doe 1 through 10.

INTRODUCTION

Plaintiffs' claim against the State of Wisconsin is that the law the county followed to sell the subject properties, Wis. Stat. §75.69, is unconstitutionally vague, arbitrary and capricious . Section 75.69(1) provides except as provided in sub. (1m): no tax delinquent real estate acquired by a county may be sold unless the sale and appraised value of such real estate has first been advertised by publication of a Class Three Notice, under Ch. 985; any county may accept the bid most advantageous to it but, at the first attempt to sell the property, every bid less than the appraised value of the property shall be rejected; any county is authorized to sell for any amount any land previously advertised for sale after advertising the sale of such land by publication of a Class One Notice, under Ch. 985; except that no property may be sold for an amount that is less than the property's appraised value unless the county board or a committee designated by the

county board has reviewed and approved such a sale and no property may be sold for an amount that is less than the amount of the highest bid unless the county board or a committee designated by the county board prepares a written statement, available for public inspection, that explains the reasons for accepting a bid that is less than the highest bid. In this subsection, "appraised value" means the value determined, at the discretion of the county board, by the county board, a committee designated by the county board, or a certified appraiser, as defined in s. 458.01 (7). Wis. Stat. § 75.69(1) (emphasis added).

In interpreting the language of a statute, this court must examine the language and design of the statute as a whole; *Wells Fargo Bank, Nat'l Ass'n v. Lake of Torches Econ. Dev. Corp.*, 658 F.3d 684, 694 (7th Cir.2011) (citations and internal quotation marks omitted). Appellants can assert a cognizable fundamental right has been violated by the Wisconsin statute. The pertinent inquiry is the Ch. 75, Stats., appears to make no provision whatsoever for distribution of a surplus upon sale of the land, it does not direct payment of any surplus remaining after the payment of the taxes as such it does not bear a reasonable relation to any proper legislative purpose. It is not rationally related to a legitimate government end.

Since the Statute Ch. 75 Stats was first issued in 1983 property values in Wisconsin have more than doubled since the statute was first issued. With the huge appreciation of property values in Wisconsin over the last thirty-eight years the incentive for Wisconsin counties to seize property for back taxes in order to sell tax foreclosed properties for market value has escalated. It is true that where "a statute [is] predicated upon the existence of a particular state of 1983 economic facts" (as the instant statute was) Appellants is challenging it by showing to the court that those facts have ceased to exist; *United States v. Carolene Products Co.*, 304 U.S. 144, 153-

54, 58 S.Ct. 778, 82 L.Ed. 1234 (1938).

There can be no dispute that this evidence undermines some of the assumptions on which the Ch. 75 Stats originally was based. Today, there is no question that Ch. 75 Stats has become unconstitutional because it provides no regulatory mechanism for county to conform to any standards in making true and accurate appraisals of tax delinquent properties upon which they are sold.

The pertinent inquiry is whether the statute in question Ch. 75, Stats “bears a reasonable relation to any proper legislative purpose.” *Id.* at 555–56. It is not the task of this court to discern the specific intent of the Wisconsin legislature, but to determine if any proper legislative purpose is served by Wisconsin’s law. There is none.

The record shows that Wisconsin law violates the Plaintiff–Appellants’ right to equal protection. Congress specifically did reserve to the states the power to write and enforce laws of this nature, which incentivize counties to seize property from their citizens under the guise of delinquent real estate taxes in order to sell those same properties at market values over a hundred times higher than the back taxes due on the subject properties. It is this court province to wrest this authority, from the state of Wisconsin and to declare this statute unconstitutional.

The crux of the Plaintiffs’ claims is that Walworth County Appraisals of Properties per Wis. Stat. §75.69 is unconstitutional and it, prevented the Plaintiffs’ from obtaining three properties upon which they bid. Plaintiffs’ claims center on the claim that Wis. Stat. §75.69 is unconstitutionally vague under the Due Process and Takings Clauses of the Constitution, based on the manner in which the Wisconsin counties are allowed to proceed in foreclosing the tax lien(s) pursuant to Wis. Stat. 75.69 and creating “sham” appraisals and selling the properties at

highly inflated prices over the tax liability and in order to retain the entire amount of the sale.

Plaintiffs allege that the appraised values were false and fraudulent, designed to increase the value of Defendants Walworth County sale of tax delinquent properties. See AC ¶ 51 at 23. Plaintiffs allege that the Walworth County Defendants associated together to produce the fraudulent appraisals. See AC ¶ 24 at 22. Wis. Stat. §75.69, is unconstitutional. Section 75.69(1) provides that Wisconsin counties the incentive to create inflated appraisals of tax delinquent properties in order to sell those properties at ten to hundred times the tax liability, in order to be unjustly enriched by retaining the sale proceeds over and above the tax liability.

When a Wisconsin county sells land under Section 75.69(1) for a sum greater than the amount of the liens and retains such excess, it is obvious that the Wisconsin county benefits thereby, and it is probable that the Wisconsin county is fully aware of the unconstitutional benefit thus conferred upon it under Section 75.69.1. It can be said that the Wisconsin county's retention of such benefits is unconstitutional and inequitable and thus, one of the elements for a successful action in unjust enrichment is present in the case at bar Ch. 75, Stats is unconstitutionally vague².

Wisconsin has a history of enacting unconstitutionally vague laws³. Ch. 75, Stats appears to make no provision whatsoever for distribution of a surplus upon sale of land as to which a Wisconsin county had obtained a tax deed. Sec. 75.36(8) provides for the proration of the proceeds of sale "between the remaining non-outlawed municipally owned taxes outstanding on

² Vague laws offend the Fourteenth Amendment's Due Process Clause in two ways. *Grayned v. City of Rockford*, 408 U.S. 104 (1972). First, they fail to provide people targeted by the law with a "reasonable opportunity to know what is prohibited, so that [they] may act accordingly." *Id.* at 108. Second, by failing to provide explicit standards, vague laws "impermissibly delegate basic policy matters to policemen, judges and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory enforcement." *Id.* at 108-09. "[T]he most important factor affecting the clarity that the Constitution demands of a law is whether it threatens to inhibit the exercise of constitutionally protected rights." *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982). If it does, "a more stringent vagueness test should apply." *Id.*

³ *Wisconsin v. Jonas Yoder*, 406 U.S. 205

the date the tax deed was taken," but it does not direct payment of any surplus remaining after the payment of the taxes. Ch. 75, Stats allow an unconstitutional taking without just compensation, in violation of Article 1, Section 13, of the Wisconsin Constitution.

The proper remedy would be to strike down Wis. Stat. §75.69, is unconstitutionally vague. There are no constitutional standards under Wis. Stat. §75.69, by which Wisconsin counties are required to appraise tax-delinquent properties per the uniform standards of Professional Appraisal Practice (USPAP).

The Plaintiffs assert that the sale by a Wisconsin county of tax-delinquent real estate is governed by Wis. Stat. §75.69, is unconstitutionally vague, arbitrary and capricious, because it does not require that Wisconsin counties follow and acceptable appraisals nor the standards of the USPAP and makes no provision for it directing payment of any surplus remaining after the payment of the taxes.

The proper remedy would be to strike down Wis. Stat. §75.69, is unconstitutionally vague.

STATEMENT OF THE CASE⁴

Plaintiffs, Michael and Christopher Stoller, first filed a *pro se* Complaint on October 2, 2017, alleging that the Defendants Walworth County and various public officials in that county, engaged in a "devious scheme" to "unlawfully sell tax delinquent real estate" for a profit.

Specifically, the Plaintiffs alleged that Walworth County and the named county officials engaged in a practice whereby they sold tax-delinquent property based on "sham" appraisals, as opposed to "legitimate" appraisals that meet the standards of the Uniform Standards of

⁴ Quoting from the Trial Court's May 23, 2018 Order : (Doc 16)(Appendix 3)

Professional Appraisal Practice, in order to “recover inflated market values, in direct competition with private real estate sellers.” *Id.* at 4. Far exceeding the tax delinquency, for which the properties were seized. The Plaintiffs’ were damaged by the conduct of the Defendants.

The Plaintiffs in their first Complaint (Doc 1) sought to bring several claims: (1) Violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961–1968 (“RICO”); (2) Conspiracy to violate RICO; (3) Unfair Competition; (4) Unjust Enrichment; (5) Committing a Violation Against Elderly and Disabled Persons in violation of Wis. Stat. § 100.264; (6) Making Fraudulent Representations in Violation of Wis. Stat. § 100.18; (7) Breach of Fiduciary Duty; and (8) Conspiracy, Aiding and Abetting.” *Id.* at 19–39. In the first complaint (Doc 1) Oct 17, 2017

The Milwaukee Wisconsin District Court Judge Stadmueller, without every conducting any in person hearing, issued erroneously an Order(s) on March 30, 2018 (Doc 7), incorrectly dismissing this action (**Appendix 2**). The Plaintiffs filed their first appeal (Doc 9).

Judge Stadmueller, without every conducting any in person hearing, issued a second erroneous Order on May 23, 2018 (Doc 16)(**Appendix 3**) which incorrectly certified that Plaintiff’s Appeal (Doc 9) was not taken in good faith denying the Pro Se Plaintiff his request to proceed without paying the filing fee (**Appendix 3**).

Justices Michael S. Kanne, Amy C. Barrett and Michael B. Brennan of the Seventh Circuit Court of Appeals issued an Order on May 30, 2019 (Doc 17)(**Appendix 4**), vacating the judgment⁵ and remanding with instructions to allow Stoller to file an Amended Complaint (Doc 36)(**Appendix 5**).

⁵ This court found Milwaukee Wisconsin District Court Judge Stadmueller was wrong on dismissing the plaintiff’s case the first time (Doc 7). This court’s order filed 6-21-19 (Doc 17), which now, U.S. Supreme Court Justice, Amy

On November 12, 2019, Plaintiffs Christopher Stoller, Michael Stoller filed an Amended Complaint (Doc 36)(Appendix 5) Leo Stoller who has a property interest in the Stoller home, was added as a necessary party plaintiff as a necessary party, filed a corrected Second Amended (Doc 36). Complaint (**Appendix 5**) which was accepted by all parties, as the operative Amended Complaint.

The Plaintiffs Amended Complaint (Doc 36), which also named Leo Stoller, as a new necessary party Plaintiff, in their first Amended Complaint (Doc 36)(Appendix 5) sought to bring several news claims, against six groups of Defendants, in the Plaintiffs' Amended Complaint (Doc 36). Defendant(s) Douglass Lake Assembly, Walworth County Defendants⁶, the Crowley's (Donald J. Crowley and Diana S. Crowley, Lake Como Wisconsin Sanitary District, The State of Wisconsin and the Governor Steven Evers and Lawyers, Assignees, agents, John Doe 1 through 10.

CONSTITUTIONAL ISSUES TO BE DISPOSITIVE

C. Barrett, participated, is instructive as to why Judge Stadmueller was wrong when he first dismissing the plaintiff's case (Doc 7) the first time, and why Milwaukee Wisconsin District Court Judge Stadmueller continues to be wrong, and has clearly again abused his discretion in dismissing the plaintiff's case a second time (Doc 143) (**Appendix 1**), without every conducting any in person hearing and without giving the Plaintiff an opportunity to file its responses to the Defendant's Motions to Dismiss, because the Plaintiff had alleged that the Opposing counsel's had clear conflicts of interest and were unqualified to represent their defendants issued erroneous Order(s) on March 30, 2018 (Doc 7), erroneously dismissing this action (**Appendix 2**) the first time..

⁶ The Walworth County Defendants include Walworth County, Valerie Etzel ("Etzel"), Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel Kilkenny, Susan Pruessing, Kenneth Monroe, and Nancy Russell. Etzel is the Treasurer of Walworth County and she held that position during the time period relevant to this case. The other individuals were members of the Walworth County Board of Supervisors (the "Board of Supervisors") in 2017. At that time, Nancy Russell, Daniel Kilkenny, Kathy Ingersoll, Paul Yvarra, and William Norem were also a part of the Walworth County Finance Committee (the "Finance Committee").

Whether the Stollers are entitled to relief under the Due Process and Takings Clauses of the Constitution based on the unconstitutional Wis. Stat. §75.69, which permits the Walworth County to have proceeded in foreclosing the tax lien and selling the three properties upon which the Stollers' bid⁷.

Whether it is unconstitutional under the Due Process and Takings Clauses of the Constitution to deprive a land owner to the amount by which the fair market value of a tract on the date of the foreclosure decree exceeds the tax liabilities then reflected in the tax title account or to the amount by which the proceeds of the sale after foreclosure exceed the aggregate of such liabilities and a sum in lieu of what the intervening taxes would have been.

Whether the Wisconsin land owners are entitled to relief under the Due Process and Takings Clauses of the Constitution based on the manner in which the Wisconsin counties proceed in foreclosing the tax lien and selling the property under Wis. Stat. §75.69 .

Whether the Wis. Stat. §75.69 is unconstitutional vague because it does not prove for standards by which Wisconsin counties are required to appraise tax-delinquent properties.

Whether the court should strike down Wis. Stat. §75.69 as unconstitutional vague.

Whether the court should strike down Wis. Stat. §75.69 as unconstitutional under the Due Process and Takings Clauses of the Constitution

QUESTIONS PRESENTED FOR REVIEW

Whether is constitutional for all counties in Wisconsin to lawfully seize property from its residents for back taxes, pursuant to Wisconsin State Law (Chapter ¶75.69, Land Sold for

⁷ The doctrine is used to determine causation and assess damages in cases where the claimant has lost the opportunity to pursue a course of action, which they contend would have been pursued and had a "chance" of achieving some (usually monetary) benefit. But for the over appraisals of the three properties that the Plaintiff bid on the Plaintiff would have been able to acquire the three properties that they bid on.

Taxes⁸), mandate that all properties seized by the state, must be sold for (inflated) market values, which are determined by “manipulated or inflated appraisals”, created by the Counties of the State of Wisconsin, without regard to their accuracy pursuant to Wis. Statute 75.69.

Whether it is constitutional for the Wisconsin counties, according to policies and procedures developed and established by their State Legislators, Directors, Supervisors, executives, to systematically and uniformly produce under the color of law, false “appraisals” of properties, in connection with their sale of tax delinquent properties, pursuant to Wisconsin State Statute Chapter ¶75.69, Land Sold for Taxes.

Whether is constitutional for all counties in Wisconsin, to systematically and uniformly produce, under the color of law, phony, manipulated or inflated “appraisals” of properties, which were performed with indifference towards the appraisals’ accuracy, current market value, in connection with the advertising and sale of it tax delinquent properties, at inflated market values were it is lawful, by the Wisconsin Statute Chapter ¶75.69, Land Sold for Taxes.

Whether the Wisconsin District Court Judge Stadmueller abused his discretion by dismissing the complaint and not giving new Plaintiff Leo Stoller the right to amend the complaint for the first time.

Whether the Wisconsin District Court Judge Stadmueller abused his discretion by dismissing Defendants’ State of Wisconsin and the Governor of Wisconsin for failure to properly serve without giving the Plaintiff at least one opportunity to cure the defect in the service.

⁸Plaintiffs argue that the Wisc. Statue Chapter ¶75.69, Land Sold for Taxes is an unauthorized use of the police power and a violation of due process.

Whether Wisconsin District Court Judge Stadmueller abused his discretion by dismissing the Plaintiff's case (Doc 143) without giving the Plaintiff's the opportunity to respond to the Defendants' Motions to Dismiss.

Whether Wisconsin District Court Judge Stadmueller abused his discretion without hearing Plaintiff's Motion(s) to disqualify opposing attorneys.

Whether Wisconsin District Court Judge Stadmueller abused his discretion by summarily denying the following Motions of the Plaintiff without giving the Plaintiff a fair hearing and impartial hearing.

Whether Wisconsin District Court Judge Stadmueller abused his discretion by summarily denying the sufficiency of Defendants' responses.

Whether Wisconsin District Court Judge Stadmueller abused his discretion by dismissing the case with prejudice with giving Leo Stoller, a new Plaintiff the right to amend the complaint.

Whether defense attorneys, practicing before the court, who are engaged, while representing their clients in serious professional misconduct, fraud on the court, criminal contempt, obstruction of justice, should avoid prosecution, if the defense lawyers are successful, in getting the judge to dismiss all the claims against their clients.

**BRIEF SUMMARY OF FACTUAL BACKGROUND AS
ALLEGED BY PLAINTIFFS AS TO THE OTHER COUNTS**

The Plaintiffs' Amended Complaint (Doc 36)(Appendix 5) also alleges the following facts, in 2017, Plaintiffs Christopher, Leo, and Michael Stoller built a home on the property located at W3786 Woodland Dr. Lake Geneva, Wisconsin. Ray Seitz, District Manager for the Lake Como Sanitary District ("LCS"), told Plaintiffs LCS would bring the sewer and water for the Plaintiffs' residence up to the property line. See AC ¶ 127 at 47. Plaintiffs allege that LCS has

refused to bring the sewer and water line up to the property line. See AC ¶ 131 at 47. On August 4, 2017, Plaintiffs received a letter from the Walworth County Treasurer. See AC ¶ 43 at 21. The letter informed Plaintiffs that Walworth County took possession of another property that borders Plaintiffs and “may be of interest” to them. Said property allegedly had delinquent real estate taxes for about \$2,700 but was listed for a price of \$11,400. See AC ¶ 45 at 21. At the invitation of Walworth County Defendants, Plaintiffs made a bid for the property for \$2500. See AC ¶ 46 at 22. Walworth County Defendants rejected Plaintiffs bid because it was below the \$11,400 appraised value. See AC ¶ 47 at 22.

Plaintiffs’ Complaint (Doc 36)(Appendix 5) alleges that Defendants corrupted the appraisal process intending to sell the property in excess of the property taxes owed. See AC ¶ 147 at 22. Plaintiffs allege that the appraised values were false and fraudulent, designed to market Defendants sale of tax delinquent properties hat highly inflated prices. See AC ¶ 51 at 23. Plaintiffs allege that the Walworth County Defendants conspired together to produce the fraudulent appraisals. See AC ¶ 24 at 22.

DECISION APPEALED

On July 2, 2020 (Doc 143)(Appendix 1), the Milwaukee Wisconsin District Court Judge J.P. Stadmueller granted (Appendix 1) the Douglass Lake Assembly Defendants’ 12(b)(b) Motion to Dismiss, granted Defendants Donald J. Crowley and Diana S. Crowley’s 12(b)(b) Motion to Dismiss and granted, Lake Como Wisconsin Sanitary District Defendants’ 12(b)(6) Motion to Dismiss without affording the Plaintiff the opportunity to respond. Plaintiff had three pending Motions to Disqualify the Opposing Attorneys.⁹

⁹ ¶ 6 Page 27 of 29 the court issued an erroneous Order “Because the court dismissed all of the Plaintiffs’ claims against all defendants in this case, the Court will summarily deny the following motions by Plaintiffs as moot:

Milwaukee's District Court Judge Stadmueller dismissed *sua sponte*. The State of Wisconsin and Governor Steven Evers, at Page 16 of 29 (Doc 144)(**Appendix 1**) asserting that he was not served properly. Judge Stadmueller committed error by dismissing the State of Wisconsin and the Governor Steven Evers¹⁰ by not first allowing the *pro se* Plaintiffs a reasonable time to cure its failure to serve under FRCP Rule 4, Summons and Motion to Dismiss Plaintiff's Amended Complaint under Federal Rules of Civil Procedure 12(b) (6), and entered judgment for all Defendant(s)(Doc 44) (**Appendix 1**).

On July 07, 2020, Plaintiffs Leo Stoller and Michael Stoller filed their timely Notice of Appeal (Doc 146) (**Appendix 1**). This Court has jurisdiction under 28 U.S.C. § 1291 because this is an appeal from a final decision of the district court that disposed of all claims in the district court. No motion for a new trial or alteration of the judgment or any other motion that would have tolled the time to appeal was filed. This is not an appeal from a decision of a magistrate judge.

STANDARD OF REVIEW IS DE NOVA

On July 2, 2020 (Doc 143)(**Appendix 1**), the District Court granted Defendants' Motion(s) to Dismiss the Complaint under Federal Rules of Civil Procedure 12(b)(6), and entered a corresponding judgment (Doc 144)(**Appendix 1**).

Docket 88, 90, 92, 94, 95, 96, 104, 111, 113, 130, 131, & 136 which contained serious allegations of misconduct against the Opposing counsel which the Plaintiff was entitled to have rulings on despite the fact that the court erroneously dismissed all of the Plaintiffs' claims against all defendant" which on its face would not to extinguish the guilt incurred by the Opposing counsel(s) from their well-documented claims of ongoing fraud, "conflicts of interest" and professional misconduct.

¹⁰ See Order dated July 02, 2020 (**Appendix 1**) Page 16 of 29.

Rule 12(b)(6) permits a District Court to dismiss a complaint for failure to state a claim on which relief can be granted. To survive a Rule 12(b)(6) Motion, the complaint must (1) describe the claim in sufficient detail to give the defendant fair notice of the claim and grounds on which it rests, and (2) plausibly suggest that the plaintiff has a right to relief, raising that possibility above the speculative level; *Equal Emplm't. Oppor. Comm'n v. Concentra Health Svcs., Inc.*, 496 F.3d 773, 776 (7th Cir. 2007) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

A claim has factual plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

A District Court must accept as true all well-pleaded facts in the Plaintiff's Complaint and draw all reasonable inferences for the Plaintiff; *Tamayo v. Blagojevich*, 526 F.3d 1074, 1081 (7th Cir. 2008). This Court reviews de novo of the District Court granting of a Rule 12(b)(6) Motion(s) to Dismiss. *Id.*

This court reviews the District Court's dismissal of this case under 28 U.S.C. § 1915(e)(2)(B)(ii) under the same standards the court applies to Federal Rule of Case, 18-1770 Document: 00713439672 Filed: 06/21/2019, Pages: 4 (2 of 7) Case 2:17-cv-01349-JPS Filed 06/21/19 Page 2 of 7 Document 17 No. 18-1770 Page 3 Civil Procedure 12(b)(6) dismissals—de novo review. *Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1027 (7th Cir. 2013).

SECOND CORRECTED AMENDED COMPLAINT (DOC 36)

Plaintiffs Christopher, Leo and Michael Stoller in their Amended Complaint (Doc 36(Appendix 5) sought to bring several claims; see Page 2 and 3, reproduced from the Amended

Complaint (Doc 35(Appendix 5) below:

This is an action to declare the Wisconsin Statute Chapter 75, land sold for taxes, Paragraph 75, sales of tax delinquent real estate UNCONSTITUTIONAL for it violates the First Amendment, Fifth Amendment the Equal Protection Clause of the Fourteenth Amendment and Article I, Section 2 of the Constitution of the United States.

1. This action is brought against the Defendants for declaratory and injunctive relief to declare the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate unconstitutional violate the First Amendment, Fifth Amendment the Equal Protection Clause of the Fourteenth Amendment , and Article I, Section 2 of the Constitution of the United States. This action is brought against the Defendants for declaratory and injunctive relief and damages from racketeering, conspiracy to engage in a pattern of racketeering activity and related claims, violation of the U.S. Constitution, conspiracy, aiding and abetting, infliction of emotional distress, fraud, willful and wanton misconduct, negligence, retaliation, deceptive trade practices, abuse of process, negligent hiring and supervision, fraudulent misrepresentation/concealment, torturous interference with Plaintiffs' contractual rights, conversion, and participation in a RICO Act Statute enterprise through a pattern of racketeering activity.

2. Plaintiffs seeks declarations that: 1) the Wisconsin Statute, Chapter 75, land sold for taxes Paragraph 75.69 sales of tax delinquent real estate is arbitrary, capricious, unreasonable, and bore no reasonable relation to the public health, safety, morals, or welfare; 2) the Wisconsin Statute, Chapter 75, land sold for taxes Paragraph 75.69 Sales of tax delinquent real estate¹¹ is

¹¹A copy the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate is attached to the complaint and incorporated herein by reference (Exhibit D)

illegal, unconstitutional, void, vague¹² and in violation of the due process¹³ and equal protection clauses of the Wisconsin and United States Constitutions.

3. Plaintiffs themselves within the class as to whom the Wisconsin Statute, Chapter 75 land sold for taxes Paragraph 75.69 is unconstitutional. The vagueness pervade the Wisconsin Statute, Chapter 75, Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate to make the entire ordinance invalid.

4. Plaintiffs assert that the Wisconsin Statute, Chapter 75, land sold for taxes Paragraph 75.69, sales of tax delinquent real estate ordinance is an unauthorized delegation of legislative authority to the executive branch because: (1) the Wisconsin Statute Chapter 75, land sold for taxes Paragraph 75.69 Sales of tax delinquent real estate gives to Wisconsin County officials the authority to determine on a case-by-case basis what to sell delinquent real estate without any standard; (2) County officials are to conduct unregulated appraisals of tax delinquent real estate and to sell the said properties for market values, established by the county officials after seizing the tax delinquent properties from their owners for as little as \$100. 413, 196 N.E. 485 (/opinion/3416542/vallat-v-radium-dial-co/), which held that if a statute leaves it to a ministerial officer to define the thing to which the statute was to be applied and if the definition

¹² A criminal statute is unconstitutionally vague if it fails to give adequate notice as to what conduct it prohibits or if its terms are so ill-defined that the ultimate decision as to its meaning rests on the opinions and whims of the trier of fact rather than on any objective criteria.

¹³ Due process is denied if people of ordinary intelligence must necessarily guess at an act's meaning and if they differ as to its application.

was not commonly known, the statute is invalid because it creates an unwarranted and void delegation of legislative power¹⁴ at Page 2 and 3 (Doc 5)(**Appendix 5**).

5. Plaintiffs' claims are violations of the racketeering influenced and corrupt organization act as to the Walworth County Defendants. Violation of racketeering influenced and corrupt organizations act. Conspiracy to violate Title 18, United States Code, Section 1962(c) as to Walworth County Defendants. Violation of unfair competition law as to the Walworth County Defendants. Unjust enrichment as to the Walworth County Defendants. Violations against elderly or disabled persons as to Walworth County Defendants. Wis. 100.18(1) It generally provides that no person or entity intending to sell, distribute, increase the consumption of, or in any way² dispose of any real estate, merchandise, securities, employment, or service or intending to induce the public to enter into any contract relating thereto, may make any untrue, deceptive, or misleading advertisements, announcements, statements, or representations in conjunction with such transaction as to Walworth County Defendants. Breach of fiduciary duties as to Walworth County Defendants. Conspiracy¹⁵, aiding and abetting¹⁶ as to Walworth County Defendants. Ninth claim for relief is to declare the Wisconsin Statute, Chapter 75 land sold for taxes Paragraph 75.69 Sales of tax delinquent real estate unconstitutional as to the State of Wisconsin Defendants. Specific performance as only to the Como Defendants and quiet title claim.

¹⁴ Plaintiffs can attack provision as an invalid delegation of authority because they were directly aggrieved by it and because they are within the class as to whom the law was allegedly unconstitutional

¹⁵ In Wisconsin civil conspiracy has been defined as a combination of two or more persons by some concerted action to accomplish some unlawful purpose or to accomplish by unlawful means some purpose not in itself unlawful. *Mendelson v. Blatz Brewing Co.* (1960), 9 Wis. 2d 487, 490, 101 N.W.2d 805 "For two or more persons to conspire to do an act to the injury of another which one person acting alone might lawfully do constitutes in this state a legal wrong." *Judevine v. Benzie-Montanye Fuel & Wholesale Co.* (1936), 222 Wis. 512, 524, 269 N.W. 295.

¹⁶ *Winslow v. Brown* 125 Wis. 2d 327 (1985), 371 N.W.2d 417 In *State v. Asfoor*; 75 Wis. 2d 411, 428-29, 249 N.W.2d 529, 536-37 (1977), Wisconsin supreme court stated that one may aid and abet an intentional act that is not intended to injure but that creates a foreseeable risk of injury. The same reasoning applies in a civil action for damages

6. All Defendants, including the State of Wisconsin and the Governor of Wisconsin¹⁷ were properly served with Summons and Complaints. All Defendants including the State of Wisconsin and the Governor of Wisconsin had actual and constructive notice of the Complaint.

7. The Walworth County Defendants filed their answer (Doc 30) to the Plaintiffs' Amended Complaint on November 11, 2019.

8. The Como Sanitary District defendants filed their Answer (Doc 32) to Plaintiffs' Amended Complaint on November 12, 2019.

9. Plaintiffs filed a Second Corrected Amended Complaint (Doc 36) adding Leo Stoller as a necessary party Plaintiff on November 12, 2019, which was accepted by all parties as the operative Complaint (**Appendix 5**).

10. The Lake Como Wisconsin Sanitary District filed their Answer (Doc 38) on November 18, 2019 to the Plaintiffs' Second Corrected Amended Complaint.

11. Defendant Douglass Gonigam filed an answer to the Plaintiffs' Complaint on December 20, 2019.¹⁸

12. November 24, 2019 the Governor and the State of Wisconsin never filed an Answer to the Complaint and were in default.

13. Defendants' Lake Como County Sanitary District filed a Motion for Judgment on the pleadings and Motion for Summary Judgment on January 30, 2020 (Doc 46)..

14. Plaintiff on February 13, 2020, filed a Motion (Doc 53) for an Extension of Time to Respond to all pleadings.

¹⁷ The State of Wisconsin and the Governor were served with summons and complaint on October 24, 2019, see Document 102, Page 9 of 10.

¹⁸ The Plaintiffs settled with Defendant Gonigam.

15. Defendants Diana Crowley and Donald Crowley filed a 12(b)(6) Motion to Dismiss on February 17, 2020.(Doc 56).

16. District Court Judge Stadmueller granted the Plaintiffs' Motion for an Extension to March 10, 2020 .

17. Walworth County Defendants filed a Motion for Summary Judgment on February 25, 2020,(Doc 62) and an Amend/Correct Motion for Summary Judgment on February 25, 2020 (Doc 66)..

18. Douglass Lake Assembly filed a Motion to Dismiss on March 3, 2020.(Doc 80).

19. On March 17, 2020, Plaintiffs filed a Joint Motion to Disqualify (Doc 89)(**Appendix 6**) Attorneys Amy J. Doyle, Marcella Poto and the law firm of Criverllo Carlson and for an Evidentiary Hearing and Motion for Direct Criminal Contempt, request to deny their Summary Judgment.

20. On March 23, 2020 Plaintiffs filed a Motion to Disqualify(Doc 92) (**Appendix 8**) Attorney's Brett A. Ekes, Richard Scholze and the Law Firm of Wanask Scholze Ludwig Ekes & Gorn SC and to Strike their Motion for Summary Judgment.

21. On March 24, 2020 Plaintiffs' filed a Joint Motion (Doc 93)(**Appendix 7**) to Disqualify Attorney Adam Dassow and the Law Firm of Carney Thorpe, LLC, to dismiss with prejudice their Motion to Dismiss an for an Extension of Time for all trial dates due to the Corona Virus Pandemic.

22. On March 24, 2020 Plaintiffs' filed a Joint Motion (Doc 94)(**Appendix 9**) to Disqualify Attorney's Thomas G. Gardner and the Law firm of Gardonmer Koch Weisherb &

Wrona, Attorney and Richard W. Tornorst and the Law Firm of Richard W. Tornorst to Dismiss with prejudice their Motion to Dismiss (Doc 56)

23. On March 27, 2020, Lake Como Wisconsin Sanitary District Defendants filed a Motion to Amend/Correct Motion for Judgment on the Pleadings and Motion for Summary Judgment (Doc 99).

24. On March 31, 2020 Plaintiffs' filed a Motion for Entry of Default against Anthony Steven Evers Governor of Wisconsin. (Doc 102)(**Appendix 10**).

25. On April 03, 2020 Plaintiffs filed a Motion for Sanctions against Marcellas Spoto. (Doc 104) (**Appendix 11**)

26. On April 7, 2020 (Doc 111)(**Appendix 12**) Plaintiff filed a Notice of Filing Motion and Request for Hearing before a Different Judge on Direct Civil Contempt against Marcella Spoto.

27. On April 8, 2020, Plaintiff filed a Notice of Filing Corrected Motion (Doc 113)(**Appendix 13**) and Request for Hearing before a Different Judge on Obstruction of Justice, Direct Civil Contempt against Marcella Spoto.

28. On May 05, 2020 Plaintiffs filed a Joint Reply (Doc 125)(**Appendix 14**) to Defendants' Walworth Court Brief in Opposition to Plaintiffs' Motion for Sanctions and for Hearing before Different Judge.

29. Plaintiffs' filed on May 05, 2020, a Notice of Joint Plaintiffs' Reply(126) (**Appendix 16**) to Walworth County Opposition Motion to Disqualify Attorney's Amy J. Doyle and the Law Firm of Crivello Carlso, and Motion for Direct Criminal Contempt Instanter.

30. On May 28, 2020 Plaintiffs filed a Motion for Judgment against Walworth Defendants and their Attorneys (Doc 130) (**Appendix 17**) based upon unanswered admissions.

31. Plaintiffs filed a Motion for Judicial Notice(136) (**Appendix 18**).

32. On July 2, 2020 Plaintiffs' filed a Notice of filing Plaintiff's Reply(Doc 145) (**Appendix 19**) to Defendants Walworth County, Valerie Etze, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel Kilkenny, Susan Preuessing, Kenneth Monroe and Nancy Russell's Brief in Opposition to Plaintiffs' Motion for Judgment against Walworth County Defendants and Plaintiffs' Motion for Order to Determine Sufficiency of Defendants Response to Plaintiff's Request for Admissions.

33. Plaintiffs' filed on July 2, 2020, a Joint Reply (149)(**Appendix 20**) to Defendants' Walworth County, Valerie Etze, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel Kilkenny, Susan Preuessing, Kenneth Monroe and Nancy Russell's Brief in Opposition to Plaintiffs' Motion for Judgment against Walworth County Defendants and Plaintiffs' Motion for Order to Determine Sufficiency of Defendants' Responses to Plaintiff's Request for Admissions.

34. On July 2, 2021, Judge Stadmueller entered a final erroneous Order (Doc 143)(**Appendix 1**) dismissing the plaintiffs' complaint with prejudice. See a true and correct reproduction of the Court Docket sheet below.

| | | |
|------------|------------|---|
| 07/02/2020 | <u>143</u> | ORDER signed by Judge J P Stadmueller on 7/2/2020. <u>46</u> Lake Como Wisconsin Sanitary District, Gary Duffy, Ron Sojka, Joe Roberts, and Richard Scholze's Motion for Summary Judgment is GRANTED; <u>99</u> their Amended Motion for Summary Judgment is DENIED as moot. <u>56</u> Donald J. Crowley and Diana S. Crowley's Motion to Dismiss is GRANTED. <u>80</u> Delevan Lake Assembly, Michael Connolly, Steven Schamidt, Henry Rackiewicz, and Bill Winters' Motion to Dismiss is GRANTED. <u>66</u> Watworth County, Valerie Etzel, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel G. Kilkenny, Susan M. Pruessing, Kenneth |
|------------|------------|---|

7/2/2020

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|------------|------------|---|
| | | H. Monroe, and Nancy Russell's Amended Motion for Summary Judgment is GRANTED; <u>62</u> their Motion for Summary Judgment is DENIED as moot. <u>102</u> Plaintiffs' Motion for Default against Defendant Governor Anthony Steven Evers is DENIED; Plaintiffs' claims against Defendants Governor Anthony Steven Evers and the State of Wisconsin are DISMISSED with prejudice. <u>88</u> Plaintiffs' Motion to Disqualify Counsel and for Criminal Contempt is DENIED as moot. <u>90</u> and <u>95</u> Plaintiffs' Motions for Certification and to Stay are DENIED as moot. <u>92</u> , <u>93</u> and <u>94</u> Plaintiffs' Motions to Disqualify Counsel are DENIED as moot. <u>96</u> Plaintiffs' Motion for Extension of Time and to File Electronically is DENIED as moot. <u>104</u> Plaintiffs' Motion for Sanctions is DENIED as moot. <u>111</u> and <u>113</u> Plaintiffs' Motions for Hearing are DENIED as moot. <u>130</u> Plaintiffs' Motion for Judgment is DENIED as moot. <u>131</u> Plaintiffs' Motion for Order to Determine Sufficiency is DENIED as moot. <u>136</u> Plaintiffs' Motion for Judicial Notice is DENIED as moot. <u>137</u> Diana S. Crowley and Donald J. Crowley's Motion to Withdraw Motion For Sanctions is GRANTED; <u>133</u> Motion for Sanctions is DENIED as moot. CASE DISMISSED with prejudice. (cc: all counsel, via mail to Christopher Stoller, Michael Stoller, and Leo Stoller)(jm) |
| 07/02/2020 | <u>144</u> | JUDGMENT signed by Deputy Clerk and approved as to form by Judge J P Stadmueller on 7/2/2020. Case DISMISSED with prejudice. (cc: all counsel, via mail to Christopher Stoller, Michael Stoller, and Leo Stoller)(jm) |

35. On July 07, 2020, Plaintiffs Leo Stoller and Michael Stoller filed a Notice of Appeal (Doc 146)(Appendix 1).

ARGUMENT

Appellants Leo Stoller and Michael Stoller challenge the erroneous judgment (Appendix 1) Judge Stadmueller erroneously granted. Lake Como Wisconsin Sanitary District, Gary Duffy,

Ron Sojka, Joe Roberts, and Richard Scholze's Motion for Summary Judgment; Donald J. Crowley and Diana Crowley's Motion to Dismiss, Delevan Lake Assembly, Michael Connolly, Steven Schmidt, Henry Rackiewicz, and Bill Winters' Motion to Dismiss, (Doc 66) Walworth County, Valerie Etzel, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel G. Kilkenny, Susan M. Pruessing, Kenneth H. Monroe, and Nancy Russell's Amended Motion for Summary Judgment.

The record on appeal indicates the following facts. On October 2, 2017, the Plaintiffs filed a pro se complaint (Doc 1) against multiple Defendants in the Judge Stadmueller who issued an erroneous order dismissing the Plaintiffs' first Complaint (Doc 1) on March 30, 2018 (Doc 7) (**Appendix 2**). Plaintiffs filed their appeal on April 9, 2018.

Judge Stadmueller's order of March 30, 2018(Doc 7) (**Appendix 2**) was clearly wrong and this court reversed it on June 21, 2019 (Doc 17) (**Appendix 4**).

"Falsus in uno, falsus in omnibus" is a Latin term which means false in one thing, false in everything.

Plaintiffs Leo Stoller and Michael Stoller filed their Amended Complaint(Doc 36) (**Appendix 5**) on November 12, 2019, after the remand before Judge Stadmueller.

On July 02, 2020, Judge Stadmueller again was wrong when he dismissed the Plaintiff/Appellants' Amended Complaint (Doc 143)(Appendix 1)

"Falsus in uno, falsus in omnibus" means false in one thing, false in everything. Judge Stadmueller was wrong on March 30, 2018 when he first dismissed the Plaintiff's complaint (Doc 7)(**Appendix 2**) and Judge Stadmueller the record will show was wrong again when he

dismissed the Plaintiffs' amended complaint (Doc 36)(**Appendix 5**) on July 22, 2020 (Doc 144)(**Appendix 1**).

Plaintiff/Appellants have made a clear record before Judge Stadmueller supporting his complaint and requesting disqualification of the opposing counsel and filing Motions for Judgment on the pleadings. Plaintiffs have properly preserved all the key issues for review, copies of pleading, evidence (Doc 92,93,94, 104, 111, 113, 114, 115, 130, 136, 145 and 149, all of which are contained in the pleadings attached in the Appendix which is contained in the attached Appendix.

A review of the record will reveal that Judge Stadmueller is again clearly wrong in dismissing the Appellants' Amended Complaint(Doc 36) (**Appendix 5**) and granting, erroneously granting. Lake Como Wisconsin Sanitary District, Gary Duffy, Ron Sojka, Joe Roberts, and Richard Scholze's Motion for Summary Judgment, Donald J. Crowley and Diana S. Crowley's Motion to Dismiss, Delevan Lake Assembly, Michael Connolly, Steven Schmidt, Henry Rackiewicz, and Bill Winters' Motion to Dismiss, (Doc 66) Walworth County, Valerie Etzel, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel G. Kilkenny, Susan M. Pruessing, Kenneth H. Monroe, and Nancy Russell's Amended Motion for Summary Judgment.

The Court of Appeals will find that Judge Stadmueller discretion has been exercised erroneously, the facts of the Plaintiffs' case do not support the court's decision (Doc 144)(**Appendix 1**) and **the Judge Stadmueller applied the wrong legal standard;** *J.L. Phillips & Associates, Inc. v. E & H Plastic Corp.*, 217 Wis.2d 348, 364-365, 577 N.W.2d 13 (1998).

Pro Se Plaintiffs have plead each element for each and every count against each defendant, in their Amended Complaint(Doc 36) (**Appendix 5**). Plaintiffs' Amended Complaint stated claims for relief. **As a preliminary matter, the pleading standards for *pro se* plaintiffs are considerably relaxed**, *Erickson v. Pardus*, 551 U.S. 89, 94, 127 S.Ct. 2197, 167 L.Ed.2d 1081 (2007) (per curiam), even in the wake of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009). See *Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir.2011) (reminding courts to "**construe pro se complaints liberally and hold them to a less stringent standard than formal pleadings drafted by lawyers**"); see also *Swanson v. Citibank, N.A.*, 614 F.3d 400, 404 (7th Cir.2010) (explaining after *Iqbal* that the plaintiff's need only "give enough details about the subject-matter [722 F.3d 1028] of the case to present a story that holds together"); *Luevano v. Wal-Mart Stores Inc.*, Seventh Circuit 722 F. 3d 1014 (2013).

One of the issue(s) on appeal is whether the Wisconsin District Court Judge Stadmueller erred in dismissing Plaintiffs' Amended Complaint. Judge J.P. Stadmueller committed clear error and reversible error when he dismissed Plaintiffs' cause of action on the pleadings because it is clearly apparent that there are facts that can be proven which will entitle Plaintiff to relief (Doc 36)(**Appendix 5**).

Plaintiffs Leo Stoller and Michael Stoller both live in Cook County, Illinois, but own property in Walworth County, Wisconsin. The thrust of the Plaintiffs' Amended Complaint (Doc 36)(**Appendix 5**) is that Walworth County and the named Walworth county officials have engaged in a practice whereby they sell tax-delinquent property based on "sham" appraisals, as opposed to "legitimate" appraisals that meet the standards of the Uniform Standards of

Professional Appraisal Practice, in order to “recover inflated market values, in direct competition with private real estate sellers.”

**PLAINTIFF CHALLENGES ALL OF THE ERRONEOUS
DECISIONS OF THE COURT BELOW**

Judge Stadmueller has abused its discretion when he acted arbitrarily without the employment of conscientious judgment, his decision (Doc 144)(Appendix 1) exceeded the bounds of reason and ignored principles of law such that substantial prejudice has resulted he denied all of the Plaintiffs' following motions: Motion(s) for Default against Defendant Governor Anthony Steven Evers is DENIED; Plaintiffs' claims against Defendants Governor Anthony Steven Evers and the State of Wisconsin are DISMISSED with prejudice. Plaintiffs' Motion to Disqualify Counsel and for Criminal Contempt is DENIED as moot. Plaintiffs' Motions for Certification and to Stay are DENIED as moot. Plaintiffs' Motions to Disqualify Counsel are DENIED as moot. Plaintiffs' Motion for Extension of Time and to File Electronically is DENIED as moot. Plaintiffs' Motion for Sanctions is DENIED as moot. Plaintiffs' Motions for Hearing are DENIED as moot. Plaintiffs' Motion for Judgment is DENIED as moot. Plaintiffs' Motion for Order to Determine Sufficiency is DENIED as moot. Plaintiffs' Motion for Judicial Notice is DENIED as moot. Diana S. Crowley and Donald J. Crowley's Motion to Withdraw Motion for Sanctions is GRANTED; Motion for Sanctions is DENIED as moot. CASE DISMISSED with prejudice. (cc: all counsel, via mail to Christopher Stoller, Michael Stoller, and Leo Stoller.

Although the Plaintiffs presented prima facie and irrefutable evidence of serious professional misconduct, obstruction of justice, perjury (Doc 92,93,94, 104, 111, 113, 114, 115, 130, 136, 145 and 149, all of which are contained in the pleadings attached in

the Appendix that the opposing counsel engaged in.

Judge Stadmueller turned a blind eye to the opposing counsel wrong doing when he refused to rule on any of the Plaintiffs 'serious sanction motions'¹⁹. See a true and correct reproduction of Page 27 (Appendix 1).

6. MISCELLANEOUS MOTIONS

Because the Court dismisses all of Plaintiffs' claims against all Defendants in this case, the Court will summarily deny the following motions by Plaintiffs as moot: Docket #88, #90, #92, #93, #94, #95, #96, #104, #111, #113, #130, #131, #136.

The question for the reviewing court is not whether it agrees with Judge Stadmueller's decisions, rather, the reviewing court must analyze whether the Judge Stadmueller, in the exercise of his discretion, acted arbitrarily without conscientious judgment or, in view of all the circumstances, exceeded the bounds of reason and ignored recognized principles of law so that substantial injustice resulted. Id 2011 IL App (1st) 092017 No. 1-09-2017.

Plaintiffs' question to the court is whether Defense Attorneys practicing before the court, who are engaged, while representing their clients/Defendants, in serious professional misconduct, fraud on the court, criminal contempt, obstruction of justice, (Doc 92,93,94, 104, 111, 113, 114, 115, 130, 136, 145 and 149,) all of which are contained in the pleadings attached in the Appendix should avoid prosecution, if the Defense Lawyers are successful, succeed in getting the judge to dismiss all the claims against their clients.

¹⁹ Judge Stadmueller's denial of every one of the Plaintiffs' Motions reminded Plaintiff Leo Stoller 74 of the Trial of the Chicago 7 that took place in 1969, in this Federal building,, which Leo Stoller attended, and observed that every Motion , that the Defendants' counsel Leonard Winglass and William Kunstler made to Judge Julius Hoffman was denied and was later reversed upon appeal.

Plaintiff has charged opposing counsel serious professional misconduct, fraud on the court, criminal contempt, obstruction of justice, See Doc 89,92,93,94,104,111,113,125,126, 136,145 & 149 All can be found in the Appendix.

It the Plaintiff/Appellants' position that the Defendants had unclean hands and presented that position to Judge Stadmueller in multiple pleadings (Doc 92,93,94, 104, 111, 113, 114, 115, 130, 136, 145 and 149 which are all found in the Appendix, which Judge Stadmueller chose to ignore.

Judge Stadmueller has abused his discretion. Applied the the wrong standard, acted arbitrarily without the employment of conscientious judgment, His decision in dismissing the Plaintiffs' appeal exceeded the bounds of reason and ignores principles of law such that substantial prejudice has resulted; *Marren Builders, Inc.*, 307 Ill. App. 3d at 941, 719 N.E.2d at 121.

Plaintiffs/Appellants have shown this court that the Trial Court was wrong and that the Plaintiff/Appellants' appeal is in good faith.

It is clear from the extensive record in this case that Judge Stadmueller was wrong in his erroneous decision of July 02, 2018, (Doc 144)(Appendix 1).

The Judge Stadmueller employed the wrong standard, sited to incorrect legal arguments that are clearly wrong, in order to deny the Appellants day in court and to deny the Appellant's due process.

The thrust of the Plaintiff's Complaint is that Walworth County and the named county officials have engaged in a practice whereby they sell tax-delinquent property based on "sham" appraisals, as opposed to "legitimate" appraisals that meet the standards of the Uniform

Standards of Professional Appraisal Practice, in order to recover inflated market values, in direct competition with private real estate sellers.

This became relevant to the Plaintiffs in August 2017, when they received a letter from Defendant Valerie Etzel, the Walworth County Treasurer, informing them that Walworth County took possession of a tax-delinquent parcel of land bordering the Plaintiffs' property.

Also Judge Stadmueller was wrong on the facts and the law and committed clear error by dismissing the Plaintiffs' Amended Complaint without granting leave to Leo Stoller a new Plaintiff his right to amend once.

The Trial Court should have given the new Plaintiff Leo Stoller the right to amend at least once. It was absolute reversible error in this case for the Trial Court to have cut the Appellants' constitutional legs out from under him, by failing to abide by Fed. R. Civ. P 15.

SUMMARY OF ARGUMENT

The State of Wisconsin by allow its county's seize property from its citizens under the guise of delinquent payment of real estate taxes, and then permit each county by state law, to retail the seized properties, for inflated market values, based upon manufactured, inflated real estate appraisals amounts to a state sponsored federal racketeering scheme.

There is no question that the state of Wisconsin is engaged in a RICO scheme to defraud its states citizens that is meticulously plead in the Appellant's Complaint (**Appendix 5**).

However, Wisconsin District Court Judge Stadmueller has "blind folds" on his eyes. The critical element raised in the Appellant's Complaint (Doc 36)(Appendix 5), which Judge Stadmueller clearly bungled in his decision, is that the Plaintiffs/Appellants requested that the court find the Wisconsin Statue, Chapter 75 land sold for taxes Chapter ¶75.69, unconstitutional,

when the court stated, “Under any standard of law this is criminal for a Wisconsin County, Walworth County to be allowed under the color of law to exploit it’s right to collect late taxes on its real estate, to allow the said county, to knowingly and willfully foreclosure on tax delinquent property owners, for back real estate taxes with the intent to retail that seized property for inflated market values, with phony, sham appraisals, in direct competition with private property owners who are selling their real estate. This court should, *sue sponte*, strike down the Wisconsin Statue Chapter 75, land sold for taxes Chapter ¶75.69 that permits this as unconstitutional.”

There is no question that the Wisconsin Statue Chapter 75, land sold for taxes Chapter ¶75.69. It sanctions every county in the State of Wisconsin to engage in a RICO scheme, which is “state” sanctions.

The Plaintiffs/Appellants argue that Judge Stadmueller’s first Order and Judgment dated March 3, 2018, (Doc 7) (**Appendix 2**) dismissing the Plaintiff’s RICO first Complaint) against the State of Wisconsin and the Judge Stadmueller’s second Order (Doc 144) (Appendix 1) represents violations of the Illinois and Federal Constitutions.

These laws prohibit abridging freedom of speech and the ability of citizens to petition the government, including the courts, for the redress of grievances. Ill.Const.1970, art. I, §4, 12; U.S. Const. Amd. I. Ill.Const.1970, art. I, §4, every person shall find a certain remedy in the laws for all injuries and wrongs which he receives. He shall obtain justice by law, freely, completely, and promptly, *Id.* § 12.

The First Amendment, applicable to the States under the Fourteenth Amendment, states that Congress shall make no law abridging freedom of speech and the right of the people

peaceably to petition the Government for a redress of grievances. U.S. Const. Amd. I. These are cognate rights and therefore united in the First Article's assurance; *Arlington Hts. Nat'l Bank v. Arlington Hts. Fed. Sav. & Loan Assn.*, 37 Ill.2d 546, 550, 229 N.E.2d 514 517 (1967), quoting *Thomas v. Collins*, 323 U.S. 516, 530, 65 S. Ct. 315, 323, 89 L. Ed. 430, 440.

There is no question that the State of Wisconsin is engaging in a huge RICO scheme by giving their counties, under the color of law, the right to seize property for back taxes and mandate that the said seized properties, sold for inflated market values. There is no question that the Plaintiffs/Appellants have been damaged by Appellee/Defendant's RICO scheme.

The Appellant/Plaintiff brought a well plead Complaint (**Appendix 2**). At a minimum, the Appellant has made a prima facie showing that the District Court made clear error and reversible error a second time.

CONCLUSION

Judge J.P. Stadmueller final July 2, 2020 Judgment (Doc 143&144)(Appendix 1 is intellectually threadbare.

The court of appeals will find that Judge J.P. Stadmueller's discretion has been exercised erroneously. Judge J.P. Stadmueller failed to apply the correct standard, failed to exercise its discretion, under the circumstances the facts do not support the court's decision.

Judge J.P. Stadmueller applied the wrong legal standard. *J.L. Phillips & Associates, Inc. v. E & H Plastic Corp.*, 217 Wis.2d 348, 364-365, 577 N.W.2d 13 (1998).

The record does NOT reflect that Judge J.P. Stadmueller considered the relevant facts, properly interpreted and applied the law, and reached a reasoned

determination. Ness, 227 Wis.2d at 600.

The Trial court decision (Doc 142 & 144) were based on erroneous interpretation of the facts and incorrect application of the law, as it applies to the facts. Appellants calls upon this court to correct and reverse the trial courts decisions.

. The absolute reason, the bottom line reason, barring all of the other grounds, that the Appellant is entitled to reversal of Judge J.P. Stadmueller July 02, , 2020 Order (Doc 143 & 144) (**Appendix 1**), is that Judge J.P. Stadmueller committed, **clear error** by dismissing Count 9 (Doc 36)(**Appendix 5**) incorrectly stating at page 19 of 29 (Doc 143) of his judgment (Plaintiffs) **have not met the federal pleading standard** in the slightest , the court dismisses Count 9, *sue sponte*, against the Wisconsin State Defendants. See a true and correct reproduction of the Court's Order below:

3.3.3. Conclusion

The Court refuses to scour Plaintiffs' complaint any further. Seeing that they have not met the federal pleading standard in the slightest, the Court dismisses Count 9, *sue sponte*, against the Wisconsin State Defendants.

The court of appeals will find that Judge J.P. Stadmueller discretion has been exercised erroneously. Judge J.P. Stadmueller fails to apply the correct standard, failed to exercise his discretion, the facts do not support the court's decision (Doc 143), Judge J.P. Stadmueller **applied the wrong legal standard**. J.L. Phillips & Associates, Inc. v. E & H Plastic Corp., 217 Wis.2d 348, 364-365, 577 N.W.2d 13 (1998).

The pleading standards for *pro se* plaintiffs are considerably relaxed, *Erickson v. Pardus*, 551 U.S. 89, 94, 127 S.Ct. 2197, 167 L.Ed.2d 1081 (2007) (per curiam), even in the wake of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009). See *Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir.2011) (reminding courts to "construe pro se complaints liberally and hold them to a less stringent standard than formal pleadings drafted by lawyers"); see also *Swanson v. Citibank, N.A.*, 614 F.3d 400, 404 (7th Cir.2010) (explaining after *Iqbal* that the plaintiff's need only "give enough details about the subject-matter [722 F.3d 1028] of the case to present a story that holds together"). *Luevano v. Wal-Mart Stores Inc.*, Seventh Circuit 722 F. 3d 1014 (2013

There are no disputes about the relevant facts, and the issue is thus a purely legal one that is appropriate for disposition by in favor of the Appellant, for this court to reverse ,the trial court's July 02, 2020 (Doc 143 & 144) Order (**Appendix 1**) which are the subject of this appeal.

Judge J.P. Stadmueller ., was clearly wrong, he made erroneous, unjustifiable findings in his first March 30, 2018 Order(s) (Doc 7 & 16))(**Appendix2**) which this court reversed (Doc 17)(**Appendix 4**) sending this case back to Judge J.P. Stadmueller .

Falsus in uno, falsus in omnibus .²⁰

In granting the Defendants Motion to Dismiss Judge J.P. Stadmueller committed clear error and reversible error by dismissing Plaintiffs'

²⁰ a Latin term which means "false in one thing, false in everything." .

complaint with prejudice.. It is also obvious from the record (Doc's 92,93,94, 104, 111, 113, 114, 115, 130, 136, 145 and 149 See Appendix Index)) that Judge J.P. Stadmueller , misunderstood the evidence, that he made findings which no reasonable judge could, under the circumstances, would have made.

Judge J.P. Stadmueller did not properly consider and understand the evidence (Doc 92,93,94, 104, 111, 113, 114, 115, 130, 136, 145 and 149 See Appendix Index), did not reached a "balanced and objective" conclusion, based upon the actual evidence 92,93,94, 104, 111, 113, 114, 115, 130, 136, 145 and 149 See Appendix Index) any legal authority, which is evidence by an examination of his order July 2, 2020 Order (Doc 144 & 145) (Appendix 1) in an attempt to thwart Appellate Court review..

1. . Even a cursory examination of the said decision July 2, 2020 (Doc 144 & 145) (Appendix 1), reveals that they were **not** properly reasoned judgments, which explains to the parties and to any wider readership, why the Judge J.P. Stadmueller , has reached the decision (Coc 145 & 146) (Appendix 1) he has made, they are completely devoid of any well-reasoned findings, which is an affront to the Plaintiff and the Seventh Circuit Court review. Judge J.P. Stadmueller , erroneous decision (Doc 144 & 145) based upon the wrong standard, contain no valid , finding of facts, conclusions of law and citations to any authority, which is **not** sustainable on appeal..

1. Clearly Judge J.P. Stadmueller failed to produce any adequate, susttainable, reason for reaching his erroneous conclusion that Plaintiff's case should be dismissed as against all Defendants, with prejudice, without even giving leave to Leo Stoller a new party plaintiff the right to amend. It is obvious from the Record that Judge J.P. Stadmueller failed to provide the Plaintiffs with a "fair and impartial forum to resolve their differences".

2. The Seventh Circuit Court of Appeals has strongly criticized judges like Judge J.P. Stadmueller .., who failed to use the correct standard and produce "any adequate reasons" for reaching their conclusions(Doc 144 & 145) (Appendix 1). In the whole of Judge J.P. Stadmueller , judgment (Doc 144 & 145) on the facts (Appendix 1) there is not one sentence in which Judge J.P. Stadmueller , makes any valid, supportable, specific findings of fact or gives the reasons for doing so based upon the wrong standard that Judge J. P. Stadmueller applied.

3. Clearly., Judge J.P. Stadmueller abused his discretion when he applied the wrong standard, acted arbitrarily without the employment of conscientious judgment, and his decision (Doc 144 & 145) (**Appendix 1**) thus exceeds the bounds of reason and ignores principles of law on its face, such that substantial prejudice has resulted.

[Citation.]" (Internal quotation marks omitted.) *Dupree*, 2011 IL App (4th) 100351.

4. The concern in this case is whether the court showed substantial justice to both parties and the court clearly did not, and the court's erroneous order (Doc 144 & 145) regarding this case (**Appendix 1**). It is obvious from the record that Judge J.P. Stadmueller was not familiar with the facts of this case, before he entered his erroneous reversible order (Doc 144 & 145) (**Appendix 1**)

5. It is obvious from a simple reading of Judge J.P. Stadmueller order (Doc 1 & 2) (Appendix 1), that he applied the wrong standard, that substantial justice was not done to the Plaintiffs, and in light of Illinois's public policy, it is reasonable to require this matter to be resolved on the merits; *Dupree*, 2011 IL App (4th) 100351, ¶ 59 (citing *Midwest Builder Distributing, Inc., v. Lord & Essex, Inc.*, 383 Ill. App. 3d 5, 665 (2007)) ("Illinois public policy prefers to decide cases on their merits instead of dismissing them purely on procedural grounds."²¹).

6. A common ground for the reversal of Judge J.P. Stadmueller order(Doc 1 & 2) (**Appendix 1** is the fact that Judge J.P. Stadmueller , used the wrong standard, which under the circumstances, resulted in Judge J. P. Stadmueller's faulty reasoning, concerning how he reached his decision.,²² which is illustrative of why the Romans coined the legal doctrine, **Falsus in uno, falsus in omnibus** which means "false in one thing, false in everything .

7. The Plaintiff is seeking reversal on the grounds that Judge J.P. Stadmueller Order (Doc 145 & 144), without providing valid support reasons, applying the wrong standard, have entirely frustrated review. The Seventh Circuit Court of Appeal is clearly unable to discern how Judge J.P. Stadmueller reached his decision (Doc 45 & 145)(**Appendix 1**), by applying the wrong stand, should remand for further proceedings.

The record shows, that Judge J.P. Stadmueller decision (Doc 144 & 145) (**Appendix 1**) based upon the wrong standard is unwarranted under the circumstances.

²¹ 2014 IL App (1st) 131960-U CALVIN PETTIGREW, JR., Appeal from the Circuit Court of Plaintiff-Appellant, Cook County. v. No. 09 M 121971, DAIERN THOMPSON and SHEMIKA SWAN THOMPSON,) Honorable Thomas V. Lyons, II, Defendants-Appellees.

²² 288. See id. ("Because this record does not fully inform us of the precise nature of the litigation . . . [we] vacate the judgment below, and remand.").

8. Historically, the purpose of Federal Rule of Civil Procedure 52(a)²³ which requires that in court cases in Federal Court the judges are directed to make findings of fact and draw conclusions of law based upon the proper standard., Judge J.P. Stadmueller , refused to make findings of fact and draw conclusions of law using the correct standard, in the courts erroneous decisions(Doc 144 & 145)(**Appendix 1**) in order to intentionally thwart the Appellate Court review..

9. The purpose of requiring findings of fact based upon the correct standard, by Judges has been recognized in a significant number of cases, is limited to enabling review by the appellate court by affording it an explicit explanation, or at least a record indicating the ground of the court's decision, which is absent here. This rule which Judge J.P. Stadmueller violated is the *reason-giving requirement* in the judiciary, which Judge J.P. Stadmueller , absolutely failed to provide in his Order based entirely upon the wrong standard (Doc 1 & 2) (**Appendix 1**)

10. The record does NOT reflect that Judge Judge J.P. Stadmueller ,, considered the relevant facts applied to the correct standard, properly interpreted, and applied the law, and reached a reasoned determination. (Doc 144 & 145) (**Appendix 1**)

11. When judges write opinions based upon the correct standard, they cite authority. They lace their representations of what the law is and how it applies to a given situation with references to statutes, regulations, and prior appellate decisions they believe to be pertinent and supporting. Absolutely none of that exists in either of this court's orders (**Appendix 1**) Because Judge J.P. Stadmueller applied the wrong standard.

²³ FED. R. CIV. P. 52(a) ("In an action tried on the facts without a jury . . . the court must find the facts . . . and state its conclusions of law. The findings and conclusions may be stated on the record . . . [or] may appear in an opinion or a memorandum of decision.").

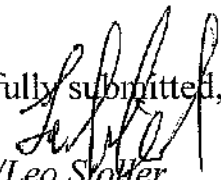
12 Appellant/ Plaintiffs are requesting for the reasons stated that the Appellate court again reverse the Order of Judge J.P. Stadmueller (Doc 144 & 145)(Appendix 1) and remand for further hearings

WHEREFORE, For the reasons stated herein, Plaintiffs request this court to reverse the District Court's Order (Doc 144) (**Appendix 1**), to return the case to the District Court for hearings consistent with the courts reversal findings and allow the Plaintiffs' Amended complaint (Doc 36)(Appendix) to proceed.

To direct Judge Stadmueller to enter rulings on the Plaintiffs' Motions which he previously denied hearing as moot: Docket #88, #90, #92, #93, #94, #95, #96, #104, #111, #113, #130, #131, #136.

In the alternative, stay this proceeding and to certify the question for immediate appeal to the U.S. Supreme Court as to "Whether it is constitutional for a state to seize property from its citizens, for delinquent taxes, and to mandate that the said properties be sold for inflated retail values based on non-confirming, inflated appraisals.

Respectfully submitted,


/s/Leo Stower

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CERTIFICATE OF SERVICE

I certify that the foregoing was served upon the following parties via First Class Mail or email on February 22, 2021.

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Madison, WI 53707

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/s/ Leo Stoller

CIRCUIT RULE 30(d) STATEMENT

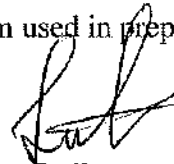
Pursuant to Circuit Rule 30(d), counsel certifies that all material required by Circuit Rule 30(a) and (b) are included in the appendix



/s/ Leo Stoller

**CERTIFICATE OF COMPLIANCE
WITH FED. R. APP. P. 32(a)(7)(c)**

The undersigned certifies that this Brief complies with the volume limitations of Federal Rule of Appellate Procedure 32(a)(7)(c) and Circuit Rule 32 in that it contains 8,949, words and lines of text as shown by Microsoft Word Program used in preparing this Brief.



/s/Leo Stoller

APPENDIX INDEX

Brief and Short Appendix

APPENDIX 1 Notice of Appeal (Doc 146)

APPENDIX 2 Order March 03, 2018 (Doc 7)

APPENDIX 3 Order May 23, 2018 (Doc 16)

APPENDIX 4 7th Circuit Ct of Appeals Decision 6/21/19 Doc 17

**APPENDIX 5 SECOND CORRECTED AMENDED
COMPLAINT (Doc 36) The Operative Complaint**

APPENDIX SEPARATE BOOK INDEX 1

Appendix 6-13

APPENDIX 6 Plaintiffs' Joint Motion to Disqualify Attorneys Amy J. Doyle, Marcella S. Spoto and the Law Firm of Crivello Carlson Sc and for an Evidentiary Hearing and Motion for Direct Criminal Contempt

APPENDIX 7 Plaintiffs' Joint Motion to Disqualify Attorney Adam J Dassow and the Law Firm of Carney thrope LLC to Dismiss with Prejudice their Motion to Dismiss (Doc 80) an for an Extension of Time for all Trial Dates Due to the Corona Virus Pemic

APPENDIX 8 Plaintiffs' Joint Motion to Disqualify Attorney's Brett A. Ekes, Richard Scholze the ILaw Firm of Wanasek Scholze Ludwig Ekes & Gorn SC and to Strike their Motion for Motion for Summary Judgment (Doc 46)

APPENDIX 9 Plaintiffs' Joint Motion to Disqualify Attorney's Thomas G. Gardner and the Law Firm of Gardner Koch Weisberg

& Wrona Attorney and Richard W. Tornost and the Law Firm of Richard W. Tornorst to Dismiss with Prejudice their Motion to Dismiss (Doc 56)

APPENDIX 10 Plaintiffs' Motion for Entry of Default Against Anthony Steven Everes (Doc 102)

APPENDIX 11 Plaintiffs' Motion for Sanctions against Marcellas Spoto

APPENDIX 12 Plaintiffs' Motion for hearing before a different Judge on Direct Civil Contempt against Marcellas Spoto

APPENDIX 13 Plaintiffs' Corrected Motion and Request for Hearing Before a Different Judge on Obstruction of Justice, Direct Civil Contempt against Marcella S. Spoto

APPENDIX BOOK II

Appendix 14-20

APPENDIX 14 Plaintiffs joint Reply to Defendants' Walworth County's Brief in Opposition to Plaintiff's Motion for Sanction and for hearing beore a Different Judge (Doc 120)

APPENDIX 15 See Appendix 14

APPENDIX 16 Plaintiffs' Reply to Walworth County Opposition (Doc 107) Motion to Disqualify Attorney's Amy J. Doyle and ther Lawe Firm of Crivello Carlso SC and Motion for Direct Criminal Contempt, Instanter

APPENDIX 17 Plaintiffs' Motion for Judgment against Walworth Defendants and their Attorneys based upon unanswered Admissions

APPENDIX 18 Plaintiffs' Motion for Judicial Notice

APPENDIX 19 Plaintiffs' Reply to Defendants' Walworth County, Valerie Etzew, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel Kilkenny, Susan Preuessing, Kenneth Monore and Nancy Russell's Brief in Opposition to Plaintiffs' Motion for Judgment against Walworth County Defendants (DKT 130) and Plaintiffs' Motion for Order to Determine Sufficiency of Defendants' Responses to Plaintiff's Request for Admissions (DKT 131)

APPENDIX 20 Plaintiffs' Joint Reply to Defendants' Walworth County, Valerie Etzel, Randy timms, William Norem, tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel Kilkenny, Susan Preuessing, Kenneth Monroe and Nancy Russell's Brief in Opposition to Plaintiffs' Motion for Judgment against Walworth County Defendants (DKT 130) and Plaintiffs' Motion for Order to Determine Sufficiency of Defendants' Responses to Plaintiff's Request for Admissions (DKT 131)

APPENDIX 1

Notice of

Appeal (Doc

146)

UNITED STATES DISTRICT COURT U.S. DISTRICT COURT EASTERN DISTRICT-WI FILED

FOR THE EASTERN DISTRICT OF WISCONSIN JUL -7 A 10: 34

MILWAUKEE DIVISION

CLERK OF COURT

Case No. 2-17-cv-01349

Michael Stoller, A disable person, Christopher Stoller, A disabled person, Leo Stoller

Plaintiffs

v.

Anthony Steven Evers Governor of the State of Wisconsin, in his official capacity as Governor of the State of Wisconsin.

The State of Wisconsin, a sovereign state of the United States (Wisconsin State Defendants) ("WSD")

Walworth County, Valerie Etzel, Walworth County Treasurer, Randy Timms, District 1, Walworth County Supervisor, William Norem, District 2, Walworth County Supervisor, Tim Brellenthin, District 3, Walworth County Supervisor, Paul Yvarra, District 4, Walworth County Supervisor, Charlene Staples, District 5, Walworth County Supervisor, Kathy Ingersoll, District 6, Walworth County Treasurer, David Weber, District 7, Walworth County Supervisor, Daniel G. Kilkenny, District 8, Walworth County Supervisor, Susan M. Pruessing, District 9, Walworth County Supervisor, Kenneth H. Monroe, District 10, Walworth County Supervisor, and Nancy Russell, District 11, Walworth County Supervisor, Defendants John Doe 1-X (Walworth Defendants)

Lake Como Sanitary District, Gary Duffy, Ron Stojka, Joe Roberts, Rich Scholze (Como Defendants)

Douglass Gonigam, Donald J. Crowley, Diama S. Crowley (Como Property owners)

Douglass Lake Assembly, Michael Connolly, Steven Schamidt, Henry Raczkiewicz, Bill Winters (Douglass Defendants)

Defendants

Jury Demand

For all counts other than to declare the Wisc. Statue Un-constitutional

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF INTRODUCTION.

This is an action to declare , Wisconsin Statute

Chapter 75 Land sold for Taxes Paragraph 75.69

Sales of tax delinquent real estate

unconstitutional.

(Three Judges)

(1) Violations of the Racketeer

Influenced and Corrupt Organizations Act (18 U.S.C. § 1962(c));

(2) Violations of the Racketeer

Influenced and Corrupt Organizations Act (18 U.S.C. § 1962(d)); et al

NOTICE OF FILING A NOTICE OF APPEAL

NOTICE OF FILING AN APPEAL

TO: Attached Service List

Please take notice that on July 3, 2020, Plaintiffs Michael Stoller and Leo Stoller, , files their Notice of Appeal of Judge J.P. Stadmueller final judgment (Doc 143 & 144 dated July 2, 2020 with the Clerk of the Court by First Class Mail see attached, copies of which are attached.

/s/Leo Stoller E.D1. Pro Se *Leo*

/s/Michael Stoller Pro Se *Jim*

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CERTIFICATE OF SERVICE

I certify that the foregoing was served upon the following parties via first class mail or email on **07-03-20**:

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Attorney General Wisconsin P.O. Box 7857, Madison Wi 53707
Governor of Wisconsin 15 E Capitol #1 Madison Wi 53707

Leo
/s/L Stoller

I Executive Director of the Americans for the Enforcement of Attorney Ethics (AEAE) since 1974. An attorney watch dog group that advocates the strict enforcement of attorney and judicial ethics since 1974 www.rentamark.net

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

Case No. 2-17-cv-01349

Michael Stoller, A disable person, Christopher Stoller,
A disabled person, Leo Stoller
Plaintiffs

v.

Anthony Steven Evers Governor of the State of Wisconsin, in his
official capacity as Governor of the State of Wisconsin.
The State of Wisconsin, a sovereign state of the United States
(**Wisconsin State Defendants**) ("WSD")

Walworth County, Valerie Etzel, Walworth County Treasurer,
Randy Timms, District 1, Walworth County Supervisor, William
Norem, District 2, Walworth County Supervisor, Tim Brellenthin,
District 3, Walworth County Supervisor, Paul Yvarra, District 4,
Walworth County Supervisor, Charlene Staples, District 5,
Walworth County Supervisor, Kathy Ingersoll, District 6,
Walworth County Treasurer, David Weber, District 7, Walworth
County Supervisor, Daniel G. Kilkenny, District 8, Walworth
County Supervisor, Susan M. Pruessing, District 9, Walworth
County Supervisor, Kenneth H. Monroe, District 10, Walworth
County Supervisor, and Nancy Russell, District 11, Walworth
County Supervisor, Defendants John Doe 1-X (**Walworth
Defendants**)

Lake Como Sanitary District, Gary Duffy, Ron Stojka, Joe
Roberts, **Rich Scholze (Como Defendants)**

Douglass Gonigam, Donald J. Crowley, Diama S. Crowley
(**Como Property owners**)

Douglass Lake Assembly, Michael Connolly, Steven Schamidt,
Henry Raczkiewicz, Bill Winters (**Douglass Defendants**)

Defendants

Jury Demand

**For all counts other
than to declare the
Wisc. Statue Un-
constitutional**

COMPLAINT FOR
DECLARATORY
JUDGMENT AND
INJUNCTIVE RELIEF
INTRODUCTION .

This is an action to
declare , Wisconsin
Statute

**Chapter 75 Land sold
for Taxes Paragraph
75.69**

**Sales of tax delinquent
real estate
unconstitutional.**

(Three Judges)

(1) Violations of the
Racketeer
Influenced and Corrupt
Organizations Act (18 U.S.C.
§ 1962(c));

(2) Violations of the
Racketeer
Influenced and Corrupt
Organizations Act (18 U.S.C.
§ 1962(d)); et al

NOTICE OF APPEAL

NOTICE OF APPEAL

Now comes Plaintiffs, Michael Stoller and Leo Stoller, and file their notice of appeal of Judge J.P. Stadmueller's final Judgment (Doc 143 & 144) see attached orders and all prior orders filed in this case.

/s/Michael Stoller Plaintiff



/s/Leo Stoller Plaintiff



/s/Leo Stoller E.D2. Pro Se

/s/Michael Stoller Pro Se

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2 Executive Director of the Americans for the Enforcement of Attorney Ethics (AEAE) since 1974. An attorney watch dog group that advocates the strict enforcement of attorney and judicial ethics since 1974 www.rentamark.net

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CHRISTOPHER STOLLER, MICHAEL
STOLLER, and LEO STOLLER,

Plaintiffs,

v.

Case No. 17-CV-1349-JPS

WALWORTH COUNTY, VALERIE
ETZEL, RANDY TIMMS, WILLIAM
NOREM, TIM BRELLENTHIN, PAUL
YVARRA, CHARLENE STAPLES,
KATHY INGERSOLL, DAVID WEBER,
DANIEL G. KILKENNY, SUSAN M.
PRUSSING, KENNETH H. MONROE,
NANCY RUSSELL, LAKE COMO
WISCONSIN SANITARY DISTRICT,
GARY DUFFY, RON SOJKA, JOE
ROBERTS, RICH SCHOLZE, DONALD
J. CROWLEY, DIANA S. CROWLEY,
DELEVAN LAKE ASSEMBLY,
MICHAEL CONNOLLY, STEVEN
SCHAMIDT, HENRY RACKIEWICZ,
BILL WINTERS, ANTHONY STEVEN
EVERS, STATE OF WISCONSIN, and
JOHN DOES,

Defendants.

ORDER

1. BACKGROUND

On October 2, 2017, Plaintiffs Christopher Stoller¹ and Michael Stoller filed a complaint against a group of various defendants who are tied

¹On December 23, 2019, the Seventh Circuit Court of Appeals issued an order directing "the clerks of all federal courts in this circuit . . . to return unfiled any papers submitted either directly or indirectly" by Christopher Stoller or on his

to Walworth County, Wisconsin (collectively, the “Walworth County Defendants”). (Docket #1). The Court dismissed Plaintiffs’ action and *only* Christopher Stoller appealed. (Docket #7, #9). The United States Court of Appeals for the Seventh Circuit vacated this Court’s judgment and remanded this case with instructions to permit Christopher Stoller to file an amended complaint. (Docket #17); *Stoller v. Walworth Cty.*, 770 F. App’x 762 (7th Cir. 2019). Christopher Stoller and Michael Stoller filed an amended complaint on August 14, 2019. (Docket #22). This first amended complaint added a plethora of additional defendants. *Id.* at 1. Approximately two weeks later, a “Corrected Amended Complaint” was filed. (Docket #23). Then, on November 12, 2019, Christopher Stoller and Michael Stoller filed what has been docketed as the “Proposed Second Corrected Amended Complaint,”² (Docket #36), which added Leo Stoller as a plaintiff.³

behalf. *Wilmington Trust, Nat’l Ass’n v. Christopher Stoller*, No. 19-2561; *Wilmington Trust, Nat’l Ass’n v. Christopher Stoller*, No. 19-2591; *Christopher Stoller v. Altisource Residential L.P.*, No. 19-2923. Notwithstanding this order, Christopher Stoller filed several motions in this case. Because the various defendants have spent time, money, and effort both responding to and filing motions, the Court addresses the pending motions and ultimately dismisses this case in its entirety.

²Neither the “Corrected Amended Complaint,” (Docket #23), nor the “Proposed Second Corrected Amended Complaint,” (Docket #36), are procedurally proper. *See* Fed. R. Civ. P. 15(a) (“A party may amend its pleading once as a matter of course . . . In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.”). However, because the defendants have responded, in some fashion, to the Proposed Second Corrected Amended Complaint, for purposes of expeditiously resolving the motions before the Court, the Court shall treat the Proposed Second Corrected Amended Complaint as the operative complaint in this case.

³The Court doubts that either Michael Stoller or Leo Stoller are proper plaintiffs in this case because it is unlikely that they have standing to sue any of the defendants. To establish Article III standing, Plaintiffs must allege that the defendants caused them an injury in fact that can be remedied by the Court. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). As discussed in Section 2.1. *infra*,

The general gist of Plaintiffs' complaint is that Wisconsin Statutes section 75.69, "Sale of tax delinquent real estate," is unconstitutional, and as a result of this alleged unconstitutionality, several defendants were able to "generat[e] the fraudulent and phony appraisals" of real property. (Docket #36 at 1-2, 25). Plaintiffs also allege that certain defendants were obligated, and failed, to provide Christopher Stoller with sewer and water services for a different piece of property that he already owned. *Id.* at 47-49. Although Plaintiffs assert that all named defendants are a part of a criminal enterprise, Plaintiffs seek different forms of relief from different defendants. *See id.* at 24-50. Because there are almost as many pending motions as there are defendants in this case, the Court will expound on the relevant facts as it addresses each dispositive motion.

2. THE WALWORTH COUNTY DEFENDANTS

2.1. Relevant Facts⁴

The Walworth County Defendants include Walworth County, Valerie Etzel ("Etzel"), Randy Timms, William Noren, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel Kilkenny, Susan Pruessing, Kenneth Monroe, and Nancy Russell. Etzel is

neither Leo Stoller nor Michael Stoller owned property in Walworth County, nor submitted bids for the properties at issue in this case. However, because the Court can expeditiously dispose of all of Plaintiffs' claims against all Defendants, the Court does not address this potential standing issue.

⁴Although Plaintiffs did not submit their own proposed findings of fact, nor object to the Walworth County Defendants' Proposed Findings of Fact, (Docket #77), Plaintiffs did submit a signed complaint, (Docket #36). Accordingly, the facts below are taken from Defendants' Proposed Findings of Fact, (Docket #77), to the extent they are supported by admissible evidence, and the operative sworn complaint, (Docket #36). *See Ford v. Wilson*, 90 F.3d 246, 246-47 (7th Cir. 1996) (The court can construe a sworn complaint as an affidavit at the summary judgment stage.).

the Treasurer of Walworth County and she held that position during the time period relevant to this case. The other individuals were members of the Walworth County Board of Supervisors (the "Board of Supervisors") in 2017. At that time, Nancy Russell, Daniel Kilkenny, Kathy Ingersoll, Paul Yvarra, and William Norem were also a part of the Walworth County Finance Committee (the "Finance Committee").

As Treasurer, Etzel was responsible for managing activities related to tax appraisals and sales, which she carried out in accordance with the statutory process outlined in Wisconsin Statutes section 75.69(1). If a county acquires tax delinquent real estate, section 75.69(1) requires that the county advertise the sale and appraised value of the applicable real estate in accordance with Wisconsin Statutes chapter 985. Section 75.69 explicitly states that "[a]ny county may accept the bid most advantageous to it but, at the first attempt to sell the property, every bid less than the appraised value of the property shall be rejected." Subsection 75.69(1) defines "appraised value" as "the value determined, at the discretion of the county board, by the county board, a committee designated by the county board, or a certified appraiser, as defined in s. 458.01(7)."

In July 2017, Etzel prepared a report, (Docket #65-1), which showed that Walworth County took ownership of various tax delinquent properties. Walworth County has procedures both for establishing the value of foreclosed property and for the bidding process. The property appraisals typically are based upon the property's assessed value, taxes, and fees owed. After obtaining foreclosed properties, Walworth County notifies adjacent landowners in the event those landowners have any interest in bidding on the adjacent, foreclosed property.

Etzel presented her report to the Walworth County Finance Committee in July 2017 and the Committee approved her recommendations. Her report encompassed the three parcels at issue in this case: Tax Key Nos. JLCB 00986 (appraised value of \$11,400); JLCB 02054 (appraised value of \$11,400); and FDLA 00208 (appraised value of \$10,650). (Docket #65-1 at 1). According to Etzel's report, these parcels were all appraised at less than fifty percent of the assessed fair market value. *Id.*

In accordance with the County's bidding process, Etzel notified Christopher Stoller, via letter, that Walworth County had taken title to parcel Tax Key No. JLCB 00986 and that the land's appraised value was \$11,400. (Docket #65-4). Parcel Tax Key No. JLCB 00986 is adjacent to Christopher Stoller's property; according to tax records, neither Leo Stoller nor Michael Stoller owned any property in Walworth County in 2017. Plaintiffs state that this lot "has value only to the Plaintiff because the lot borders the Plaintiff's property" and "has a possible value of \$2,500.00, only to the adjacent property holder, the Plaintiffs." (Docket #36 at 21). They argue, without providing any evidence, that the appraised value of \$11,400 is incorrect and illegitimate. *Id.* However, Plaintiffs do not provide any support for their valuation other than a statement that "the delinquent real estate taxes on the lot . . . were about \$2,700.00." *Id.* at 22.

The County's established bidding instructions made clear that "[e]arnest money of 20% of the bid [amount] is required upon bid submission," and that "[p]ursuant to Wisconsin State Statute 75.69, at the first attempt to sell the property, the county must reject every bid that is less than the appraised value of the property." (Docket #36-1 at 34, #65-2). On August 24, 2017, Christopher Stoller submitted bids of \$2,500 for each of the

three aforementioned parcels. (Docket #65-5). However, he failed to include the required earnest money for any of the three bids.

At their September 14, 2017 meeting, (Docket #65-6 at 2), the Walworth County Finance Committee rejected each of Christopher Stoller's bids against the backdrop of the "2017 County Owned Property" report, (Docket#65-7). Christopher Stoller received three letters, dated September 14, 2017, informing him that his bids were not accepted because they were less than the appraised value and failed to include the required earnest money deposit. (Docket #65-8). Aside from the written communications from the Treasurer's office to Christopher Stoller, neither Etzei, nor the Board of Supervisors, nor the Finance Committee knew of or had any discussions with Plaintiffs. Further, none of the Walworth County Defendants knew any of Plaintiffs' ages or medical conditions.

Plaintiffs assert eight claims for relief as to the Walworth County Defendants. On November 20, 2019, the Walworth County Defendants answered the Proposed Second Corrected Amended Complaint. (Docket #39). On February 25, 2020, the Walworth County Defendants filed a motion for judgment on the pleadings and for summary judgment. (Docket #62, #66, #78). Plaintiffs had until March 17, 2020 to respond to this motion; however, they did not do so. Instead, Plaintiffs have filed several motions in an effort to disqualify the Walworth County Defendants' counsel. *See, e.g.*, (Docket #88, #113, #130).

2.2. Legal Standard

The Walworth County Defendants seek both judgment on the pleadings or, in the alternative, summary judgment. Because the Court is obliged to consider materials outside of the pleadings, the Court will analyze these motions under the rubric of summary judgment, as it must

pursuant to Rule 12(d).⁵ *Brownmark Films, LLC v. Comedy Partners*, 800 F. Supp. 2d 991, 998 (E.D. Wis. 2011). (“Ordinarily, courts may not rely upon materials outside of the pleadings when considering a motion to dismiss . . . without converting the motion to one for summary judgment.”) (citing Fed. R. Civ. P. 12(d)).

Pursuant to Rule 56, the Court “shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); *Boss v. Castro*, 816 F.3d 910, 916 (7th Cir. 2016). A fact is “material” if it “might affect the outcome of the suit” under the applicable substantive law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute of fact is “genuine” if “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Id.* The Court construes all facts and reasonable inferences in the light most favorable to the non-movant. *Bridge v. New Holland Logansport, Inc.*, 815 F.3d 356, 360 (7th Cir. 2016).

2.3. Analysis

2.3.1. First Claim for Relief

Plaintiffs allege that the Walworth County Defendants violated the Racketeer Influenced and Corrupt Organizations Act (“RICO”), specifically 18 U.S.C. § 1962(c). Per § 1962(c):

[i]t shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such

⁵“If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56.” Fed. R. Civ. P. 12(d).

enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

To establish a cause of action under RICO, a plaintiff must plead "(1) an injury in its business or property (2) by reason of (3) the defendants' violation of section 1962." *DeGuelle v. Camilli*, 664 F.3d 192, 198 (7th Cir. 2011). To prove a violation of § 1962(c) the plaintiff must prove "(1) conduct (2) of an enterprise (3) through a pattern of racketeering activity." *United States v. Shamah*, 624 F.3d 449, 454 (7th Cir. 2010).

According to Plaintiffs' complaint, the Walworth County Defendants engaged in wire and mail fraud, which are two types of "racketeering activities" as defined by 18 U.S.C. § 1961(1). Plaintiffs "must show a triable issue of fact on the elements" of mail or wire fraud, which means that they must show: (1) the defendants' participation in a scheme to defraud; (2) the defendants' intent to defraud; and (3) the defendants' use of the mail or interstate wire in furtherance of the scheme to defraud. *Corley v. Rosewood Care Ctr., Inc. of Peoria*, 388 F.3d 990, 1005 (7th Cir. 2004); see also *United States v. Britton*, 289 F.3d 976, 981 (7th Cir. 2002) (elements of mail fraud); *United States v. Turner*, 551 F.3d 657, 664 (7th Cir. 2008) (elements of wire fraud). The words "to defraud" mean "wronging one in his property rights by dishonest methods or schemes" and "usually signify the deprivation of something of value by trick, deceit, chicane or overreaching." *Corley*, 388 F.3d at 1005 (quotation omitted).

There are no genuine disputes of material fact with regard to whether the Walworth County Defendants engaged in a pattern—let alone a single act—of racketeering activity. The evidence before the Court amply demonstrates that Etzel's acts as Treasurer, as well as the Finance Committee's actions, were not taken as part of any scheme or attempt to

defraud, but rather were in full accord with Wisconsin Statutes section 75.69.

The Court notes that *even if* there was a genuine issue of material fact as to whether the defendants engaged in a pattern of racketeering activity, Plaintiffs cannot establish a cause of action under RICO. To do so, Plaintiffs must plead injury in business or property by reason of the Walworth County Defendants' actions. *DeGuille*, 664 F.3d at 198. Christopher Stoller's alleged injury is that he did not acquire the three aforementioned parcels. Assuming, without determining, that this constitutes an injury, this injury was not caused by the Walworth County Defendants. Christopher Stoller bid approximately one-third of the appraised value on each of the properties he was interested in and also failed to submit the earnest money deposit. If his injury is that he did not take title to this property, he only has himself to blame. Plaintiffs' 18 U.S.C. § 1962(c) claim will be dismissed.

2.3.2. Second Claim for Relief

Although unclear, it appears that Plaintiffs also allege that the Walworth County Defendants violated 18 U.S.C. § 1962(d). Per § 1962, it is "unlawful for any person to conspire to violate any of the provisions of [§ 1962(c)]." To state a viable § 1962(d) claim, Plaintiffs "must allege (1) that each defendant agreed to maintain an interest in or control of an enterprise or to participate in the affairs of an enterprise through a pattern of racketeering activity and (2) that each defendant further agreed that someone would commit at least two predicate acts to accomplish those goals." *Goren v. New Vision Int'l, Inc.*, 156 F.3d 721, 732 (7th Cir. 1998) (footnote omitted).

In one part of Plaintiffs' complaint, Plaintiffs list all of the named defendants as "Members of the Enterprise," while in another, Plaintiffs

state that the "RICO enterprise" includes only Walworth County and the Walworth County Defendants. (Docket #36 at 10-12, 24). Regardless, there are no genuine issues of material fact. Assuming that any configuration of defendants made up an enterprise, there is no evidence in the record of any agreements to participate in a pattern of racketeering activity. There is also no evidence that each defendant agreed that someone would engage in fraudulent, predicate acts. Etzel independently prepared a report of appraised, tax delinquent properties. Her dealings with the Finance Committee involved attending two meetings, one in July and another in September of 2017. Her actions at those meetings comported with the requirements of Wisconsin Statutes section 75.69. Plaintiffs have not proffered any evidence to the contrary. Further, Christopher Stoller's failure to bid the appropriate amount and his failure to submit the earnest money deposits are the reasons for his alleged injury. Therefore, Plaintiffs' § 1962(d) claim will be dismissed.

2.3.3. Third Claim for Relief⁶

Plaintiffs claim that the Walworth County Defendants violated the state unfair competition law. The Court assumes that this is in reference to Wisconsin Statutes section 100.20(1), which states that "[u]nfair methods of competition in business and unfair trade practices in business are hereby prohibited." Notably, "no private cause of action exists under § 100.20, except for violation of an order issued by the Department [of Agriculture,

⁶Plaintiffs' third through eighth claims for relief allege Wisconsin state law claims against the Walworth County Defendants. The Walworth County Defendants argue that these claims are precluded due to state law immunity and Plaintiffs' failure to comply with the notice requirements provided in Wisconsin Statutes section 893.80(1d). Because Plaintiffs' state law claims fail as a matter of law, the Court does not address questions of immunity or notice.

Trade and Consumer Protection] under [section 100.20].” *Emergency One, Inc. v. Waterous Co., Inc.*, 23 F. Supp. 2d 959, 971 (E.D. Wis. 1998) (citing section 100.20(5)). There is no evidence in the record of an order from the Department of Agriculture, Trade and Consumer Protection to the Walworth County Defendants, nor is there evidence of the Walworth County Defendants violating the same. Therefore, Plaintiffs’ third claim for relief is wholly without merit and will be dismissed.

2.3.4. Fourth Claim for Relief

Plaintiffs claim that the Walworth County Defendants have been unjustly enriched. To prevail, Plaintiffs must prove three elements: “(1) a benefit conferred upon the defendant by the plaintiff, (2) appreciation by the defendant of the fact of such benefit, (3) acceptance and retention by the defendant of the benefit, under circumstances such that it would be inequitable to retain the benefit without payment of the value thereof.” *Seegers v. Sprague*, 236 N.W.2d 227, 230 (Wis. 1975) (citation omitted). Because there is no evidence that Plaintiffs conferred a benefit—monetary or otherwise—on the Walworth County Defendants, Plaintiffs’ unjust enrichment claim fails as a matter of law. Plaintiffs’ fourth claim for relief will be dismissed.

2.3.5. Fifth Claim for Relief

Plaintiffs claim that the Walworth County Defendants committed violations against elderly or disabled persons under Wisconsin Statutes section 100.264. Pursuant to section 100.264(2), “[i]f a fine or forfeiture is imposed on a person” for violating any of the state statutes enumerated therein, “the person shall be subject to a supplemental forfeiture . . . for that violation if the conduct by the defendant, for which the violation was imposed, was perpetrated against an elderly person or disabled

person . . .” If, for example, the Walworth County Defendants had violated Wisconsin Statutes section 100.20, or the Wisconsin Deceptive Trade Practices Act, Wisconsin Statutes section 100.18, *see infra* Section 2.3.6., the Walworth County Defendants could have been subjected to an additional fine. However, the Court cannot impose an initial fine on the Walworth County Defendants because there is no evidence that they violated either section 100.18 or section 100.20. Therefore, the Court need not further address the question of whether it must impose a “supplemental” forfeiture or fine under section 100.264. Plaintiffs’ fifth claim for relief will be dismissed.

2.3.6. Sixth Claim for Relief

Plaintiffs allege that the Walworth County Defendants have violated the state “deceptive trade practices act,” Wis. Stat. section 100.18. (Docket #36 at 32-33). To state a claim under the Wisconsin Deceptive Trade Practices Act (“WDTPA”), Plaintiffs must show that (1) the defendant made a representation to the public with the intent to induce an obligation; (2) the representation was untrue, deceptive, or misleading; and (3) the representation materially induced (caused) a pecuniary loss to the plaintiff. *Blitz v. Monsanto Co.*, 317 F. Supp. 3d 1042, 1052 (W.D. Wis. 2018).

Etzel’s representations as to the values of the property did not induce an obligation. Further, the listed appraisal values in the record were neither

⁷For there to be a violation under Wisconsin Statutes section 100.264, the Court must also find that the Walworth County Defendants “knew or should have known” that their “conduct was perpetrated against [] elderly or disabled person[s],” and that such conduct caused the Plaintiffs to suffer any of the statutorily enumerated harms. *See* Wis. Stat. section 100.264(2)(a), (2)(b). Because the Walworth County Defendants did not violate any of the statutes listed in section 100.262(2), the Court need not engage in further analysis with regard to subsections 100.264(2)(a) and 100.264(2)(b).

untrue, nor deceptive, nor misleading. In fact, the listed appraisal values were less than the assessed fair market values. Plaintiffs provide no support for their determination as to the value of the parcels at issue. Even if Etzel's representation was untrue, deceptive, or misleading, Plaintiffs did not suffer a pecuniary loss as the result of this representation. Christopher Stoller never paid any money to Walworth County in connection with his bidding on the three parcels. As such, Plaintiffs do not make out a prima facie WDTPA claim against the Walworth County Defendants. Plaintiffs' WDTPA claim will be dismissed.

2.3.7. Seventh Claim for Relief

Plaintiffs assert that the Walworth County Defendants owed them a fiduciary duty and breached that duty. To state a claim for fiduciary duty, Plaintiffs must establish that "(1) the defendant owed the plaintiff a fiduciary duty; (2) the defendant breached that duty; and (3) the breach caused the plaintiff's damage." *Berner Cheese Corp. v. Krug*, 752 N.W.2d 800, 809 (Wis. 2008). Under Wisconsin law, a fiduciary duty arises when "the relationship is created by contract or a formal legal relationship such as principal and agent, attorney and client, trust and trustee, guardian and ward" or when the relationship is "implied in law due to the factual situation surrounding the transactions and relationships of the parties to each other and to the transactions in question." *Jackson v. McKay-Davis Funeral Home, Inc.*, 830 F. Supp. 2d 635, 648 (E.D. Wis. 2011).

There is no evidence on the record to support the creation of a fiduciary duty between any of the Walworth County Defendants, neither collectively nor individually, and any of the Plaintiffs. Even if there was evidence of a fiduciary duty, Plaintiffs have not been damaged. Plaintiffs' breach of fiduciary claim will be dismissed.

2.3.8. Eighth Claim for Relief

Lastly, Plaintiffs claim that the Walworth County Defendants and an unknown cohort of Walworth County employees and agents, "John Does 1-10," aided and abetted and conspired together to defraud Plaintiffs. Under Wisconsin law, to establish civil conspiracy, Plaintiffs must allege "(1) [t]he formation and operation of the conspiracy; (2) the wrongful acts or acts done pursuant thereto; and (3) the damage resulting from such act or acts." *City of Milwaukee v. NL Indus. Inc.*, 691 N.W.2d 888, 896 (Wis. Ct. App. 2005). As mentioned above, Plaintiffs have not been damaged. Further, they have not put forth any evidence of the formation of a conspiracy between Etzel, the Finance Committee, and/or any members of the Board of Supervisors. Even if there was evidence of a conspiracy—which there is not—there is no evidence of any wrongful acts. Again, Etzel and the Finance Committee took actions pursuant to Wisconsin Statutes section 75.69. Complying with state law is not a wrongful act. Therefore, Plaintiffs' state law civil conspiracy theory of liability fails.

Plaintiffs' aiding and abetting claim is subject to a similar fate. To be liable in tort for aiding and abetting, a person must "(1) undertake[] conduct that as a matter of objective fact aids another in the commission of a crime; and (2) [that] person consciously desires or intends that his conduct will yield such assistance." *Winslow v. Brown*, 371 N.W.2d 417, 422 (Wis. Ct. App. 1985). There is no evidence before the Court that any of the Walworth County Defendants, nor the unidentified John Does, committed any unlawful acts. Therefore, any alleged assistance from one Walworth County Defendant to another to carry out lawful actions pursuant to section 75.69 would have been perfectly acceptable. The Court dismisses this claim for relief.

2.4. Conclusion

Based on the foregoing, the Court grants the Walworth County Defendants' amended motion for summary judgment, (Docket #66), and denies their initial motion for summary judgment, (Docket #62), as moot. All claims against the Walworth County Defendants will be dismissed.⁸

3. THE WISCONSIN STATE DEFENDANTS

3.1. Relevant Facts

Plaintiffs named both Governor Anthony Steven Evers ("Governor Evers") in his official capacity and the State of Wisconsin as defendants (collectively, the "Wisconsin State Defendants"). (Docket #36 at 1). Plaintiffs' grievance against Governor Evers and the State of Wisconsin is that Wisconsin Statutes section 75.69, "Sale of tax delinquent real estate," is unconstitutional. *Id.* at 45-46.

3.2. Motion for Default

On March 31, 2020, Plaintiffs filed a motion for entry of default against Governor Evers. (Docket #102). Pursuant to Fed. R. Civ. P. 55(a), "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." The Court acknowledges that neither Governor Evers nor anyone on behalf of the State of Wisconsin has appeared in this case; however, that is because Plaintiffs did not properly serve these defendants.

Federal and Wisconsin law address how one must serve the state and state officials. A state "must be served" by either "delivering a copy of the

⁸Because, to date, the Plaintiffs have not identified the John Doe defendants and for the reasons discussed in Section 2.3.8., the Court also dismisses this claim as to the John Doe defendants.

summons and of the complaint to its chief executive officer[] or serving a copy of each in the manner prescribed by that state's law for serving a summons or like process on such a defendant." Fed. R. Civ. P. 4(j)(2). Under Wisconsin Statutes section 801.11(3), service can be made "[u]pon the state, by delivering a copy of the summons and of the complaint to the attorney general or leaving them at the attorney general's office in the capitol with an assistant or clerk." See also *State Dep't of Transp. v. Peterson*, 581 N.W.2d 539, 540 (Wis. Ct. App. 1998) ("[Section 801.11] provides that service on the State is accomplished by service upon the attorney general.").

Plaintiffs assert that they served a copy of the complaint and summons on Governor Evers on October 24, 2019. (Docket #102 at 9). As "proof" of such service, Plaintiffs attach a copy of a "Green Card Return Card" Postal Service Form 3811, which indicates that the complaint and summons were sent by certified mail. *Id.* Plaintiffs also state that they sent another copy to the Wisconsin Attorney General's office. *Id.* It is clear that such service is improper as to Governor Evers and the State of Wisconsin. *Shah v. Wis. Dep't of Transp.*, Civil No. 09-6441 (AET), 2010 WL 2640210 at *1 (D.N.J. June 28, 2010) ("[S]ervice by e-mail, fax, or mail is not provided for in either Rule 4(j)(2) or the applicable state statute."); *Robinson v. Johnson*, No. 07C0606, 2007 WL 3025768, at *1 (E.D. Wis. Oct. 15, 2007). Because service was improper, Governor Evers had "no obligation to respond to the complaint." *Rowe v. Davis*, 373 F. Supp. 2d 822, 824 (N.D. Ind. 2005). The Court denies Plaintiffs' motion for entry of default (Docket #102).

3.3. Dismissal of Claims Against the Wisconsin State Defendants

At this juncture the Court also finds it prudent to dismiss, *sua sponte*, Plaintiffs' claims against the Wisconsin State Defendants.

3.3.1. Legal Standard

The Seventh Circuit has held that “[s]ua sponte 12(b)(6) dismissals are permitted, provided that a sufficient basis for the court’s action is evident from the plaintiff’s pleading.” *Shield Tech. Corp. v. Paradigm Positioning, LLC*, 908 F. Supp. 2d 914, 917 (N.D. Ill. 2012) (quoting *Ledford v. Sullivan*, 105 F.3d 354, 356 (7th Cir. 1997)). “The purpose of a Rule 12(b)(6) motion to dismiss is to test the sufficiency of the complaint, not to resolve the case on the merits. *Shield Tech. Corp.*, 908 F. Supp. 2d. at 917 (citing 5B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1356, at 354 (3d ed. 2004)).

To state a cognizable claim under the federal notice pleading system the plaintiff is required to provide a “short and plain statement of the claim showing that [he] is entitled to relief[.]” Fed. R. Civ. P. 8(a)(2). It is not necessary for the plaintiff to plead specific facts, and his statement need only “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). However, a complaint that offers “labels and conclusions” or a “formulaic recitation of the elements of a cause of action will not do.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 555). To state a claim, a complaint must contain sufficient factual matter that, accepted as true, “is plausible on its face.” *Id.* (quoting *Twombly*, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556). The complaint allegations “must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555 (citation omitted). In considering whether a

complaint states a claim, courts should follow the principles set forth in *Twombly* by, first, "identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth." *Iqbal*, 556 U.S. at 679. Legal conclusions must be supported by factual allegations. *Id.* If there are well-pleaded factual allegations, the court should, second, "assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Id.*

3.3.2. Analysis

Plaintiffs baldly assert that Wisconsin Statute section 75.69 is unconstitutional "on the grounds that it is vague, promotes illegal conduct, violates the first, fifth and fourteen [sic] amendments of the U.S. Constitution." (Docket #36 at 46). Plaintiffs attempt to expound on *some* of these allegations, but to no avail. For example, with regard to the statute's alleged vagueness, Plaintiffs state that "[t]he vagueness pervades the statute . . . to make the entire statute invalid. Especially as it relates to the obligations of the Counties [sic] to obtain valid appraisals." *Id.* Similarly, Plaintiffs allege:

that the statute violated their equal protection rights on the basis that, because there was no rational relationship between the Statute [sic] and any legitimate government objective, the only discernible purpose was to give the Counties an incentive to foreclose on its citizens [sic] tax delinquent property in order to re sell [sic] that property not for the back taxes, but for inflated market values based upon phony appraisals.

Id. Lastly, Plaintiffs "argue that the statute promotes an unauthorized use of the police power to seize citizen's property in violation of due process."

Id.

These assertions will not do, as they are both unclear and void of factual allegations. For example, Plaintiffs assert that the statute in question violates the First Amendment. But Plaintiffs' complaint does not specify the First Amendment right at issue, nor provide any facts to support this assertion.

Plaintiffs' Fifth Amendment claim is also hopelessly vague. Assuming that Plaintiffs explained that this statute was unconstitutional pursuant to the Takings Clause of the Fifth Amendment—which they did not—Plaintiffs must have pled that “(1) they have a property interest protected by the Fifth Amendment, (2) the [statute] effected a taking of that interest, (3) the taking was for public use, and (4) the state did not provide just compensation.” *Joe Sanfelippo Cabs Inc. v. City of Milwaukee*, 148 F. Supp. 3d 808, 811 (E.D. Wis. 2015) (footnote omitted) (citing *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1000-01 (1984)). Plaintiffs' Fourteenth Amendment claims are just as sparse and, therefore, fare no better.

3.3.3. Conclusion

The Court refuses to scour Plaintiffs' complaint any further. Seeing that they have not met the federal pleading standard in the slightest, the Court dismisses Count 9, *sua sponte*, against the Wisconsin State Defendants.

4. THE COMO PROPERTY OWNERS

4.1. Relevant Facts

Defendants Donald J. Crowley and Diana S. Crowley are the current owners of parcel Tax Key No. JLCB 00986. (Docket #36 at 11). The Delevan

Lake Assembly⁹ is the current owner of parcel Tax Key No. FDLA 00208. *Id.* Plaintiffs allege that these defendants, along with several current and former members of the Delevan Lake Assembly's Board of Directors,¹⁰ are "Members of the [RICO] Enterprise." *Id.* Although allegedly a part of this enterprise, the complaint does not mention these defendants (hereinafter, the "Como Property Owners") again until Count Eleven, "Claim for Relief Quiet Title." *Id.* at 49-50. The Como Property Owners have filed separate 12(b)(6) motions to dismiss for failure to state a claim. (Docket #56, #80).

4.2. Legal Standard

The Court has already discussed the pleading standard required to survive a Rule 12(b)(6) motion. *See* Section 3.3.1. *supra*. Although unclear, because Plaintiffs *may* be bringing a RICO complaint against the Como Property Owners, the Court notes that, in a civil RICO complaint "[a]llegations of fraud . . . are subject to the heightened pleading standard of Federal Rule of Civil Procedure 9(b), which requires a plaintiff to plead 'all averments of fraud . . . with particularity.'" *Goren v. New Vision Int'l, Inc.*, 156 F.3d 721, 726 (7th Cir. 1998) (quoting Fed. R. Civ. P. 9(b)). In other words, the complaint must describe the "who, what, when, where, and how" of the alleged fraud. *Wigod v. Wells Fargo Bank, N.A.*, 673 F.3d 547, 569 (7th Cir. 2012).

⁹Plaintiffs incorrectly refer to the Delevan Lake Assembly, and its current and past Board members, as the "Douglass Lake Assembly." (Docket #36 at 1, Docket #80 at 1). The Court directs that the docket be corrected accordingly.

¹⁰Those members include Michael Connolly, Steven Schamid, Henry Rackiewicz, and Bill Winters.

4.3. Analysis

The only factual statement regarding the Como Property Owners in the complaint is that the Como Property Owners currently own the parcels that Christopher Stoller bid on. (Docket #36 at 49). That is all. Plaintiffs' allegations against the Como Property Owners do not meet the pleading standard under Federal Rules of Civil Procedure 8(a), much less the heightened pleading standard of Rule 9(b).

Donald Crowley and Diana Crowley point out that they are named as the "Como Property Owners" on the first page of the complaint but are later referred to as the "Como Defendants." (Docket #36 at 11). Because the allegations in Count 10 are against the "Como Defendants," for good measure, the Crowley's 12(b)(6) motion also addresses Count 10. In Count 10, Plaintiffs allege that the Como Defendants agreed to, but did not, bring water and sewer services to Christopher Stoller's property. *Id.* at 47-48. Plaintiffs seek "Specific Performance" from the Como Defendants. *Id.* at 47. Plaintiffs do not include any mention of either the Crowleys or the Lake Delevan Assembly in Count 10 of their complaint. If Plaintiffs meant to bring Count 10 against the Como Property Owners, they did not do so in a way that comports with the federal pleading requirements.

4.4. Conclusion

Because Plaintiffs have failed to sufficiently plead any cause of action against the Como Property Owners, the Court grants the Como Property Owners' respective 12(b)(6) motions to dismiss, (Docket #56, #80).

5. THE SANITARY DISTRICT DEFENDANTS

5.1. Relevant Facts¹¹

Plaintiffs bring Count 10 of their complaint against the Lake Como Wisconsin Sanitary District, Gary Duffy, Ron Sojka, Joe Roberts, and Rich Scholze (collectively, the "Sanitary District Defendants"). Plaintiffs allege that in 2017 they "made a demand" on the Sanitary District Defendants to bring sewer and water to Christopher Stoller's property in Lake Geneva, Wisconsin for "no additional charge." (Docket #36 at 47-48). Plaintiffs further assert that for the past two years, the Sanitary District has refused to do so, rendering Christopher Stoller's home "unlivable." *Id.* at 47. In their complaint, Plaintiffs insert an e-mail, dated Friday, July 14, 2017, between Ray Seitz ("Seitz") the former District Manager of the Lake Como Sanitary District No. 1, and Christopher "Nick"¹² Stoller. *Id.* at 48. In his e-mail, Seitz explained that he is going to "make up a drawing" and asks Christopher Stoller if he is "still planning on providing a sewer lateral sketch?" *Id.*

Plaintiffs provided the Court with only an excerpt of the e-mail exchange; fortunately, Gary Duffy ("Duffy"), the current President of the Lake Como Sanitary District No. 1, included the entire e-mail conversation.

¹¹Because Plaintiffs have not filed their proposed findings of fact, and because the Sanitary District Defendants filed their proposed findings of fact several months after they filed their initial motion for summary judgment, (Docket #46, #98), the Court shall treat Plaintiffs' sworn complaint, (Docket #36), and the Sanitary District Defendants' sworn affidavits in support of their motion for summary judgment, (Docket #48-#51), as statements of fact to the extent they are supported by credible evidence. *See Ford v. Wilson*, 90 F.3d 246, 246-47 (7th Cir. 1996) (The court can construe a sworn complaint as an affidavit at the summary judgment stage.).

¹²At one point in this e-mail exchange, Christopher Stoller addressed himself as "C. Nick Stoller," and Seitz referred to him as "Nick" throughout. (Docket #51 at 4-5).

See (Docket #51 at 4–8). On June 26, 2017, Christopher Stoller sent an e-mail to several recipients affiliated with the Town of Geneva, Wisconsin. *Id.* at 8. In this e-mail, he requested that the Town of Geneva assist him in bringing water and sewer to the property. *Id.* Although he indicated that it was a “financial hardship” to pay for the extension, he did not ask for such services to be provided free of charge. *Id.* The Chairman of the Town of Geneva, Joe Kopecky, forwarded this e-mail to Seitz and Duffy. *Id.* at 1, 7.

According to a June 26, 2017 e-mail, Seitz, Christopher Stoller, and Christopher Stoller’s contractor had recently discussed Stoller’s proposed water main extension project. *Id.* at 5. In this e-mail, Seitz twice referred to costs associated with the project. *Id.* After not hearing from Christopher Stoller for a couple of weeks, Seitz sent a follow up e-mail on July 13, 2017. *Id.* Christopher Stoller replied, thanking Seitz and asking him for a list of the items he needed in preparation of a “Commission” meeting. *Id.* at 4. Seitz’s reply is the same e-mail that Plaintiffs produced in their complaint. To reiterate—this e-mail does not mention costs or the waiver thereof. *Id.* Seitz affirms that he will have a preliminary drawing and asks if Christopher Stoller will provide a sketch. *Id.* In the subsequent e-mail, Christopher Stoller apologizes for the delay and then asks someone named Mark, included on the e-mail, to prepare a sketch. *Id.* Aside from these communications between Seitz and Christopher Stoller, none of the named Sanitary District Defendants had any communications with Plaintiffs. (Docket #48 at 2, #49 at 1, #50 at 1, #51 at 2).

Duffy also submitted a copy of two Lake Como Sanitary District No. 1 policies: Policy #1-98, “Relating to Future Sewer Main Extensions” and Policy #2-98, “Relating to Future Water Main Extensions.” (Docket #51 at 9–18). Both policies make clear that applicants for such extensions are not only

responsible for the application fees but also must “pay all costs determined allocable to applicant by the Commission, including all costs associated with road opening, construction or reconstruction necessitated by the extension.” *Id.* at 9–10, 14–15.

Plaintiffs request both specific performance and damages. *Id.* On January 30, 2020, the Sanitary District Defendants filed a motion for judgment on the pleadings and for summary judgment. (Docket #46).¹⁹ On February 20, 2020, this Court granted Plaintiffs’ motion for extension, giving Plaintiffs until March 10, 2020 to respond. (Docket #58). To date, Plaintiffs have not filed a response. The Sanitary District Defendants later filed an amended motion for judgment on the pleadings and for summary judgment, (Docket #99), and their Proposed Findings of Fact, (Docket #98).

¹⁹It appears to the Court that the Sanitary District Defendants have been improperly joined in this action. “Persons . . . may be joined in one action as defendants if any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences[] and any question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P. 20(a)(2). Although “[t]he rules are broad,” the Seventh Circuit has made clear that “[u]nrelated claims against different defendants belong in different suits.” *UWM Student Ass’n v. Lovell*, 888 F.3d 854, 863 (7th Cir. 2018) (quoting *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007)). Plaintiffs’ allegations against the Sanitary District Defendants pertain to the property Christopher Stoller already owns, parcel Tax Key No. JLCB 00990, not any of the three properties Christopher Stoller bid on, Tax Key Nos. JLCB 00986, JLCB 2054, and FDLA 00208. Further, there are no allegations in Plaintiffs’ complaint that suggest any relationship between the Sanitary District Defendants and any of the other defendants. Based on the foregoing, the Court determines that the Sanitary District Defendants have not been properly joined. However, because “[t]he proper remedy for [misjoinder] is severance or dismissal without prejudice, not dismissal with prejudice,” the Court will address the Sanitary District Defendants’ motion, (Docket #46). *Lovell*, 888 F.3d at 864.

5.2. Legal Standard

Because the Court has considered materials outside of the pleadings, it will treat the Sanitary District Defendants' motion as a motion for summary judgment pursuant to Rule 12(d). The Court previously outlined the applicable legal standard it must use when analyzing a motion for summary judgment in Section 2.2. *supra*.

5.3. Analysis

Count 10 of Plaintiffs' complaint appears to allege either that the Sanitary District Defendants promised to bring sewer and water to Christopher Stoller's property, or that there was a contract between Christopher Stoller and the Sanitary District Defendants. The Court addresses, and dismisses, both claims in turn.⁴

5.3.1. Breach of Contract

"In order that a contract may arise, three things must concur: [f]irst, the offer; second, the acceptance; and, third, the consideration." *Briggs v. Miller*, 186 N.W. 163, 164 (Wis. 1922). "[A]n offer must be so definite in its terms, or require such definite terms in its acceptance, that the promises and performances to be rendered by each party are reasonably certain." *Farnsworth, McKeane & Co. v. N. Shore Sav. & Loan Ass'n*, 504 F. Supp. 673, 676 (E.D. Wis. 1981) (quoting *Goebel v. Nat'l Exchangers, Inc.*, 277 N.W.2d 755, 765 (Wis. 1979)). Based on the e-mail exchange with Seitz, Christopher Stoller requested a sewer and water extension. This request is not an offer. Even if it was to be construed as such, there is no evidence of either

⁴Like the Walworth County Defendants, the Sanitary District Defendants also allege these claims are precluded due to immunity and Plaintiffs' failure to comply with the notice requirements provided in Wisconsin Statutes section 893.80(1d). Again, Plaintiffs' state law claims fail as a matter of law, therefore, the Court does not address questions of immunity or notice.

acceptance or consideration. Further, none of the communications between Seitz and Christopher Stoller show an offer by the District to provide any services to Christopher Stoller free of charge. Based on this evidence, there is no genuine dispute of material fact. Plaintiffs' claims for breach of contract will be dismissed.

5.3.2. Promissory Estoppel

"A claim of promissory estoppel involves three elements: (1) whether the promise is one which the promisor should reasonably expect to induce action or forbearance of a definite and substantial character on the part of the promisee; (2) whether the promise induced such action or forbearance; and (3) whether injustice can be avoided only by enforcement of the promise." *Bicknese v. Sutula*, 660 N.W.2d 289, 294 (Wis. 2003). Plaintiffs have not put forth any evidence indicating that the Sanitary District Defendants made them any promises regarding a sewer or water main extension, much less a promise for an extension at no cost to Christopher Stoller. The e-mails between Seitz and Christopher Stoller are purely preliminary. Further, all of the named Sanitary District Defendants assert that at no time did they ever, either collectively or individually, have any contact or communications with Plaintiffs. (Docket #48 at 2, #49 at 1, #50 at 1, #51 at 2). Without communication, there can be no promise; without a promise, there is no claim for promissory estoppel. Plaintiffs' promissory estoppel claim against the Sanitary District Defendants will be dismissed.

5.4. Conclusion

Seeing that there are no genuine issues of material fact with respect to either of Plaintiffs' claims against the Sanitary District Defendants, the Court will grant the Sanitary District Defendants' motion for summary

judgment, (Docket #46). The Court will deny the Sanitary District Defendants' amended motion for summary judgment, (Docket #99), as moot.

6. MISCELLANEOUS MOTIONS

Because the Court dismisses all of Plaintiffs' claims against all Defendants in this case, the Court will summarily deny the following motions by Plaintiffs as moot: Docket #88, #90, #92, #93, #94, #95, #96, #104, #111, #113, #130, #131, #136. The Court also grants Diana S. Crowley and Donald J. Crowley's motion to withdraw their motion for sanctions, (Docket #137), and denies their initial motion for sanctions as moot, (Docket #133).

Accordingly,

IT IS ORDERED that the Lake Como Wisconsin Sanitary District, Gary Duffy, Ron Sojka, Joe Roberts, and Richard Scholze's motion for summary judgment, (Docket #46), be and the same is hereby **GRANTED**; their amended motion for summary judgment, (Docket #99), be and the same is hereby **DENIED** as moot;

IT IS FURTHER ORDERED that Donald J. Crowley and Diana S. Crowley's motion to dismiss, (Docket #56); be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that the Delevan Lake Assembly, Michael Connolly, Steven Schamidt, Henry Rackiewicz, and Bill Winters' motion to dismiss, (Docket #80), be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that Walworth County, Valerie Etzel, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel G. Kilkenny, Susan M. Pruessing, Kenneth H. Monroe, and Nancy Russell's amended motion for

summary judgment, (Docket #66), be and the same is hereby **GRANTED**; their initial motion for summary judgment, (Docket #62), be and the same is hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Plaintiffs' motion for default against Defendant Governor Anthony Steven Evers, (Docket #102), be and the same is hereby **DENIED**;

IT IS FURTHER ORDERED that Plaintiffs' claims against Defendants Governor Anthony Steven Evers and the State of Wisconsin be and the same are hereby **DISMISSED with prejudice**;

IT IS FURTHER ORDERED that Plaintiffs' motion to disqualify counsel and for criminal contempt, (Docket #88), be and the same is hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Plaintiffs' motions for certification and to stay pending appeal, (Docket #90, #95), be and the same are hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Plaintiffs' motions to disqualify counsel, (Docket #92, #93, #94), be and the same are hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Plaintiffs' motion for an extension of time for trial dates and request to file electronically, (Docket #96), be and the same is hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Plaintiffs' motion for sanctions, (Docket #104), be and the same is hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Plaintiffs' motions for hearing before a different judge, (Docket #111, #113), be and the same are hereby **DENIED as moot**;

IT IS FURTHER ORDERED Plaintiffs' motion for judgment against the Walworth County Defendants and their counsel, (Docket #130), be and the same is hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Plaintiffs' motion for an order to determine the sufficiency of Defendants' responses, (Docket #131), be and the same is hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Plaintiffs' motion for judicial notice, (Docket #136), be and the same is hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Diana S. Crowley and Donald J. Crowley's motion to withdraw motion for sanctions (Docket #137) be and the same is hereby **GRANTED**;

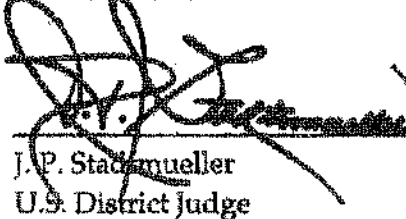
IT IS FURTHER ORDERED that Diana S. Crowley and Donald J. Crowley's motion for sanctions (Docket #133) be and the same is hereby **DENIED as moot**; and

IT IS FURTHER ORDERED that this case be and the same is hereby **DISMISSED with prejudice**.

The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 2nd day of July, 2020.

BY THE COURT:



J. P. Stadmueller
U.S. District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

CHRISTOPHER STOLLER, MICHAEL
STOLLER, and LEO STOLLER,

Plaintiffs,

Case No. 17-CV-1349-JPS

v.

WALWORTH COUNTY, VALERIE
ETZEL, RANDY TIMMS, WILLIAM
NOREM, TIM BRELLENTHIN, PAUL
YVARRA, CHARLENE STAPLES,
KATHY INGERSOLL, DAVID
WEBER, DANIEL G. KILKENNY,
SUSAN M. PRUESSING, KENNETH
H. MONROE, NANCY RUSSELL,
LAKE COMO WISCONSIN
SANITARY DISTRICT, GARY DUFFY,
RON SOJKA, JOE ROBERTS, RICH
SCHOLZE, DOUGLASS GONIGAM,
DONALD J. CROWLEY, DIANA S.
CROWLEY, DELEVAN LAKE
ASSEMBLY, MICHAEL CONNOLLY,
STEVEN SCHAMIDT, HENRY
RACKIEWICZ, BILL WINTERS,
ANTHONY STEVEN EVERS, STATE
OF WISCONSIN, and JOHNDOES,

Defendants.

JUDGMENT

Decision Following Remand. On March 30, 2018, this Court screened Plaintiffs Christopher Stoller and Michael Stoller's initial complaint, dismissing their federal law claims for failure to state a claim, declining to

exercise supplemental jurisdiction over their state law claims, and dismissing the action. (Docket #7). Judgment was entered accordingly that same day. (Docket #8). Only Christopher Stoller appealed. (Docket #9).

On June 21, 2019, this Court received a mandate from the Seventh Circuit Court of Appeals in *Christopher Stoller v. Walworth County, et al.*, No. 18-1770 (May 30, 2019), 770 F. App'x 762 (7th Cir. 2019), vacating this Court's judgment and remanding with instructions to permit Christopher Stoller to file an amended complaint. (Docket #17).

In accordance with the mandate from the Court of Appeals and further proceedings before this Court:

IT IS ORDERED AND ADJUDGED that the parties' stipulated motion to dismiss (Docket #44) be and the same is hereby **GRANTED**. Plaintiffs' claims against Douglass Gonigam and Douglass Gonigam's counterclaims against Plaintiffs be and the same are hereby **DISMISSED with prejudice and without costs** (Docket #57);

IT IS FURTHER ORDERED AND ADJUDGED that Douglass Gonigam is **DISMISSED** from this action (Docket #57);

IT IS FURTHER ORDERED AND ADJUDGED that the Lake Como Wisconsin Sanitary District, Gary Duffy, Ron Sojka, Joe Roberts, and Richard Scholze's motion for summary judgment, (Docket #46), be and the same is hereby **GRANTED** (Docket #143);

IT IS FURTHER ORDERED AND ADJUDGED that Donald J. Crowley and Diana S. Crowley's motion to dismiss, (Docket #56), be and the same is hereby **GRANTED** (Docket #143);

IT IS FURTHER ORDERED AND ADJUDGED that the Delevan Lake Assembly, Michael Connolly, Steven Schamidt, Henry Rackiewicz, and Bill Winters' motion to dismiss, (Docket #80), be and the same is hereby **GRANTED** (Docket #143);

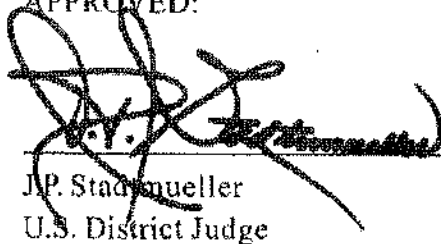
IT IS FURTHER ORDERED AND ADJUDGED that Walworth County, Valerie Etzel, Randy Timms, William Norem, Tim Brellenthin, Paul Yvarra, Charlene Staples, Kathy Ingersoll, David Weber, Daniel G. Kilkenny, Susan M. Pruessing, Kenneth H. Monroe, and Nancy Russell's amended motion for summary judgment, (Docket #66), be and the same is hereby **GRANTED** (Docket #143);

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiffs' motion for default against Defendant Governor Anthony Steven Evers, (Docket #102), be and the same is hereby **DENIED** (Docket #143);

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiffs' claims against Defendants Governor Anthony Steven Evers and the State of Wisconsin be and the same are hereby **DISMISSED with prejudice** (Docket #143); and

IT IS FURTHER ORDERED AND ADJUDGED that this case be and the same is hereby **DISMISSED with prejudice** (Docket #143).

APPROVED:



J.P. Stadmueller
U.S. District Judge

GINA M. COLLETTI
Clerk of Court
s/ Jodi L. Malek
By: Deputy Clerk

July 2, 2020

Date

APPENDIX 2
Order March
03, 2018 (Doc
7)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MICHAEL STOLLER and
CHRISTOPHER STOLLER,

Plaintiffs,

v.

Case No. 17-CV-1349-JPS

WALWORTH COUNTY, VALERIE
ETZEL, RANDY TIMMS, WILLIAM
NOREM, TIM BRELLENTHIN, PAUL
YVARRA, CHARLENE STAPLES,
KATHY INGERSOLL, DAVID WEBER,
DANIEL G. KILKENNY, SUSAN M.
PRUERING, KENNETH H. MONROE,
NANCY RUSSELL, and JOHN DOE,

Defendants.

ORDER

I. INTRODUCTION

The plaintiffs, Michael and Christopher Stoller, filed a *pro se* complaint alleging that the defendants, Walworth County and various public officials in that county, have engaged in a “devious scheme” to “unlawfully sell tax delinquent real estate” for a profit. (Docket #1 at 1). This matter comes before the Court on the plaintiffs’ petition to proceed *in forma pauperis*. (Docket #2).

Notwithstanding the payment of any filing fee, the Court must dismiss an action filed *in forma pauperis* if the Court determines that the plaintiff’s allegation of poverty is untrue, *see* 28 U.S.C. § 1915(e)(2)(A), or if the action is “frivolous or malicious,” fails to state a claim upon which relief

may be granted, or seeks monetary relief from a defendant who is immune from such relief, *see* 28 U.S.C. § 1915(e)(2)(B).

As explained below, the plaintiffs' complaint fails to state a claim and will therefore be dismissed pursuant to Section 1915(e)(2)(B).

II. STANDARD OF REVIEW

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Hutchinson ex rel. Baker v. Spink*, 126 F.3d 895, 900 (7th Cir. 1997). The court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. *Neitzke*, 490 U.S. at 327. "Malicious," although sometimes treated as a synonym for "frivolous," "is more usefully construed as intended to harass." *Lindell v. McCallum*, 352 F.3d 1107, 1109–10 (7th Cir. 2003) (citations omitted).

To state a cognizable claim under the federal notice pleading system, the plaintiff is required to provide a "short and plain statement of the claim showing that [he] is entitled to relief[.]" Fed. R. Civ. P. 8(a)(2). It is not necessary for the plaintiff to plead specific facts, and his statement need only "give the defendant fair notice of what the...claim is and the grounds upon which it rests." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). However, a complaint that offers "labels and conclusions" or a "formulaic recitation of the elements of a cause of action will not do." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 555). To state a claim, a complaint must contain sufficient factual matter that, accepted as true, "is plausible on its face." *Id.* (quoting *Twombly*, 550 U.S. at 570). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the

reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556). The complaint allegations "must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555 (citation omitted).

In considering whether a complaint states a claim, courts should follow the principles set forth in *Twombly* by, first, "identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth." *Iqbal*, 556 U.S. at 679. Legal conclusions must be supported by factual allegations. *Id.* If there are well-pleaded factual allegations, the court must, second, "assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Id.*

III. COMPLAINT ALLEGATIONS

Mindful of its responsibility to construe *pro se* pleadings liberally, *see Marshall v. Knight*, 445 F.3d 965, 969 (7th Cir. 2006), the Court will endeavor to describe the facts alleged in the plaintiffs' Complaint and identify any plausible claims based thereon.

The plaintiffs both live in Cook County, Illinois, but own property in Walworth County, Wisconsin. (Docket #1 at 6, 16). The thrust of the plaintiffs' Complaint is that Walworth County and the named county officials have engaged in a practice whereby they sell tax-delinquent property based on "sham" appraisals, as opposed to "legitimate" appraisals that meet the standards of the Uniform Standards of Professional Appraisal Practice, in order to "recover inflated market values, in direct competition with private real estate sellers." *Id.* at 4.

This became relevant to the plaintiffs in August 2017 when they received a letter from defendant Valerie Etzel ("Etzel"), the Walworth County treasurer, informing them that Walworth County took possession

of a tax-delinquent parcel of land bordering the plaintiffs' property. *Id.* at 16. According to the plaintiffs, the parcel is "unbuildable" and therefore only has value to the plaintiffs as adjacent landowners. *Id.* The plaintiffs believe the value of the parcel is \$2,500, though they do not say how they arrived at that figure. *Id.* The county appraised the parcel at \$11,400. *Id.* The delinquent real estate taxes on the parcel were about \$2,700. *Id.* The plaintiffs made a bid on the parcel for \$2,500. *Id.* at 17. Walworth County rejected the bid on the ground that it was below the appraised value. *Id.* According to the plaintiffs, the appraisal for this parcel, as well as every other property listed on the 2017 Walworth County tax foreclosure list, was a "sham." *Id.* at 17-18.

On these allegations, the plaintiffs seek to bring several claims: (1) violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968 ("RICO"), (2) conspiracy to violate RICO, (3) unfair competition, (4) unjust enrichment, (5) committing a violation against elderly and disabled persons in violation of Wis. Stat. § 100.264, (6) making fraudulent representations in violation of Wis. Stat. § 100.18, (7) breach of fiduciary duty, and (8) "conspiracy, aiding and abetting." *Id.* at 19-39.

In support of their RICO claims, the plaintiffs allege that the defendants operated as an enterprise to affect interstate commerce through a "scheme to fraudulently, systematically and uniformly produce [] phony, manipulated or inflated 'appraisals' of properties, which were performed with indifference towards the appraisals' accuracy, current market value, in connection with the advertising and sale of its delinquent properties[.]" *Id.* at 20. The pattern of racketeering, they say, involved predicate acts of fraud conducted by mail and wire. *Id.* at 19-20.

The named defendants are Walworth County and members of the Walworth County Board of Supervisors. *Id.* at 6-12. The plaintiffs also seek to sue John Doe defendants who are Walworth County employees, agents, or attorneys who aided and abetted the defendants. *Id.* at 12. Apart from Etzel, the county treasurer, sending a notice of the sale of the parcel adjacent to the plaintiffs' property, the plaintiffs do not allege any specific conduct or acts undertaken by the named defendants.

IV. ANALYSIS

The Court's analysis begins (and, as discussed below, largely ends) with the plaintiffs' attempt to allege a civil RICO claim.

Congress enacted RICO "in an effort to combat organized, long-term criminal activity." *Jennings v. Auto Meter Prod., Inc.*, 495 F.3d 466, 472 (7th Cir. 2007). RICO makes it a crime to invest income derived from a pattern of racketeering activity in an enterprise "which is engaged in, or the activities of which affect, interstate or foreign commerce," 18 U.S.C. § 1962(a); to acquire or maintain an interest in an enterprise through a pattern of racketeering activity, § 1962(b); to conduct an enterprise's affairs through a pattern of racketeering activity, § 1962(c); and to conspire to violate any of the other three prohibitions, § 1962(d). "Racketeering activity" is defined to include a host of state and federal offenses, called "predicate acts," including mail and wire fraud. *See* 18 U.S.C. § 1961(1); *see also Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 481-82 (1985).

RICO also provides a civil cause of action for "[a]ny person injured in his business or property by reason of a violation" of the prohibitions in Section 1962. *Id.* § 1964(c). To proceed on a civil RICO cause of action under Section 1964(c), a plaintiff must plead "(1) an injury in its business or property (2) by reason of (3) the defendants' violation of section 1962."

DeGuelle v. Camilli, 664 F.3d 192, 198 (7th Cir. 2011). The civil RICO provision has a limited reach and was “never intended to allow plaintiffs to turn garden-variety state law fraud claims into federal RICO actions.” *Jennings*, 495 F.3d at 472. The plaintiffs’ attempt to state a civil RICO claim fails for several reasons.

First, none of the predicate acts the plaintiffs allege—including fraud conducted by mail, *see* 18 U.S.C. § 1341, and wire, *see* 18 U.S.C. § 1343—resulted in direct injury to the plaintiffs. The plaintiffs do not allege that *their* “business or property” was affected by the defendants’ creation of “sham” appraisals for tax-delinquent property in Walworth County. The property the plaintiffs own in Walworth County was not tax-delinquent, and therefore was not subject to the sham-appraisal scheme the plaintiffs allege. At best, the plaintiffs have alleged harm to their prospect of buying additional property near theirs; but they do not allege that it is their business to buy and sell property in Walworth County. Indeed, the plaintiffs do not claim to be in the real estate business whatsoever.

Second, even if the plaintiffs could show some injury to their business or property, they have not sufficiently alleged predicate acts of fraud. *Corley v. Rosewood Care Ctr., Inc. of Peoria*, 388 F.3d 990, 1005 (7th Cir. 2004) (a civil RICO plaintiff must show that he was injured “by reason of” a violation of section 1962(c)). To state their RICO claim, which they say is premised on predicate acts of mail and wire fraud, the plaintiffs must allege the elements of mail or wire fraud: (1) the defendants’ participation in a scheme to defraud; (2) the defendants’ intent to defraud; and (3) the defendants’ use of the mail or interstate wire in furtherance of the scheme to defraud. *See United States v. Britton*, 289 F.3d 976, 981 (7th Cir. 2002) (elements of mail fraud); *United States v. Turner*, 551 F.3d 657, 664 (7th Cir.

2008) (elements of wire fraud). The words “to defraud” mean “wronging one in his property rights by dishonest methods or schemes” and “usually signify the deprivation of something of value by trick, deceit, chicane or overreaching.” *Corley*, 388 F.3d at 1005 (quotation omitted).

The plaintiffs are adamant that Walworth County is wrong to appraise tax-delinquent properties in a way that does not meet the standards of the Uniform Standards of Professional Appraisal Practice. But they concede that the sale by a county of tax-delinquent real estate is governed by Wisconsin Statutes section 75.69, *see* (Docket #1 at 2, 17), which does not require that counties follow the standards of the Uniform Standards of Professional Appraisal Practice. Section 75.69 provides that “no tax delinquent real estate acquired by a county may be sold unless the sale and appraised value of such real estate has first been advertised by publication of a class 3 notice” and “[a]ny county may accept the bid most advantageous to it but, at the first attempt to sell the property, every bid less than the appraised value of the property shall be rejected.” Wis. Stat. § 75.69(1). “Appraised value” in that section is “the value determined, at the discretion of the county board, by the county board, a committee designated by the county board, or a certified appraiser[.]” *Id.*

The plaintiffs have not alleged that the defendants’ appraisals are in contravention of the law governing such appraisals. Instead, they point to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”), which provides that federal financial institutions regulatory agencies “shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency” and those rules shall require that “appraisals [] be subject to appropriate review for compliance with the

Uniform Standards of Professional Appraisal Practice.” 12 U.S.C. § 3339. This is of no help to the plaintiffs, because FIRREA applies to lending transactions with real property collateral that, among other things, involve the FDIC, National Credit Union Administration, Federal Reserve System, Office of the Comptroller of the Currency, Office of Thrift Supervision, or financial institutions regulated by these agencies. *See* 12 U.S.C.A. § 3350. In short, FIRREA’s requirements do not apply to Walworth County’s sale of tax-delinquent property as alleged in the Complaint. The plaintiffs clearly do not like the way Walworth County obtains its appraisals, but they have not alleged that Walworth County obtains them fraudulently.

Third, the plaintiffs have not alleged fraud with sufficient particularity. Allegations of fraud in a civil RICO complaint are subject to the heightened pleading standard of Federal Rule of Civil Procedure 9(b), which requires a plaintiff to plead all averments of fraud with particularity. *See Goren v. New Vision Int’l, Inc.*, 156 F.3d 721, 726 (7th Cir. 1998). In other words, the complaint must describe the “who, what, when, where, and how” of the alleged fraud. *Wigod v. Wells Fargo Bank, N.A.*, 673 F.3d 547, 569 (7th Cir. 2012). Here, the plaintiffs have made a bald assertion about the defendants’ manufacture of false appraisals, but they say nothing about who specifically is involved in the sham appraisal process, how the sham appraisals are created, or any other particular details. Again, it is clear the plaintiffs believe Walworth County somehow arrived at an inflated appraisal for the tax-delinquent property the plaintiffs wanted to buy, but they allege little more than that. The plaintiffs have not met their burden to plead the underlying fraud with particularity.

For all of these reasons, the plaintiffs have failed to state a civil RICO claim. Then, because the plaintiffs failed to allege a violation of section

1962(c), their RICO conspiracy claim under section 1962(d), based on the same allegations, must fail as well. *Stachon v. United Consumers Club, Inc.*, 229 F.3d 673, 677 (7th Cir. 2000). Both RICO claims will be dismissed. Having dismissed both of the plaintiffs' federal claims, the Court will decline to exercise supplemental jurisdiction over the plaintiffs' state law claims. 28 U.S.C. § 1367(c)(3).

V. MOTION TO PROCEED *IN FORMA PAUPERIS*

At this stage of the litigation, the Court would ordinarily also consider whether the plaintiffs are entitled to proceed without prepayment of the filing fee, or *in forma pauperis*, based on a showing that they cannot afford to pay the fee. 28 U.S.C. §§ 1915(e)(2) (Dismissal of an action filed *in forma pauperis* is appropriate if the Court finds either that "the allegation of poverty is untrue" or the action is "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief).

The plaintiffs have not equipped the Court with the necessary information to determine whether they have the ability to pay the filing fee. Their motion includes averments about Michael Stoller's income and assets, but not about Christopher Stoller's. (Docket #2). It is signed only by Michael Stoller. *Id.* at 2.

Because dismissal is appropriate for failure to state a claim, 28 U.S.C. § 1915(e)(2)(B)(ii), the Court need not decide whether the plaintiffs' allegation of poverty is untrue. The action will be dismissed and the motion to proceed *in forma pauperis* will be denied as moot.

VI. CONCLUSION

For the reasons stated above, the plaintiffs' complaint fails to state a RICO claim upon which relief may be granted, and such federal claims

must, therefore, be dismissed. 28 U.S.C. § 1915(e)(2)(B)(ii). Additionally, the Court declines to exercise supplemental jurisdiction over the plaintiffs' state law claims. 28 U.S.C. § 1367(c)(3). Finally, the plaintiffs' motions to proceed without prepayment of the filing fee, to file electronically, and to have counsel appointed for them will be denied as moot.

Accordingly,

IT IS ORDERED that plaintiffs' complaint fails to state a claim for violation of RICO or conspiracy to violate RICO (Docket #1 at 19-27) and such federal law claims be and the same are hereby **DISMISSED**;

IT IS FURTHER ORDERED that the Court, pursuant to 28 U.S.C. § 1367(c)(3), declines to exercise supplemental jurisdiction over the state law claims raised in plaintiffs' complaint (Docket #1 at 27-39) and such state law claims be and the same are hereby **DISMISSED without prejudice**;

IT IS FURTHER ORDERED that this action be and the same is hereby **DISMISSED**;

IT IS FURTHER ORDERED that the plaintiffs' motion for leave to proceed without prepayment of the filing fee (Docket #2) be and the same is hereby **DENIED as moot**;

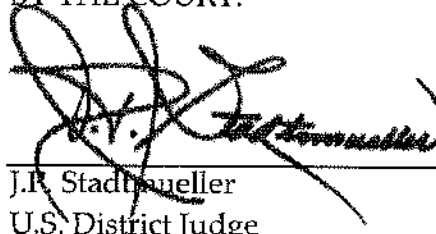
IT IS FURTHER ORDERED that the plaintiffs' motion to file electronically (Docket #3) be and the same is hereby **DENIED as moot**; and

IT IS FURTHER ORDERED that the plaintiffs' motion for appointment of counsel (Docket #6) be and the same is hereby **DENIED as moot**.

The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 30th day of March, 2018.

BY THE COURT:



A handwritten signature in black ink, appearing to read "J.R. Stadtmueller", is written over a horizontal line. The signature is stylized and somewhat cursive.

J.R. Stadtmueller
U.S. District Judge

APPENDIX 3

**Order May
23, 2018 (Doc
16)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MICHAEL STOLLER and
CHRISTOPHER STOLLER,

Plaintiffs,

v.

WALWORTH COUNTY, VALERIE
ETZEL, RANDY TIMMS, WILLIAM
NOREM, TIM BRELLENTHIN, PAUL
YVARRA, CHARLENE STAPLES,
KATHY INGERSOLL, DAVID WEBER,
DANIEL G. KILKENNY, SUSAN M.
PRUESSING, KENNETH H. MONROE,
NANCY RUSSELL, and JOHN DOE,

Defendants.

Case No. 17-CV-1349-JPS
7th Cir. Case No. 18-1770

ORDER

The plaintiffs, Michael and Christopher Stoller, filed a *pro se* complaint alleging that the defendants, Walworth County and various public officials in that county, engaged in a “devious scheme” to “unlawfully sell tax delinquent real estate” for a profit. (Docket #1 at 1). Specifically, the plaintiffs alleged that Walworth County and the named county officials engaged in a practice whereby they sold tax-delinquent property based on “sham” appraisals, as opposed to “legitimate” appraisals that meet the standards of the Uniform Standards of Professional Appraisal Practice, in order to “recover inflated market values, in direct competition with private real estate sellers.” *Id.* at 4.

The plaintiffs sought to bring several claims: (1) violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961–

1968 (“RICO”), (2) conspiracy to violate RICO, (3) unfair competition, (4) unjust enrichment, (5) committing a violation against elderly and disabled persons in violation of Wis. Stat. § 100.264, (6) making fraudulent representations in violation of Wis. Stat. § 100.18, (7) breach of fiduciary duty, and (8) “conspiracy, aiding and abetting.” *Id.* at 19–39.

On March 30, 2018, the Court screened the plaintiffs’ complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and dismissed the plaintiffs’ federal law claims with prejudice for failure to state a claim. (Docket #7). The Court then declined to exercise supplemental jurisdiction over the plaintiffs’ remaining state law claims and dismissed those claims without prejudice. *Id.* On April 9, 2018, one of the plaintiffs, Christopher Stoller (“Christopher”), filed a notice of appeal to the Seventh Circuit. (Docket #9). The other plaintiff, Michael Stoller (“Michael”), then filed a motion to proceed on the appeal *in forma pauperis*, though it does not appear to this Court that Michael is actually a party to the appeal. Michael also mistakenly filed that motion in the first instance with the court of appeals. *See* (Docket #15). The court of appeals directed this Court to consider the *in forma pauperis* motion in the first instance. *Id.* For the purpose of this Order, the Court will assume that both plaintiffs are parties to the appeal and the *in forma pauperis* motion.

A plaintiff may not proceed without prepayment of the filing fee on appeal if the Court certifies in writing that the appeal is not taken in “good faith.” 28 U.S.C. § 1915(a)(3). To determine whether the plaintiff takes the appeal in “good faith,” the court must determine whether “a reasonable person could suppose that the appeal has some merit.” *Walker v. O’Brien*, 216 F.3d 626, 632 (7th Cir. 2000); *see also Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). An appeal is taken in “good faith” if it seeks review of an

issue that is not clearly frivolous. *Lee*, 209 F.3d at 1026. This is the case when a reasonable person could suppose the issue to have some legal merit. *Id.*

In this case, the plaintiffs' appeal is not taken in good faith, and therefore the motion to proceed *in forma pauperis* must be denied. The plaintiffs indicate that the grounds for appeal are, first, that the Court committed clear error because the complaint contained sufficient factual matters to state a claim for relief and, second, that they should have been given the opportunity to amend. (Docket #10 at 3). As to the first ground, the plaintiffs merely state a legal conclusion without providing any specific reason why they believe the Court erred in dismissing their case. No reasonable person could suppose this first ground for appeal has any merit without knowing its basis.

The plaintiffs' second ground for appeal is also without merit. Under Federal Rule of Civil Procedure 15(a), a plaintiff may amend his complaint once "as a matter of course at any time before a responsive pleading is served"; at any other time "leave [to amend] shall be freely given when justice so requires." This right to amend as a matter of course survives a court's dismissal on screening for failure to state a claim. *See Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1024 (7th Cir. 2013). But a plaintiff's right to amend as a matter of course is not absolute. *Timas v. Klaser*, 23 F. App'x 574, 578 (7th Cir. 2001) (citing *Perkins v. Silverstein*, 939 F.2d 463, 471-72 (7th Cir. 1991); *Textor v. Bd. of Regents of N. Ill. Univ.*, 711 F.2d 1387, 1391 n.1 (7th Cir. 1983)). Even where a plaintiff retains the right to amend once as a matter of course, a district court may refuse to give leave to amend if an amendment could not cure the deficiencies in the original pleading, or if it could not survive a motion to dismiss. *Id.* (quotation omitted); *see also Bogie v.*

Rosenberg, 705 F.3d 603, 608 (7th Cir. 2013) (“Leave to amend need not be granted . . . if it is clear that any amendment would be futile.”).

Allowing the plaintiffs an opportunity to amend the complaint would have been futile. For the civil RICO claims—the only federal claims in the complaint—the plaintiffs failed to plead an injury to their property, as required for recovery under the RICO statute, and failed to plead fraud with particularity. *See* (Docket #7 at 6–9). More importantly, the plaintiffs also pleaded themselves out of stating a valid RICO claim by conceding that the defendants’ “sham” appraisals were not obtained in contravention of the Wisconsin statute that controls such appraisals. *Id.* at 6–8. Instead, the plaintiffs alleged that the defendants’ appraisals ran afoul of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”), which only applies to lending transactions that, among other things, involve the FDIC, National Credit Union Administration, Federal Reserve System, Office of the Comptroller of the Currency, Office of Thrift Supervision, or financial institutions regulated by these agencies. *See* 12 U.S.C. § 3350. In short, FIRREA’s requirements do not apply to Walworth County’s sale of tax-delinquent property as alleged in the plaintiffs’ complaint, and nothing the plaintiffs could add in an amendment to their complaint would change that.

Because the Court certifies that the appeal is not taken in good faith, the Court provides the following information to the plaintiffs regarding proceeding before the Seventh Circuit. The plaintiffs will not be able to proceed on appeal without paying the filing fee, unless the court of appeals gives them permission to do so. The plaintiffs have 30 days from the date of this order to request that the Seventh Circuit review the Court’s denial of their motion for leave to appeal without prepayment of the filing fee on

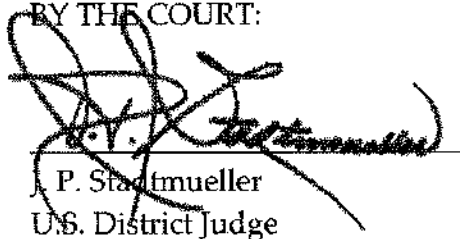
appeal. Fed. R. App. P. 24. If they request review by the Seventh Circuit, they must include an affidavit and statement of issues they intend to present on appeal, pursuant to Fed. R. App. P. 24(a). They must also provide a copy of this order, in addition to the notice of appeal previously filed. If the plaintiffs do not request review of this order, the Seventh Circuit may choose not to address the Court's denial of their motion; instead, it may require the plaintiffs to pay the full filing fee before it considers their case. Failure to pay a required fee may result in dismissal of the appeal.

Accordingly,

IT IS ORDERED that the plaintiffs' motion for leave to appeal without prepayment of the filing fee (Docket #15) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 23rd day of May, 2018.

BY THE COURT:



P. Stadtmueller
U.S. District Judge

APPENDIX 4
7th Circuit Ct
of Appeals
Decision
6/21/19 Doc 17

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 17, 2019*
Decided May 30, 2019

Before

MICHAEL S. KANNE, *Circuit Judge*

AMY C. BARRETT, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

CERTIFIED COPY



No. 18-1770

CHRISTOPHER STOLLER,
Plaintiff-Appellant,

v.

WALWORTH COUNTY, *et al.,*
Defendants-Appellees.

Appeal from the United States District
Court for the Eastern District of Wisconsin.

No. 17-CV-1349-JPS

J.P. Stadtmueller,
Judge.

ORDER

Christopher Stoller (along with Michael Stoller, who is not a party to this appeal) sued Walworth County, Wisconsin, and many of its public officials for allegedly selling tax-delinquent property at inflated prices based on "sham" appraisals. Stoller contends

* The appellees were not served with the complaint in the district court and so are not participating in this appeal. We have agreed to decide this case without oral argument because the brief and the record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

No. 18-1770

Page 2

this practice violates the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961–68, and many state laws. The district court concluded Stoller failed to state a claim upon which relief could be granted. But Stoller was not granted leave to amend his complaint, and he pleaded jurisdiction over his state-law claims based upon diversity of citizenship, so we vacate the judgment and remand the case.

This case was dismissed on the pleadings, so we recount the facts as alleged in the complaint and the documents described in it, making all reasonable inferences in Stoller's favor. *Loja v. Main Street Acquisition Corp.*, 906 F.3d 680, 682 (7th Cir. 2018). We construe his pro se complaint liberally, *Erickson v. Pardus*, 551 U.S. 89, 93 (2007), and accept all factual allegations as true, *DeGuelle v. Camilli*, 664 F.3d 192, 195 (7th Cir. 2011).

Christopher and Michael Stoller own land in Walworth County. The county treasurer wrote to them in 2017, informing them that a tax-delinquent parcel of land sat next to their property. Believing the value of the parcel to be \$2,500, the Stollers made a bid for that amount. Walworth County rejected that bid because it was below the county's appraised value of \$11,400. The Stollers alleged that this appraisal, along with Walworth County's other appraisals on its 2017 tax foreclosure list, was a "sham."

The Stollers filed suit, primarily claiming that Walworth County officials had violated and conspired to violate RICO through a corrupt scheme to inflate the appraisal values of real property sold through tax bid sales. They alleged the county failed to obtain valid independent appraisals by using estimates instead of methods consistent with the Uniform Standards of Professional Appraisal Practice. The district court sua sponte dismissed the complaint under the statute concerning proceedings in forma pauperis, 28 U.S.C. § 1915(e)(2)(ii), for failure to state a claim. First, the court explained that the Wisconsin law governing the sale by counties of tax-delinquent property does not require counties to adhere to the Uniform Standards. WIS. STAT. § 75.69(1). The district court also concluded the Stollers did not allege fraud with particularity, as required by Federal Rule of Civil Procedure 9(b). Finally, the court determined that the Stollers could not state a RICO conspiracy claim without plausibly alleging a substantive RICO violation. The district court dismissed the federal claims, and it also declined to exercise supplemental jurisdiction over the state-law claims. 28 U.S.C. § 1367(c)(3). Because of the failure to state a claim, the district court also denied as moot the Stollers' application for leave to proceed in forma pauperis. The district court also entered a final judgment order. *See* FED R. CIV. P. 58.

Christopher Stoller appeals. We review the district court's dismissal of this case under 28 U.S.C. § 1915(e)(2)(B)(ii) under the same standards we apply to Federal Rule of

No. 18-1770

Page 3

Civil Procedure 12(b)(6) dismissals—de novo review. *Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1027 (7th Cir. 2013).

Stoller argues the district court erred by dismissing the complaint with prejudice without granting him leave to amend his complaint.¹ We agree. We have repeatedly stated that the “usual standard in civil cases is to allow defective pleadings to be corrected, especially in early stages, at least where amendment would not be futile.” *Abu-Shawish v. United States*, 898 F.3d 726, 738 (7th Cir. 2018) (collecting cases); *Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. & Nw. Ind.*, 786 F.3d 510, 520 (7th Cir. 2015). This proposition has even more force in pro se cases, like this, in which pleading standards are relaxed. *Abu-Shawish*, 898 F.3d at 738; *Perez v. Fenoglio*, 792 F.3d 768, 783 (7th Cir. 2015) (explaining that the “screening requirement does not—either explicitly or implicitly—justify deviation from the usual procedural practice”). Applicable authorities provide that plaintiffs enjoy leave to amend once as a matter of course before service of the complaint, and liberally thereafter “when justice so requires”; this right survives dismissal. FED. R. CIV. P. 15(a); *Luevano*, 722 F.3d at 1024.

The district court did not find that any attempt by Stoller to amend would be futile because of incurable defects. Nor can we say that any amendment would be “futile or otherwise unwarranted from the face of the complaint.” *Barry Aviation Inc. v. Land O’Lakes Mun. Airport Comm’n*, 377 F.3d 682, 687 (7th Cir. 2004). True, Stoller did not request leave to amend, see *James Cape & Sons Co. v. PCC Const. Co.*, 453 F.3d 396, 400 (7th Cir. 2006), but we hesitate to strictly require such a motion under the circumstances in this case for several reasons, especially when a litigant is pro se. First, the district court entered judgment immediately upon dismissing the original complaint, so Stoller would have had to convince the district court to reopen the case. Also, simultaneously dismissing a complaint and entering judgment is improper unless the defect clearly cannot be corrected, or an amendment has been unduly delayed or would cause undue prejudice to other parties. *Runnion*, 786 F.3d at 520. Further, because of the failure to state a claim, the district court also denied Stoller’s application to proceed in forma pauperis. Stoller then might not have believed himself eligible to file a new complaint or a new case without paying a fee. Under these circumstances, the court should not have denied Stoller the opportunity to amend his complaint after dismissal. See *id.* at

¹ The district court did not expressly deem the dismissal of the federal claims as “with prejudice,” but a district court’s entry of a Rule 58 judgment shows that the court “believes it is done with a case” and renders the decision final and appealable. *Luevano*, 722 F.3d at 1020.

No. 18-1770

Page 4

522 (“[A] district court cannot nullify the liberal right to amend under Rule 15(a)(2) by entering judgment prematurely at the same time it dismisses the complaint that would be amended.”).

The pleadings present another jurisdictional issue for remand. The district court dismissed without prejudice Stoller’s state-law claims by declining to exercise supplemental jurisdiction over them. 28 U.S.C. § 1367(c)(3). But Stoller appears to have invoked the court’s jurisdiction based upon diversity of citizenship, *see* 28 U.S.C. § 1332(a)(1), alleging that the amount in controversy exceeded that statute’s requirement of an amount in excess of \$75,000 and that the Stollers reside in Illinois while the defendants are citizens of Wisconsin. Of course, “residence” is not synonymous with domicile, *Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7th Cir. 2012), but the district court did not base its jurisdictional decision on this deficiency. The district court could not dismiss the claims under § 1367(c)(3) if federal subject-matter jurisdiction based on diversity of citizenship existed, and on remand the court should consider the possibility that diversity jurisdiction existed. *See Robinson v. Alter Barge Line, Inc.*, 513 F.3d 668, 675 (7th Cir. 2008) (explaining that the disposition of relinquishing jurisdiction “is barred” when there is diversity jurisdiction).

For these reasons, we VACATE the judgment and REMAND with instructions to permit Stoller to file an amended complaint.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

FINAL JUDGMENT

May 30, 2019

Before: MICHAEL S. KANNE, *Circuit Judge*
AMY C. BARRETT, *Circuit Judge*
MICHAEL B. BRENNAN, *Circuit Judge*

CERTIFIED COPY



| | |
|--|---|
| No. 18-1770 | CHRISTOPHER STOLLER, Plaintiff - Appellant v. WALWORTH COUNTY, et al., Defendants - Appellees |
| Originating Case Information: | |
| District Court No: 2:17-cv-01349-JPS Eastern District of Wisconsin District Judge J. P. Stadtmueller | |

The judgment of the District Court is **VACATED** and the case is **REMANDED** with instructions to permit Stoller to file an amended complaint.

The above is in accordance with the decision of this court entered on this date.

form name: c7_FinalJudgment(form ID: 132)

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF ISSUANCE OF MANDATE

June 21, 2019

To: Stephen C. Dries
UNITED STATES DISTRICT COURT
Eastern District of Wisconsin
Milwaukee, WI 53202-0000

| | |
|--|--|
| No. 18-1770 | CHRISTOPHER STOLLER, Plaintiff - Appellant v. WALWORTH COUNTY, WISCONSIN, et al., Defendants - Appellees |
| Originating Case Information: | |
| District Court No: 2:17-cv-01349-JPS Eastern District of Wisconsin District Judge J. P. Stadtmueller | |

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS: No record to be returned

NOTE TO COUNSEL:

If any physical and large documentary exhibits have been filed in the above-entitled cause, they are

to be withdrawn ten (10) days from the date of this notice. Exhibits not withdrawn during this period will be disposed of.

Please acknowledge receipt of these documents on the enclosed copy of this notice.

Received above mandate and record, if any, from the Clerk, U.S. Court of Appeals for the Seventh Circuit.

Date:

Received by:

06/21/19

s/Jelena Vekic

form name: e7_Mandate(form ID: 135)

APPENDIX 5

SECOND

CORRECTED

AMENDED

COMPLAINT (Doc

36) The Operative

Complaint

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

U.S. DISTRICT COURT
EASTERN DISTRICT - WI
FILED
2019 NOV 12 A 9:28
STEPHEN C. DRIES
CLERK

NO. 17-cv-01349

Michael Stoller, A disable person, Christopher Stoller,
A disabled person, Leo Stoller, a disabled Person
Plaintiffs

v.

Anthony Steven Evers Governor of the State of Wisconsin, in his
official capacity as Governor of the State of Wisconsin.

The State of Wisconsin, a sovereign state of the United States
(Wisconsin State Defendants) ("WSD")

Walworth County, Valerie Etzel, Walworth County Treasurer,
Randy Timms, District 1, Walworth County Supervisor, William
Norem, District 2, Walworth County Supervisor, Tim Brellenthin,
District 3, Walworth County Supervisor, Paul Yvarra, District 4,
Walworth County Supervisor, Charlene Staples, District 5,
Walworth County Supervisor, Kathy Ingersoll, District 6,
Walworth County Treasurer, David Weber, District 7, Walworth
County Supervisor, Daniel G. Kilkenny, District 8, Walworth
County Supervisor, Susan M. Pruessing, District 9, Walworth
County Supervisor, Kenneth H. Monroe, District 10, Walworth
County Supervisor, and Nancy Russell, District 11, Walworth
County Supervisor, Defendants John Doe 1-X (Walworth
Defendants)

Lake Como Wisconsin Sanitary District, Gary Duffy, Ron Stojka,
Joe Roberts, Rich Scholze (LCS) (Como Defendants)

Douglass Gonigam, Donald J. Crowley, Diame S. Crowley
(Como Property owners)

Douglass Lake Assembly, Michael Connolly, Steven Schamidt,
Henry Raczkiewicz, Bill Winters (Douglass Defendants)
and Lawyers, Assignees, agents, John does 1 thru 10

Defendants

Jury Demand
For all counts other
than to declare the
Wisc. Statue

Unconstitutional
COMPLAINT FOR
DECLARATORY
JUDGMENT AND
INJUNCTIVE RELIEF
INTRODUCTION.

This is an action to
declare, Wisconsin
Statute

Chapter 75 Land sold
for Taxes Paragraph
75.69

Sales of tax delinquent
real estate

unconstitutional.

(Three Judges)

(1) Violations of the
Racketeer

Influenced and Corrupt
Organizations Act (18
U.S.C.

§ 1962(c));

(2) Violations of the
Racketeer

Influenced and Corrupt
Organizations Act (18

U.S.C. § 1962(d)); et

al

SECOND CORRECTED AMENDED COMPLAINT

THIS IS AN ACTION TO DECLARE THE WISCONSIN STATUTE CHAPTER 75 LAND SOLD FOR TAXES PARAPHRASE 75

Sales of tax delinquent real estate UNCONSTITUTIONAL for it violates the First Amendment, The Fifth Amendment the Equal Protection Clause of the Fourteenth Amendment and Article I, section 2 of the Constitution of the United States (Claims 9)

1. This action is brought against the Defendants for declaratory and injunctive relief to declare the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate unconstitutional violate the First Amendment The Fifth Amendment the Equal Protection Clause of the Fourteenth Amendment, and Article I, section 2 of the Constitution of the United States. This action is brought against the Defendants for declaratory and injunctive relief and damages from racketeering, conspiracy to engage in a pattern of racketeering activity and related claims, violation of the U.S. Constitution, conspiracy, aiding and abetting, infliction of emotional distress, fraud, willful and wanton misconduct, negligence, retaliation, deceptive trade practices, abuse of process, negligent hiring and supervision, fraudulent misrepresentation/concealment, torturous interference with Plaintiffs' contractual rights, conversion, and participation in a RICO Act Statute enterprise through a pattern of racketeering activity.

1. Plaintiffs seeks declarations that: 1) the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate is arbitrary, capricious, unreasonable, and bore no reasonable relation to the public health, safety, morals, or welfare; 2) the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69

Sales of tax delinquent real estate¹ is illegal, unconstitutional, void, vague² and in violation of the due process³ and equal protection clauses of the Wisconsin and United States Constitutions.

2. The Plaintiff are themselves within the class as to whom the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 is unconstitutional. The vagueness pervade the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate to make the entire ordinance invalid.

3. Plaintiffs assert that the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate ordinance is an unauthorized delegation of legislative authority to the executive branch because: (1) the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate gives to Wisconsin County officials the authority to determine on a case-by-case basis what to sell delinquent real estate without any standard; (2) the County officials are to conduct unregulated appraisals of tax delinquent real estate and to sell the said properties for market values, established by the County Officials after seizing the Tax Delinquent Properties from their owners for as little as \$100. 413, 196 N.E. 485 (/opinion/3416542/vallat-y-radium-dial-co/), which held that if a statute leaves it to a ministerial officer to define the thing to which the statute was to be applied and if the definition was not *267 commonly known, the statute is invalid because it creates an unwarranted and void delegation of legislative power.⁴

4. The illegal and unconstitutional Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate which 'incentivize' all Wisconsin

¹A copy the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate is attached to the complaint and incorporated herein by reference (Exhibit D)

². A criminal statute is unconstitutionally vague if it fails to give adequate notice as to what conduct it prohibits or if its terms are so ill-defined that the ultimate decision as to its meaning rests on the opinions and whims of the trier of fact rather than on any objective criteria.

³ Due process is denied if people of ordinary intelligence must necessarily guess at an act's meaning and if they differ as to its application.

⁴ Plaintiffs can attack provision as an invalid delegation of authority because they were directly aggrieved by it and because they are within the class as to whom the law was allegedly unconstitutional

Counties, including the Defendant Walworth County, to engage in a unconstitutional, devious scheme, under the color of law, in order to unlawfully acquire tax delinquent real estate⁵ from its citizens, for only the cost of the back taxes, in order to sell the tax delinquent property for inflated market values, an external reward system, that was put in place by the Wisconsin State Legislators⁶ is put in place to encourage Wisconsin Counties, like the defendant Walworth County, to seize tax delinquent properties from its citizens, and a pattern of unlawful acts as used by Walworth County to unlawfully turn around and sell the tax delinquent properties, not for just the back taxes, as every other state, but for inflated market values, in order to unlawfully fill the said county coffers.

5. The Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate statute is clearly unconstitutional and it also acts as a catalyst for Wisconsin Counties to precipitate further misconduct by WCD knowingly and willfully circumventing their legal statutory obligations under Wisconsin Statute 75.69 which states: "no tax delinquent real estate acquired by a county may be sold unless the sale and appraised value of such real estate has been advertised by publication of a Class 3 Notice Ch. 985"⁷.

6. Pursuant to Wisconsin Statute 75.69 which states: "no tax delinquent real estate statute, WCD prior to advertising their tax delinquent real estate fail to obtain any valid real estate appraisals in accordance with the strict ethical and competency rules of the Uniform Standards of Professional Appraisal Practice ("USPAP"), in connection with the county-owned property which was the subject of a Tax Sale Bid sale from January 1, 2016 to September of 2017.

⁵ Statute 75.69 Sale of tax delinquent real estate tends to induce the commission of unlawful acts by the Counties in the State of Wisconsin or the accomplishment of the purpose is otherwise against public policy. Which is the seizure of private tax delinquent real estate, not for the county to recover its delinquent real estate taxes, but for the county to profit at selling the tax delinquent real estate for inflated market values. Therefore, Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate should be declared unconstitutional.

⁶ is the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate Statute.

⁷ At page 18 updated 2015-16 Wis. Stats. Published and certified under s. 35.18 August 24, 2017, 75.69 Sale of tax delinquent real estate.

7. The State of Wisconsin to fueled its appetite for profit which now has allowed the Wisconsin Counties under the color of law thru Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate, allows Wisconsin Counties to exclude the mere attempt to sale tax delinquent real estate to recover its lost real estate taxes, developed a scheme known as the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate, that would allow Walworth County to sell their seized real estate for back taxes, at highly inflated market prices, which were in direct competition with individual, private property owners, sales of their real estate and unlawfully reap huge profits.

8. This scheme also allowed WDA Defendants to eliminate the delay associated with acquiring a valid real estate appraisal under USPAP standards, and rapidly selling the Wisconsin State Defendants' county-owned properties, all to the financial detriment of Wisconsin State consumers, who are forced to pay alleged "market" prices for properties that were not actually ever even appraised, under the unconstitutional the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate.

8(b) In the end, the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate unlawfully permits WDA uniform practice of systematically corrupting the appraisal process in connection with establishing artificially high cost for the Walworth County owned seized properties, without any warranty of "guarantee with respect to the use, condition, access or occupancy of the property, all to the financial detriment of consumers.

8(c). Obtaining an legitimate appraisal is a critical element of the tax sale of tax delinquent properties for consumers because it provides a buyer or homeowner with an accurate, objective and supportable opinion of a property's value; and it protects the financial and public policy interests in real estate, the the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate is unconstitutional because among other reasons it does not provide for Obtaining legitimate real estate appraisals in violation of the First, Fifth and Fourteen amendments.

8(d). At the core of the applicable federal and state laws, as well as the ethics and competency rules of USPAP, is the requirement that professional appraisers be fully independent and objective in reaching their opinions of value. Unlike the vague unconstitutional requirement of Wisconsin Statute Chapter 25, Section 75.69 which only requires that "appraised value as being a value set by the county board, or a committee that has been designated by the county board, or by a certified appraiser." This appraisal standards encourages appraised values that our not in USPAP's ethical and competency requirements in connection with the sale of Walworth County Tax Delinquent Real Estate in violation of the First, Fifth and Fourteen Amendments of the U.S Constitution.

8(e). The scheme that the WCD defendants are involved in to sell tax delinquent property to comply the Wisconsin Statutory requirement that, all of the Counties in Wisconsin, including the Defendant's Walworth County, manufacture false appraisal values, prior to advertising their tax delinquent property for sale,⁸ not with the intent to recover its tax

⁸ Utilization of Wisconsin State Statute 75.69 for the sale indicates that all tax delinquent property acquired by a county must first be advertised by a Class 3 notice in the newspaper, meaning it has to be advertised weekly for three weeks in a row. Prior to advertising, each property must be assigned an appraised value often referred to as the minimum bid. The statute defines appraised value as being a value set by the county board, or a committee that has been designated by the county board, or by a certified appraiser. The first time property is advertised it may only be sold at or above the minimum bid. If any bids are received below that amount they must be rejected.

delinquent taxes, but to recover inflated market values, in direct competition with private real estate sellers under the color of law ie the unconstitutional Wisconsin Statute Chapter 25, Section 75.69.

9. As a result of Wisconsin Statute Chapter 25, Section 75.69 Walworth County Defendants unlawfully advertises the sale of its tax delinquent real estate with indifference to appraisal's accuracy and/or was not in fact a USPAP Compliant appraisal(s), and instead manufactured phony appraisal(s), used to facilitate the sale of their tax delinquent real estate.

10. Walworth County defendants unlawfully employ a uniform Practice of engaging in systematic, unlawful conduct with respect to the preparation of all appraisals for sale of its tax delinquent real estate under the color of law ie Wisconsin Statute Chapter 25, Section 75.69.

11. These sham appraisals (Exhibit 1) are performed with indifference to the appraisals' accuracy, and instead are designed to ensure that appraisal reports contained an inflated or manipulated property "value" which always exceeded the tax delinquency of the prior owner under the color of law Wisconsin Statute Chapter 25, Section 75.69.

12. Wisconsin Statute Chapter 25, Section 75.69 allows the Walworth County Defendants to knowingly, fraudulently, systematically and uniformly create phony so-called, self-serving "appraisals" on their tax delinquent real-estate which were not performed in accordance with USPAP standards and/or were performed with indifference to any valid appraisal standards in order to facilitate the unlawful sale of their tax delinquent real estate, not to recover the tax delinquency, but to unlawfully profit from the sale of the tax delinquent real estate at inflated, manufactured market prices.

13. Under the Wisconsin Statute Chapter 25, Section 75.69 the Walworth County defendants can operate an illegal enterprise, under the color of law, whose purpose is not to collect the delinquent Real Estate Tax on property acquired by the county, but to unlawfully seize property from its home owners in order to sell the property at inflated manufactured appraised rates and to profit from the sale of their tax delinquent real estate, which no other state allows.

14. In effect, through Walworth County Defendants uniform practice of systematically corrupting the appraisal process, which is aided and abetted by the language of the Wisconsin Statute Chapter 75, Paragraph 75.69 which the statute defines appraised value, vaguely, "as being a value set by the county board, or a committee that has been designated by the county board, or by a certified appraiser." Walworth County Defendants produce so-called "appraisal reports" with indifference to the appraisals' accuracy, which are *not* legitimate opinions of value.⁹

Plaintiffs assert that Wisconsin Statute Chapter 25, Section 75.69 should be held unconstitutional and asserts claims under the Racketeer Influenced and Corrupt Practices Act, and state statutory and common law. What the Plaintiff is presenting to the court for resolution amounts to "state sponsored racketeering".

The question presented to the court::

Whether it is constitutional for a State to pass laws which allow their counties to seize tax delinquent property from their citizens and to turn it around and sell the tax delinquent properties for market values established by inaccurate, phony appraisals.

⁹) There is an inherent conflict for a party with an interest in a real estate transaction involving an appraisal, to improperly influence the value of the appraisal to obtain a greater appraisal value of the real estate than what an independent appraiser might come up with

The Plaintiffs and all of the citizens of Wisconsin been damaged by the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate defendants' actions in this case.

THE COURT IS REQUESTED TO DECLARE THE WISCONSIN STATUTE
CHAPTER 75 LAND SOLD FOR TAXES PARAPRAPH 75
SALES OF TAX DELINQUENT REAL ESTATE UNCONSTITUTIONAL.(Claim 9)

II. JURISDICTION AND VENUE

15. This case arises under the Constitution of the United States, the issues are justiciable and well within the established subject-matter jurisdiction of this Court under 28 U.S.C. §§ 1331, 1343, 1357, 2201 and 42 U.S.C. § 1983, and must be heard and determined by a district court of three judges under 28 U.S.C. § 2284 as to the Count 9 that relate to the Plaintiffs' Count to declare the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate unconstitutional.

The rest of the Plaintiffs' claims can be heard by a single judge. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(b). Jurisdiction is proper in this Court under 28 U.S.C. § 1332(d)(2). The matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000. Defendants are citizens of the State of Wisconsin.

16. This Court also has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1961, 1962 and 1964. This Court has personal jurisdiction over Defendants under 18 U.S.C. § 1965. In addition, under 28 U.S.C. § 1367, this Court may exercise supplemental jurisdiction over the state law and common law claims because all of the claims are derived from a common nucleus of operative facts and are such that Plaintiffs ordinarily would expect to try them in one judicial proceeding.

17. Venue lies within this judicial district under 28 U.S.C. § 1391(b), (c) and (d), and under 18 U.S.C. § 1965, because each of the Defendants transacted business in this District and because a substantial part of the events or omissions giving rise to Plaintiffs' claims in this lawsuit occurred, among other places, in this District.

PARTIES

18. Plaintiffs Christopher Stoller, 70, an individual, residing in Cook County Illinois, disable person, a protected person as defined by the Americans for Disability Act, and a Wisconsin Property holder. Michael Stoller, 26 an adult-child, residing in Cook County Illinois, a disabled person, a protected person as defined by the Americans for Disability Act and a Wisconsin Property holder in Walworth County property. Leo Stoller, 73, residing in Cook County Illinois, a disabled person, a protected person as defined by the Americans for Disability Act and a Wisconsin Property holder in Walworth County property.

DEFENDANTS

Members of the Enterprise

19. Each of the entities named below are members of the RICO Enterprise.

20(a). The State of Wisconsin, a sovereign state of the United States. Its legislative power is vested in the General Assembly. That power is derived from the people and must be exercised solely for the good of the whole.

20(b). Anthony Steven Evers Governor of the State of Wisconsin

20(c) Lake Como Sanitary District, N3420 Dell Pl, Lake Geneva, Wisconsin 53146.

20(d) Gary Duffy, individually and as President of the Lake Como Sanitary District.

20(e) Ron Stojka, individually and as Secretary of the Lake Como Sanitary District

20(f) Joe Roberts, individually and Treasurer of the Lake Como Sanitary District

20G) Rich Scholze individually and as Counsel for of the Lake Como Sanitary District

(Como Defendants)

20(h) Douglass Gonigam, 2651 W. Armitage Ave, Chicago, Illinois 60647

Owner of Wisconsin Property:

LOTS 9350 THRU 9534 blk 172 LAKE COMO BEACH FOURTH MAP
WALWORTH COUNTY WISCONSIN PARCEL ID JLCB 02054

See attached **Exhibit A** Plaintiff's Notice of Liz Pendens

20(I) Donald J. Crowley, Diana S. Crowley N1334 LAKESHORE RD.
, KEWAUNMEE, WI 54216

Owner of Wisconsin Property:

LOTS 4942 THRU 4946 BLK 87 LAKE COMO BEACH
WALWORTH COUNTY WISCONSIN PARCEL ID JLCB 00986

See attached **Exhibit B** Plaintiff's Notice of Liz Pendens

20(J) Douglas Lake Assembly (DLA), a Wisconsin Company located at 1607
Pottawatomie Dr., Delavan Wi 53115 Owner of Property:

Lot 1 Blk W. DELAVAN LAKE ASSEMBLY GROUNDS TAX PARCEL ID NUMBER
FDLA 00208 006 TOWN OF DELAVAN

See attached **Exhibit C** Plaintiff's Notice of Liz Pendens

20(k) Michael Connolly individually and as president of DLA

20(l) Steven Schmidt, individually and as Vice President of DLA

20(m) Henry Rackiewicz, individually and as Vice President

20(n) Bill Winters, individually and as Secretary

20(o) Lake Como Wisconsin Sanitary District, a government entity.(LCS)

N3420 Dell Pl

Lake Geneva, Wi 53147

20(p), Gary Duffy individually and as President of LCS

20(q), Ron Stojka, individually and as Secretary of LCS

20(r) Joe Roberts individually and as Treasurer of LCS

20(s), Rich Scholze Individually and as Counsel for LCS

(Como Defendants)

20(i). Walworth County, a duly governmental organization¹⁰ in Walworth County Wisconsin, 100 W. Walworth, Elkhorn, WI 53121

21. Valerie Etzel, Walworth County Treasurer, a resident of Wisconsin is sued individually and in her official capacity, upon information and belief was Treasurer of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under her control. Valerie Etzel was involved, conspired, and colluded with Walworth County in the course and scope of her employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Valerie Etzel is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable conduct of the agent¹¹. Valerie Etzel participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of her associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

DEFENDANTS, CO-CONSPIRATORS

Board of Supervisors

22. Randy Timms, District 1, Walworth County Supervisor, a resident of Wisconsin is sued individually and in his official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under his control. Randy Timms was involved, conspired, and colluded with Walworth County in the course and scope of his employment and had knowledge of the relevant facts of the Plaintiffs'

¹⁰Because organizations act through individuals, (1) acts by an organization's officials under actual or purported authority to act for the organization, (2) acts by agents of the organization within their authority to act, or (3) acts ratified by the organization should be considered as activities "of the organization."

¹¹Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

controversy. Randy Timms is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable conduct of the agent¹². Randy Timms participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of his associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

23. William Norem, District 2, Walworth County Supervisor, a resident of Wisconsin is sued individually and in his official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under his control. William Norem was involved, conspired, and colluded with Walworth County in the course and scope of his employment and had knowledge of the relevant facts of the Plaintiffs' controversy. William Norem is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable conduct of the agent¹³. William Norem participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of his associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

24. Tim Brellenthin, District 3, Walworth County Supervisor, a resident of Wisconsin is sued individually and in his official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under his control. Tim Brellenthin was involved, conspired, and colluded with Walworth County in the course and scope of his employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Tim Brellenthin is liable personally and liability under the Doctrine of Respondent

¹²Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

¹³Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable conduct of the agent¹⁴. Tim Brellenthin participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of his associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

25. Paul Yvarra, District 4, Walworth County Supervisor, a resident of Wisconsin is sued individually and in his official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under his control. Paul Yvarra was involved, conspired, and colluded with Walworth County in the course and scope of his employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Paul Yvarra is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable conduct of the agent¹⁵. Paul Yvarra participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of his associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

26. Charlene Staples, District 5, Walworth County Supervisor, a resident of Wisconsin is sued individually and in her official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under her control. Charlene Staples was involved, conspired, and colluded with Walworth County in the course and scope of her employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Charlene Staples is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil

¹⁴Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

¹⁵Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

matter) and the inequitable conduct of the agent¹⁶. Charlene Staples participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of her associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

27. Kathy Ingersoll, District 6, Walworth County Treasurer, a resident of Wisconsin is sued individually and in her official capacity, upon information and belief was Treasurer of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under her control. Kathy Ingersoll was involved, conspired, and colluded with Walworth County in the course and scope of her employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Kathy Ingersoll is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable conduct of the agent¹⁷. Kathy Ingersoll participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of her associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

28. David Weber, District 7, Walworth County Supervisor, a resident of Wisconsin is sued individually and in his official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under her control. David Weber was involved, conspired, and colluded with Walworth County in the course and scope of his employment and had knowledge of the relevant facts of the Plaintiffs' controversy. David Weber is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable

¹⁶Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

¹⁷Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

conduct of the agent¹⁸. David Weber participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of his associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

29. Daniel G. Kilkenny, District 8, Walworth County Supervisor, a resident of Wisconsin is sued individually and in his official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin in charge of the officers, agents, servants and employees under her control. Daniel G. Kilkenny was involved, conspired, and colluded with Walworth County in the course and scope of his employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Daniel G. Kilkenny is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable conduct of the agent¹⁹. Daniel G. Kilkenny participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of his associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

30. Susan M. Pruessing, District 9, Walworth County Supervisor, a resident of Wisconsin is sued individually and in her official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin in charge of the officers, agents, servants and employees under her control. Susan M. Pruessing was involved, conspired, and colluded with Walworth County in the course and scope of her employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Susan M. Pruessing is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil

¹⁸ Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

¹⁹ Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

matter) and the inequitable conduct of the agent²⁰. Susan M. Pruessing participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of her associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

31. Kenneth H. Monroe, District 10, Walworth County Supervisor, a resident of Wisconsin is sued individually and in his official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin in charge of the officers, agents, servants and employees under her control. Kenneth H. Monroe was involved, conspired, and colluded with Walworth County in the course and scope of his employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Kenneth H. Monroe is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable conduct of the agent²¹. Kenneth H. Monroe participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of his associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

32. Nancy Russell, District 11, Walworth County Supervisor, a resident of Wisconsin is sued individually and in her official capacity, upon information and belief was Supervisor of Walworth County, Wisconsin and in charge of the officers, agents, servants and employees under her control. Nancy Russell was involved, conspired, and colluded with Walworth County in the course and scope of her employment and had knowledge of the relevant facts of the Plaintiffs' controversy. Nancy Russell is liable personally and liability under the Doctrine of Respondent Superior, under the Pinkerton Theory of Liability (applied in civil matter) and the inequitable

²⁰Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

²¹Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

conduct of the agent²². Nancy Russell participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of her associates, the Walworth County Defendants and co-conspirators, board of Supervisors et al.

32a Defendants John Doe I-X are Walworth County employees, agents, attorneys who aided and abetted, defendantes, other Walworth County elected officials, secretaries, employees, responsible for the sham appraisals. These individuals are currently unknown, but Plaintiff expects that their identities will be uncovered in the course of discovery. Defendants John Doe I-X. are sued in their individual capacity.

FACTUAL BACKGROUND

Real Estate Appraisal Standards

33. An appraisal is an integral part of a real estate loan transaction. It provides purchasers of Walworth County Tax Delinquent Property with the means to obtain an opinion of value from a licensed and qualified specialist. It also provides protection for financial and public policy interests in real estate transactions with federally-insured financial institutions.

34. Appraisals are typically governed by a number of uniform standards, regulations and laws 44. In 1989, Congress adopted Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). See 12 U.S.C. §§ 3331 *et seq.* (hereafter "Title XI"). Title XI *requires* federally-insured financial institutions to obtain a written appraisal that strictly conforms to USPAP standards in connection with any real property insured by the Federal Housing Administration ("FHA"). See 12 U.S.C. § 1708(f).

²²Agent's inexcusable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct

35. Federal law also requires that such appraisals “be performed in accordance with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision.” *Id.* at § 1708(f)(1). Additionally, such USPAP appraisals “shall be performed in accordance with generally accepted appraisal standards,” and each appraisal is to be a written statement that is “independently an[d] impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.” 12 U.S.C. § 1708(f)(1)(A), (B).

36. The USPAP requires appraisers to conduct their appraisals independently and competently: “An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests. In appraisal practice, an appraiser must not perform as an advocate for any party or issue.” USPAP Ethics Rule. USPAP rules also provide that “[a]n appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.” *Id.*

37. The USPAP also requires that an appraiser communicate the result of an appraisal in a manner “that is not misleading.” The purpose of this rule is to ensure that “the client and any intended users whose expected reliance on an appraisal may be affected by the extent of the appraiser’s investigation are properly informed and are not misled as to the scope of work.” *Id.* In this regard, the appraiser’s “scope of work” must include the research and analyses necessary to develop credible assignment results. To that end, an appraiser must not “exclude any information or procedure that would appear to be relevant to the client, an intended user, or the appraiser’s peers in the same or a similar result.” *Id.* Additionally, an appraiser “must not allow assignment conditions or other factors to limit the extent of research or analysis to such a degree

that the resulting opinions and conclusions developed in an assignment are not credible in the context of the intended use of the appraisal." *Id.*

38. The USPAP further provides that it is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:

- (a) the reporting of a predetermined result (e.g., opinion of value);
- (b) a direction in assignment results that favors the cause of the client;
- (c) the amount of a value opinion;
- (d) the attainment of a stipulated result; or
- (e) the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.

39. In addition, each USPAP appraisal report must contain a certification signed by the appraiser, stating that his or her compensation for completing the assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client. *Id.*

40. The USPAP standards are incorporated into federal law, 12 C.F.R. §34.44. Such law provides that an in-house or staff appraiser at a bank "must be independent of the lending, investment, and collection functions and not involved, except as an appraiser, in the federally related transaction, and have no direct or indirect interest, financial or otherwise, in the property." 12 C.F.R. § 34.45. And, for appraisers who are independent contractors or "fee" appraisers, the regulation similarly requires that "the appraiser shall be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property transaction." 12 C.F.R. § 34.45.

41. Appraisers and appraisals are also regulated by state laws, including which provides, in pertinent part, that: "no person with an interest in a real estate transaction involving a valuation shall improperly influence or attempt to improperly influence the development, reporting, result, or review of that valuation, through coercion, extortion, bribery, intimidation, compensation, or instruction."

42. The defendants do not use the USPAP appraisal standards to determine the value of tax delinquent real estate that Walworth County sells.

FACTS

43. The Plaintiffs are owners of property in Walworth County, Wisconsin, since 1955. On August 4, 2017, the Plaintiffs' received a letter from Valerie Etzel, the Walworth County Treasurer, informing them that Walworth County took possession of a parcel of property that "borders your property and may be of interest to you" (Exhibit 1A, a true and correct copy of the August 4, 2017 letter).

44. The said property that abuts the Plaintiff has no road access. The road dead ends a 100 feet before the property (Tax Key Number JLCD 00986.) Further the easement for the road was deeded back to the adjacent property owners. The said adjacent lot is thus an unbuildable lot that has value only to the Plaintiff because the lot borders the Plaintiff's property. The said vacant lot has a possible value of \$2,500.00, only to the adjacent property holder, the Plaintiffs. The said property identified as Tax Key Number JLCD 00986, is not a buildable lot, the Walworth County Defendants fraudulently appraised the value at \$11,400.00, without a USPAP appraisal or any valid appraisal. The value at \$11,400.00 was *not* a legitimate opinion of the vacant, lots actual value. (Land locked without ingress or egress from a county road).

45. The delinquent real estate taxes on the lot identified as JLCD 00986 were about \$2,700.00. The Defendants foreclosed on the lot identified as JLCD 00986 see (Exhibit 2). The Defendants listed the lot identified as JLCD 00986 with a fraudulent appraised value of \$11,400 for bidding at their tax sale of delinquent Real Estate in September of 2017 (Exhibit 3).

The fraudulent appraised value of \$11,400 for an inaccessible lot, was \$8,700.00 more than the \$2700 in back taxes owed to on lot JLCD 00986 to Walworth County. The Walworth County defendants intended to make a profit of \$8,700.00 on the foreclosed property known as JLCD 00986, which was in excess of the \$2700.00 (Approx.) owed in back real estate taxes.²³

46. At the invitation of the Walworth County Treasurer, Valerie Etzel (Exhibit 1) the Plaintiff made a bid²⁴ (Exhibit 4) on a vacant lot 100x100 feet that has no access, no ingress or egress by a designated road, tax delinquent property, known as JLCD 00986 of \$2,500.

47. The Walworth County Defendants rejected the Plaintiff's bid of \$2,500 for property known as JLCD 00986 on the frivolous grounds that it was below their illegitimate appraised value of \$11,400 (Exhibit 5).

48. Plaintiffs are informed and believe that Defendants' engaged in uniform practice of systematically corrupting the appraisal process in connection with false, inaccurate legally mandated appraisals assigned to properties which Walworth Defendants attempt to sell at their Treasurer's Office In Rem Tax Foreclosures (Exhibit 1) which are far in excess of the property tax owed on the foreclosed properties.

²³ Under any standard of law this is criminal for a Wisconsin County, Walworth County to be allowed under the color of law to exploit it's right to collect late taxes on its real estate, to allow the said county, to knowingly and willfully foreclosure on tax delinquent property owners, for back real estate taxes with the intent to retail that seized property for inflated market values, with phony, sham appraisals, in direct competition with private property owners who are selling their real estate. This court should, sue sponte, strike down the Wisconsin Statue Chapter 75 Land Sold for Taxes Chapter §75.69 that permits this as unconstitutional.

²⁴ The Plaintiff also bid on two other Walworth County properties known as JLCB 02034 AND fdla on 0208. Plaintiff's bids were also rejected by Walworth County Defendants on the grounds that plaintiff's bids were less than the appraised values.

49. The Walworth County Defendants appraisals are generated without regard for the appraisal's accuracy and instead provided high values which are designed to satisfy their lust for profit, after foreclosing on their tax delinquent property owners. During this time frame between March of 2016 and August of 2017, in furtherance of Defendants' unlawful appraisal scheme, Plaintiffs are informed and believe that the Walworth Defendants, through its agents, failed to prepare and/or or caused to be prepared sham appraisals for the all of the properties listed on the 2017 Treasurer's In Rem Tax Foreclosure list (**Exhibit 1**) which did not conform to the Uniform Standards of Professional Appraisal Practice and the Code of Professional Ethics of the Appraisal Institute.

50. All of the said Appraised values listed on the Walworth County 2017 Tax foreclosure list are "false and fraudulent" and were not prepared, if prepared at all, according to USPAP standards, regulations and laws governing appraisals and, thus, were illegitimate and violated Title XI, FIRREA, FHA requirements, and state law, among others. Instead, the Walworth County defendants concealed their fraudulent appraisal scheme from the public.

51. Defendants' uniform practice of systematically corrupting the appraisal process in Connection with the sale of tax delinquent real state was never mentioned that the Walworth County Defendants were indifferent to the appraisal's accuracy and instead, the purpose was to create pre-textual appraisals in order to streamline Defendants' sale of tax delinquent property business and list tax delinquent properties faster rather than to provide an honest appraisal value of the tax delinquent property values.

52. Plaintiffs are informed and believes that in connection with the Walworth County Defendants appraisal scheme, rejected the three bids that the Plaintiff made for tax in that the

plaintiff did not bid the alleged appraised value established by the Walworth County Defendants (Exhibit 6).

53. Plaintiff gave constructive notice that it would sue the Walworth County Defendants if its said bids were rejected for any unconstitutional reason (Exhibit 4). Plaintiff's bids were rejected (Exhibit 5). This law suit follows.

**FIRST CLAIM FOR RELIEF
VIOLATIONS OF THE RACKETEER INFLUENCED
AND CORRUPT ORGANIZATIONS ACT
(18 U.S.C. § 1962(C) as to Walworth County Defendants**

54. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

55. Plaintiffs bring this cause of action on behalf of themselves.

55(b) Plaintiffs Rico count is predicated on this court finding that the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate is unconstitutional.

The Rico Enterprise

56. Walworth County and Walworth County Defendants are each persons within the meaning of Title 18 United States Code section 1961(3).

57. Walworth County and Walworth County Defendants at all relevant times, in violation of Title 18 United States Code section 1962(c), including their directors, employees, and agents, conducted the affairs of an association-in-fact Enterprise, as that term is defined in

Title 18 United States Code section 1961(4) (the "Walworth County Enterprise"). The affairs of the Walworth County Enterprise affected interstate commerce through a pattern of racketeering activity. By numerous mailings using the U.S. Postal Service and by wire and email.

58. The Walworth County Defendants Enterprise is an ongoing, continuing group or unit of persons and entities associated together for the common purpose of generating the fraudulent and phony appraisals of the real property at issue in this case.

59. While the members of the Walworth County Enterprise participated in and are part of the enterprise, they also have an existence separate and distinct from the enterprise. The Walworth County Enterprise has a systematic linkage because there are contractual relationships, agreements, financial ties, and coordination of activities between Walworth County and the persons and/or entities procuring and preparing the fraudulent appraisals.

60. Operating the Walworth County Enterprise according to policies and procedures developed and established by its Directors, Supervisors, executives, Walworth County controlled and directed the affairs of the Walworth County Enterprise and used the other members of the Walworth County Enterprise as instrumentalities to carry out the fraudulent scheme to fraudulently, systematically and uniformly produce false "appraisals" of properties in connection with its sale of tax delinquent properties.

61. These policies and procedures established by Walworth County Defendants, Supervisors, executives, include refusing to utilize bona fide appraisers; and using appraisers who disregarded the appraisal "independence" requirements and manipulated the market values of subject properties; rewarding appraisers who produced manipulated appraisals; blacklisting, retaliating against, and firing appraisers who refused to engage in such corrupt conduct; requiring appraisers to rely upon information outside the relevant market to justify manipulated valuations

in appraisals, and providing appraisers with false sales information and comparable to ensure the production of inflated appraisals and/or just simply manufacturing appraisals without any professional assistance.

The Predicate Acts

62. The Walworth County Enterprise's scheme to fraudulently, systematically and uniformly produce and phony, manipulated or inflated "appraisals" of properties, which were performed with indifference towards the appraisals' accuracy, current market value, in connection with the advertising and sale of its tax delinquent properties was facilitated by the use of the United States Mail and wire. Indeed, the Defendants used the United States Mail (including the use of interstate carriers such as Federal Express) and the wires to submit representations concerning the manipulated appraisals, used the United States Mail and the wires, 100's of times to submit the so-called "appraisals" to Plaintiffs (Exhibit 1), and used United States Mail and the wires to submit invitations to bid on Walworth County Tax Delinquent Properties, the scheme constitutes "racketeering activity" within the meaning of Title 18 United States Code section 1961(1), as acts of mail and wire fraud, under Title 18 United States Code sections 1341 and 1343.

63. In violation of Title 18 United States Code sections 1341 and 1343, the Walworth County Enterprise utilized the mail and wire in furtherance of their scheme to defraud purchasers of Walworth County Tax delinquent properties by obtaining money from them, based on sham, false appraised values of Tax Delinquent Property, using false or fraudulent pretenses of fake appraised values of tax delinquent properties.

64. 18 U.S.C. § 1343, the wire fraud statute invoked by 18 U.S.C. § 1961(1)

as a predicate act, provides that "whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice."

65. Between March 2016 and August, 2017, Walworth County, through its agents identified above, transmitted the pre-textual false Appraisals of Walworth County via U.S. mail, over the internet or similar carrier to Plaintiffs' offices in Oak Park, Illinois. Plaintiffs are informed and believe that in connection with the scheme, from its offices in Walworth County, Wisconsin sent, via U.S. Mail transmitted the advertisements to purchase Walworth Tax Delinquent Properties.

66. The Walworth County Enterprise's collective association and collective action in procuring and preparing fraudulent appraisals constitutes the RICO enterprise. Every member of the Walworth County Enterprise participated in the process of misrepresenting and concealing the fraudulent nature of the purported appraisals. The Walworth County Enterprise earned 100's thousands of dollars in wrongful profits as a result of foreclosing on tax delinquent properties and selling those properties for inflated market values over 300 times greater value than the tax deficiencies on the said foreclosed properties.

67. In perpetrating the fraudulent scheme, each member of the Walworth County Enterprise directly or indirectly through its county structure has designed and implemented a uniform scheme to create fraudulent appraisals at issue here. The Walworth County Enterprise's representations and concealments of their ordering, utilization and for so-called "appraisals," of

tax delinquent property comprise one common, uniform nearly identical system of procedures used in virtually an identical way every day.

68. The Walworth County Enterprise has knowingly, intentionally or recklessly engaged in an ongoing pattern of racketeering under 18 U.S.C. § 1962(c) by committing the predicate acts of wire fraud within the meaning of 18 U.S.C. § 1343, by knowingly and intentionally implementing the scheme to misrepresent and conceal their statements about the preparation, use of "appraisals" of property that was foreclosed upon for back real estate taxes, which allowed the Walworth County Enterprise to reap unlawful profits.

69. By devising the scheme or artifice to defraud consumers as described herein, the Walworth County Enterprise transmitted or caused to be transmitted by means of "wire communication in interstate or foreign commerce, writings, signs, signals, [and] pictures," "for the purpose of executing such scheme or artifice," including by:

- (i) Transmitting phony "appraisal" values of tax delinquent property; and
- (ii) Transmitting e-mail communications relating to the process of determining, making or transmitting the phony property appraisals.

70. Plaintiffs are informed and believe that, in addition to the conduct described above, the Walworth County Enterprise used the wires in conjunction with reaching their agreement to make false statements about their use for "appraisals" of the tax delinquent properties at issue here.

71. Through the racketeering scheme described above, Defendants used the enterprise to improperly increase their profits to the detriment of consumers in the state of Wisconsin.

72. The Walworth County Enterprise organized and implemented the scheme, and ensured it continued uninterrupted by concealing their use and otherwise manipulated "appraisals" from consumers, including Plaintiffs.

73. The Walworth County Enterprise knew the scheme would defraud purchasers of tax delinquent properties, yet each member of the Walworth County Enterprise remained a participant despite the fraudulent nature of the enterprise. At any point while the scheme had been in place, any of the participants could have ended the scheme by abandoning the conspiracy and notifying the public and law enforcement authorities of its existence. Rather than stopping the scheme, however, the members of the Countrywide Enterprise deliberately chose to continue it, to the direct detriment of consumers such as Plaintiffs. Plaintiffs suffered injury resulting from the pattern of racketeering activity.

74. Plaintiffs are direct victims of the Walworth County Enterprise's wrongful and unlawful conduct. Plaintiffs' injuries were direct, proximate, foreseeable and natural consequences of Defendants' conduct. There are no independent factors that account for Plaintiffs' economic injuries, and the loss of money satisfies RICO's injury requirement.

75. Plaintiffs, , are entitled to recover treble damages for the injuries they have sustained, according to proof, as well as restitution and costs of suit and reasonable attorneys' fees in accordance with 18 U.S.C. § 1964(c).

76. As a direct and proximate result of the subject racketeering activities, Plaintiffs and members of the Class are entitled to an order, in accordance with 18 U.S.C. § 1964(a), enjoining and prohibiting the Walworth County Enterprise from further engaging in their unlawful conduct.

77. Under the provisions of Section 1964(c) of RICO, members of the Watworth County Enterprise are jointly and severally liable to Plaintiffs for three times the damages that Plaintiffs have sustained, plus the costs of bringing this suit, including reasonable attorneys' fees.

PRAYER FOR RELIEF

Plaintiffs, on behalf of themselves request the Court to enter judgment against Defendants, as follows:

- A. Appointing counsel for Plaintiff Michael Stoller, 26, an adult-child, a disabled person, under the Americans for Disability Act, (ADA) a "protected" person; and mentally in capacitated.
- B. Ordering that Defendants are financially responsible for notifying all Real Estate of the alleged conduct discussed herein;
- C. Awarding Plaintiffs compensatory damages in an amount according to proof at trial;
- D. Awarding restitution and disgorgement of Defendants' revenues and/or profits to Plaintiffs;
- E. Awarding Plaintiffs treble damages in an amount according to proof at trial;
- F. Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful; and
- G. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action.

**SECOND CLAIM FOR RELIEF
VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS ACT,
CONSPIRACY TO VIOLATE TITLE 18 UNITED STATES CODE
SECTION 1962(C)
(18 U.S.C. § 1962(D))
as to Walworth County Defendants**

78. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

79. Plaintiffs bring this cause of action on behalf of themselves.) Plaintiffs Rico count is predicated on this court finding that the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate is **unconstitutional**.

80. As set forth above, in violation of Title 18 United States Code Section 1962(d), members of the Walworth County Enterprise conspired to violate the provisions of Title 18 United States Code section 1962(c).

81. As set forth above, Defendants, having directed and controlled the affairs of the Walworth County Enterprise, was aware of the nature and scope of the enterprise's unlawful scheme, and they agreed to participate in it.

82. As a direct and proximate result, Plaintiffs have been injured in their business or property by the predicate acts which make up the Walworth County Enterprise's pattern of racketeering activity in that they created and manufactured sham "appraisals" of their tax delinquent properties.

WHEREFORE Plaintiffs, on behalf of themselves, request the Court to enter judgment against Defendants, as follows:

- A. Appointing counsel for Plaintiff Michael Stoller, 26, an adult-child, a disabled person, under the Americans for Disability Act, (ADA) a "protected" person;
- B. Ordering that Defendants are financially responsible for notifying all Real Estate purchasers of Walworth County Tax Delinquent property of the alleged conduct charged herein;
- C. Awarding Plaintiffs compensatory damages in an amount according to proof at trial;
- D. Awarding restitution and disgorgement of Defendants' revenues and/or profits to Plaintiffs;
- E. Awarding Plaintiffs treble damages in an amount according to proof at trial;
- F. Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful; and
- G. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action.

**THIRD CLAIM FOR RELIEF
VIOLATION OF UNFAIR COMPETITION LAW
as to Walworth County Defendants**

83. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

84. Plaintiffs bring this cause of action on behalf of themselves.

85. Wisconsin law prohibits any unlawful, unfair or fraudulent business act or practice. For the reasons described above, Defendants have engaged in unlawful, unfair, or fraudulent business acts or practices in violation of Wisconsin State law.

86. Through the scheme, Defendants have (1) directly and indirectly employed a scheme, device and artifice to defraud and mislead purchasers of Walworth County Tax Delinquent properties and defraud any person; (2) directly and indirectly engaged in an unfair and deceptive act towards a person; (3) directly and indirectly obtained property by fraud and misrepresentation; and (4) knowingly made published and disseminated false, deceptive and misleading information.

87. On information and belief, the actions and underlying decisions of Defendants, alleged herein emanated from and occurred within the State of Wisconsin. Wisconsin law applies to the claims of Defendants planned and implemented their wrongful scheme in Wisconsin and the wrongful acts emanated from Walworth County offices. As such, it is appropriate to apply Wisconsin law.

88. Defendants' conduct described herein constitutes an unlawful business practice within the meaning of Wisconsin deceptive trade practice act. In that the conduct violates, among other laws, the Racketeering Influenced and Corrupt Practice Act ("RICO"), and the common law of fraud and unjust enrichment. Specifically, as alleged herein, Countrywide has:

(a) Violated 18 U.S.C. § 1962(c) by conducting the affairs of certain association-in-fact enterprises identified herein, the affairs of which affected interested commerce through a pattern of racketeering activity, and engaged in a conspiracy in violation of

18 U.S.C. § 1962(d);

- (b) Violated Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") by influencing, coercing and manipulating the appraisal process;
- (c) Violated the common law governing unjust enrichment by receiving a benefit from the purchases of tax delinquent properties in the form of payments, which unreasonable, not for the actual values of the tax delinquent properties and made in violation of federal and common law.

89. Defendants' conduct as described herein violates not only the "unlawful" prong of the UNFAIR COMPETITION LAW (UCL), but also constitutes a violation of the UCL's "unfair" prong. Defendants' conduct offends public policy and is immoral, unethical, oppressive, unscrupulous and substantially injurious to consumers. Any justification for Defendants' practices is outweighed by the consequences and harm to Plaintiffs. There were reasonable alternatives available to Defendants to further Defendants' legitimate business interests, other than the conduct described herein.

90. Plaintiffs have suffered injury-in-fact and have lost money or property as a result of Defendants' unlawful, unfair and/or deceptive business practices. Each of Defendants' omissions was material to Plaintiffs in creating the fraudulent, manipulated and inflated "appraisal" values at issue. Defendants' profited from their fraudulent tax foreclosure business and sale of tax delinquent properties by creating sham appraisals rather than to provide an honest assessment of the tax delinquent property values.

91. Plaintiffs seek restitution and disgorgement of profits realized by Defendants as a result of their unfair, unlawful and/or deceptive practices.

92. Defendants' conduct was also "fraudulent, misleading, or likely to deceive the public" within the meaning of Wisconsin Deceptive Trade Practices Act, by engaging in an ongoing enterprise to create sham appraisals, Defendants distorted its tax delinquent property values throughout the County of Walworth since the valuations created by Defendants' appraisals were determined by Defendants' deceitful business practices rather than underlying economic forces affecting the real estate market.

93. Plaintiffs have been injured in fact and suffered a loss of money or property as a result of Defendants' fraudulent, unlawful, and unfair business practices.

94. Defendants have thus engaged in unlawful, unfair, and fraudulent business acts entitling Plaintiffs to judgment and equitable relief against Defendants, as set forth in the Prayer for Relief.

95. Additionally, Plaintiffs seek an order requiring Defendants to immediately cease such acts of unlawful, unfair, and fraudulent business practices, and requiring Defendants to correct their actions.

96. The Plaintiffs have suffered damages. Plaintiffs seek restitution from Defendants. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiffs have suffered and are still suffering damages resulting from the unlawful, horrendous behavior of the Defendants.

WHEREFORE Plaintiffs, on behalf of themselves, request the Court to enter judgment against Defendants, as follows:

A. Appointing counsel for Plaintiff Michael Stoller, 26, an adult-child, a disabled person, under the Americans for Disability Act, (ADA) a "protected" person;

B. Ordering that Defendants are financially responsible for notifying all Real Estate purchasers of Walworth County Tax Delinquent property of the alleged conduct charged herein;

C. Awarding Plaintiffs compensatory damages in an amount according to proof at trial;

D. Awarding restitution and disgorgement of Defendants' revenues and/or profits to Plaintiffs;

E. Awarding Plaintiffs treble damages in an amount according to proof at trial;

F. Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants *sue sponte* to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful; and

G. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action. Awarding attorney fees and costs.

**FOURTH CLAIM FOR RELIEF
UNJUST ENRICHMENT
as to Walworth County Defendants**

97. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

98. Plaintiffs bring this cause of action on behalf of themselves.

99. By their wrongful acts, Defendants were unjustly enriched at the expense of Plaintiffs.

100. Defendants knowingly, fraudulently, systematically, and uniformly procured and prepared manipulated and/or inflated appraisals on the home loans originated by Countrywide.

101. The Defendants has 'unjustly retained a benefit to the plaintiff's detriment and the defendant's 'retention of the benefit violates the fundamental principles of justice, equity, and good conscience.'

102. Thus, Plaintiffs were unjustly deprived of purchasing the subject property for the Tax Delinquency, back due taxes and/or fair market value.

103. It would be inequitable and unconscionable for Defendants to retain the profit, benefit and other compensation they obtained from their fraudulent, deceptive, and misleading conduct alleged herein.

104. The Plaintiffs have suffered damages. Plaintiffs seek restitution from Defendants, and seek an order of this Court disgorging all profits, benefits, and other compensation obtained by Defendants from their wrongful conduct.

WHEREFORE Plaintiffs, on behalf of themselves and all others similarly situated, request the Court to enter judgment against Defendants, as follows:

A. Appointing counsel for Plaintiff Michael Stoller, 26, an adult-child, a disabled person, under the Americans for Disability Act, (ADA) a "protected" person;

B. Ordering that Defendants are financially responsible for notifying all Real Estate purchasers of Walworth County Tax Delinquent property of the alleged conduct charged herein

C. Awarding Plaintiffs compensatory damages in an amount according to proof at trial;

D. Awarding restitution and disgorgement of Defendants' revenues and/or profits to Plaintiffs;

E. Awarding Plaintiffs treble damages in an amount according to proof at trial;

F. Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants *sue sponie* to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful; and

G. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action.

FIFTH CLAIM FOR RELIEF

Wis. 100.264 Violations against elderly or disabled persons.

as to Walworth County Defendants

105. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

106. Plaintiffs bring this cause of action on behalf of themselves.

107. By their wrongful acts, Defendants committed their wrongs against "elderly and disabled persons, the plaintiffs.

108. Plaintiff Christopher Stoller, "elderly person" 68, who has major life activity limitations, walking, performing manual tasks and being able to be gainfully employed.

109. Michael Stoller, 26 an adult child, on Social Security Disability, designated a mentally disabled person, from birth, the said mental impairment substantially effecting his major life activities. Michael Stoller is unable to be gainfully employed.

110. The defendants knew or should have known that the defendant's alleged conduct herein was perpetrated against an elderly person and a disabled person.

111. Defendants' conduct caused physical and emotional damage and economic loss to the Plaintiffs.

112. The said Plaintiffs are more likely to suffer the loss than other persons due to their age, poor health, impaired understanding or restricted mobility.

113. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiffs have suffered and are still suffering damages resulting from the unlawful, horrendous behavior of the Defendants.

WHEREFORE Plaintiffs, on behalf of themselves and all others similarly situated, request the Court to enter judgment against Defendants, as follows:

A. Appointing counsel for Plaintiff Michael Stoller, 26, an adult-child, a disabled person, under the Americans for Disability Act, (ADA) a "protected" person;

B. Ordering that Defendants are financially responsible for notifying all Real Estate purchasers of Walworth County Tax Delinquent property of the alleged conduct charged herein;

C. Awarding Plaintiffs compensatory damages in an amount according to proof at trial;

D. Awarding restitution and disgorgement of Defendants' revenues and/or profits to Plaintiffs;

E. Awarding Plaintiffs treble damages in an amount according to proof at trial;

F. Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful; and

G. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action. Attorney fees and costs.

SIXTH CLAIM FOR RELIEF

Wis. 100.18(1) It generally provides that no person or entity intending to sell, distribute, increase the consumption of, or in any way dispose of any real estate, merchandise, securities, employment, or service or intending to induce the public to enter into any contract relating thereto, may make any untrue, deceptive, or misleading advertisements, announcements, statements, or representations in conjunction with such transaction.

as to Walworth County Defendants

114. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

115. Plaintiffs bring this cause of action on behalf of themselves.

116. By Defendants' wrongful acts, Plaintiffs have been damaged.

117. Defendants made deceptive, misleading advertisements, announcements, statements and representations in conjunction with their sale of tax delinquent properties (Exhibit 1, 3).

118. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiffs have suffered and are still suffering damages resulting from the unlawful, horrendous behavior of the Defendants.

WHEREFORE Plaintiffs, on behalf of themselves and all others similarly situated, request the Court to enter judgment against Defendants, as follows:

A. Appointing counsel for Plaintiff Michael Stoller, 26, an adult-child, a disabled person, under the Americans for Disability Act, (ADA) a "protected" person;

B. Ordering that Defendants are financially responsible for notifying all Real Estate purchasers of Walworth County Tax Delinquent property of the alleged conduct charged herein;

C. Awarding Plaintiffs compensatory damages in an amount according to proof at trial;

D. Awarding restitution and disgorgement of Defendants' revenues and/or profits to Plaintiffs;

E. Awarding Plaintiffs treble damages in an amount according to proof at trial;

F. Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful; and

G. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action. Attorney fees and costs.

**SEVENTH CLAIM FOR RELIEF
BREACH OF FIDUCIARY DUTY²⁵
as to Walworth County Defendants**

²⁵ The court of appeals concluded that it was bound by language in *Beloit Liquidating Trust v. Grade*, 2004 WI 39, 270 Wis.2d 356, 677 N.W.2d 298, stating that breach of fiduciary duty is an intentional tort governed by the two-year statute of limitations in sec. 893.57. A breach of the fiduciary duty of loyalty is an intentional tort subject to the statute of limitations in this section; *Zastrow v. Journal Communications, Inc.*, 2006 WI 72, 291 Wis. 2d 426, 718 N.W.2d 51, 04-0276. The elements for a breach of a fiduciary duty are: (1) the defendant owes a fiduciary duty to the plaintiff, (2) the defendant breached that duty, and (3) the defendant's breach of the duty caused the Plaintiff's damages; *Berner Cheese Corp. v. Krug*, 2008 WI 95, ¶40, 312 Wis. 2d 251, 752 N.W.2d 800.

119. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

120. Plaintiffs bring this cause of action on behalf of themselves.

121. By Defendants' wrongful acts, Plaintiffs have been damaged.

122. Walworth County Defendants owed a fiduciary duty to the Plaintiffs.

123. Walworth County Defendants had an obligation to its citizens not to create fraudulent, misleading, sham appraisals of their tax delinquent properties when advertising them for sale to its citizens.

124. Walworth County Defendants breached their fiduciary duty to the Plaintiff.

125. The Defendants breach of duty caused the plaintiffs' damages.

WHEREFORE Plaintiffs, on behalf of themselves and all others similarly situated, request the Court to enter judgment against Defendants, as follows:

- A. Appointing counsel for Plaintiff Michael Stoller, 26, an adult-child, a disabled person, under the Americans for Disability Act, (ADA) a "protected" person;
- B. Ordering that Defendants are financially responsible for notifying all Real Estate purchasers of Walworth County Tax Delinquent property of the alleged conduct charged herein;all;
- C. Awarding Plaintiffs compensatory damages in an amount according to proof at trial;
- D. Awarding restitution and disgorgement of Defendants' revenues and/or profits to Plaintiffs;
- E. Awarding Plaintiffs treble damages in an amount according to proof at trial;

F. Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful; and

G. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action. Attorney fees and costs.

EIGHT CLAIM FOR RELIEF
Conspiracy²⁶, Aiding and Abetting²⁷
as to Walworth County Defendants

²⁶ In Wisconsin civil conspiracy has been defined as a combination of two or more persons by some concerted action to accomplish some unlawful purpose or to accomplish by unlawful means some purpose not in itself unlawful. *Mendelson v. Blatz Brewing Co.* (1960), 9 Wis. 2d 487, 490, 101 N.W.2d 805 "For two or more persons to conspire to do an act to the injury of another which one person acting alone might lawfully do constitutes in this state a legal wrong." *Judevine v. Benztes-Montanye Fuel & Wholesale Co.* (1936), 222 Wis. 512, 524, 269 N.W. 295.

²⁷ *Winslow v. Brown* 125 Wis. 2d 327 (1985), 371 N.W.2d 417. In *State v. Asfoor*, 75 Wis. 2d 411, 428-29, 249 N.W.2d 529, 536-37 (1977), Wisconsin supreme court stated that one may aid and abet an intentional act that is not intended to injure but that creates a foreseeable risk of injury. The same reasoning applies in a civil action for damages.

126. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

127. Plaintiffs bring this cause of action on behalf of themselves.

128. By Defendants wrongful acts, Plaintiffs have been damaged.

129. The Walworth County and unknown attorneys, agents, officers, directors, JOHN DOES 1-10, owed a duty to the Plaintiffs and they failed on all accounts.

130. Defendants were aware of the duty that all of the Defendants owed the Plaintiffs and yet they all conspired to defraud and injury to the Plaintiffs. By the advertising and promotion of Walworth County delinquent real estate tax filings with inflated, sham appraisals.

131. Defendants knew or should have known that their appraisals of the tax delinquent properties were inflated values based upon sham appraisal. Treasurer Defendant, Valerie Etzel, aided and abetted, directly conspired together with the other Walworth County Defendants injury the Plaintiffs in making the said misrepresentations and/or defrauding the Plaintiff and all of the residents of Walworth County with the creation and implementation of her unlawful 2017 "Treasurer in Rem Tax Foreclosures" (Exhibit 1).

132. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiffs have suffered and are still suffering damages resulting from the horrendous discrimination and behavior of the Defendants.

WHEREFORE Plaintiffs, on behalf of themselves and all others similarly situated, request the Court to enter judgment against Defendants, as follows:

- A. Appointing counsel for Plaintiff Michael Stoller, 26, an adult-child, a disabled person, under the Americans for Disability Act, (ADA) a "protected" person;
- B. Ordering that Defendants are financially responsible for notifying all Tax Delinquent Real Estate Purchasers of the alleged misconduct conduct charged herein;
- C. Awarding Plaintiffs compensatory damages in an amount according to proof at trial;
- D. Awarding restitution and disgorgement of Defendants' revenues and/or profits to Plaintiffs;
- E. Awarding Plaintiffs treble damages in an amount according to proof at trial;
- F. Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful; and
- G. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action. Attorney fees and costs.

NINTH CLAIM FOR RELIEF

to declare the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate unconstitutional as to the State of Wisconsin defendants

126. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

127. Plaintiffs bring this cause of action on behalf of themselves.

128. By Defendants wrongful acts, Plaintiffs have been damaged.

129. The court is asked to declare the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate unconstitutional on the grounds that it is vague, promotes illegal conduct, violates the first, fifth and fourteen amendments of the U.S. Constitution.

130. The vagueness pervades the statute (Exhibit D) to make the entire statute invalid. Especially as it relates to the obligations of the Counties to obtain valid appraisals.

131. Plaintiffs argue that the statute violated their equal protection rights on the basis that, because there was no rational relationship between the Statute and any legitimate government objective, the only discernible purpose was to give the Counties an incentive to foreclose on its citizens tax delinquent property in order to re sell that property not for the back taxes, but for inflated market values based upon phony appraisals.

132. Plaintiffs argue that the statute promotes an unauthorized use of the police power to seize citizens property in violation of due process.

133. The Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate though having the form and the name of law, is in reality no law, but is wholly void and ineffective for any purpose since unconstitutionality dates from the time of its enactment and not merely from the date of the decision so branding it; the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate is an unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed ...

The the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate an unconstitutional law is void. (16 Am. Jur. 2d, Sec. 178)

Wherefore the plaintiffs respectfully pray that:

A three-judge district court be convened to hear and determine the Plaintiffs' claim that the the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate is unconstitutional.

The Court grant plaintiffs their reasonable costs and attorneys' fees pursuant to 42 U.S.C § 1988 ; and the court grant plaintiffs such other and further relief as may be just and equitable.

**10 CLAIM FOR RELIEF
SPECIFIC PERFORMANCE**

As to only the Como Defendants

126. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

127. Plaintiffs own a home in Como Beach, Lake Geneva address known as W3786 Woodland Dr, Lake Geneva, WI. The said property was acquired by the Stollers in 1956. The Stollers have paid the real estate taxes on the said property for 61 years and sewer and water assments.

128. In 2017 the Stollers had a home build on the said property. Parcel JLCB00990.

129. Ray Seitz a district manager for Como stated on behalf of Lake Como Wisconsin Sanitary District (LCS) that LCS would bring the sewer and water up to the property line of the Plaintiff's house W3786 Woodland Dr, Lake Geneva, WI. For no additional charge..

130. See a true and correct reproduction of an email sent from Ray Seitz regarding connecting

the water and sewer to the plaintiff's said property:

From: ray@lcsd1.org <ray@lcsd1.org>
Sent: Friday, July 14, 2017 7:12:03 AM
To: 'CS'
Subject: RE: Proposed Water Main Extension on Woodland Drive East of Como Road

Good morning Nick,

Thanks so much responding for responding. I will mark up a drawing (and will email it to you) and call it a "Concept Plan" for now and please keep in mind it is Preliminary. During our last meeting and a conversation with your surveyor, you were going to have a sketch proposing your approximate sewer lateral and be in location to the main sewer. Are you still planning on providing a sewer lateral sketch?

Thanks Nick and take care.

Ray Seitz
District Manager
Lake Como Sanitary District No. 1

131. Plaintiffs have made a demand on the Lake Como Wisconsin Sanitary District to bring the said sewer and water to the Plaintiffs' property line and the Lake Como Wisconsin Sanitary District has refused.

132. The Lake Como Sanitary refusal to bring the water and sewer to the Plaintiffs' home for the last two years has caused an injury to the Plaintiffs. Rendering the Plaintiffs said home unlivable for two years.

Wherefore the plaintiff prays that the Court order the Lake Como Sanitary District to bring the sewer and water lines up to the property of the Plaintiffs' W3786 Woodland Dr, Lake Geneva, WI. Plaintiffs request that the court award damages to the Plaintiff in the amount of \$250,000.00. Plaintiff request leave of court to assess the Lake Como Sanitary District punitive damages of an additional \$500,000.00.

The Court grant plaintiffs their reasonable costs and attorneys' fees pursuant to 42 U.S.C. § 1988 ; and the court grant plaintiffs such other and further relief as may be just and equitable.

**II CLAIM FOR RELIEF
QUIET TITLE²⁶**

(Wis. STAT. §§ 840.03(1) and 841.01)

134. Plaintiffs incorporate by reference in this claim for relief each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

135. Plaintiff requests that the deed to the properties ;

136. Douglass Gonigam

Owner of Wisconsin Property:

LOTS 9350 THRU 9534 blk 172 LAKE COMO BEACH FOURTH MAP
WALWORTH COUNTY WISCONSIN PARCEL ID JLCB 02054

See attached **Exhibit A** Plaintiff's Notice of Liz Pendens

137 Donald J. Crowley, Diana S. Crowley

Owner of Wisconsin Property:

LOTS 4942 THRU 4946 BLK 87 LAKE COMO BEACH
WALWORTH COUNTY WISCONSIN PARCEL ID JLCB 00986

See attached **Exhibit B** Plaintiff's Notice of Liz Pendens

137 Douglas Lake Assembly (DLA) Owner of Property:

Lot 1 Blk W. DELAVAN LAKE ASSEMBLY GROUNDS TAX PARCEL ID NUMBER
FDLA 00208 006 TOWN OF DELAVAN

See attached **Exhibit C** Plaintiff's Notice of Liz Pendens

These three properties which the Plaintiff had bid on see Exhibit E and those bids were unlawfully rejected, in the 2017 Walworth County Delinquent Real Tax Sale which was held

²⁶ *Magnuson v. Clithera*, 101 Wis. 551, 554, 77 N.W. 882 (1899).

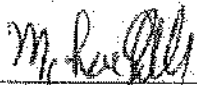
pursuant to the unconstitutional the Wisconsin Statute Chapter 75 Land sold for Taxes Paragraph 75.69 Sales of tax delinquent real estate.

WHEREFORE Plaintiff is requesting that the court order the deeds for the above three properties expunged, held for not and order Walworth County to quiet and to quick claim their interest to the Plaintiffs' for the properties known as :


1. LOTS 9350 THRU 9534 blk 172 LAKE COMO BEACH FOURTH MAP
WALWORTH COUNTY WISCONSIN PARCEL ID JLCB 02054
2. LOTS 4942 THRU 4946 BLK 87 LAKE COMO BEACH
WALWORTH COUNTY WISCONSIN PARCEL ID JLCB 00986
3. LOTS 4942 THRU 4946 BLK 87 LAKE COMO BEACH
WALWORTH COUNTY WISCONSIN PARCEL ID JLCB 00986

The Court grant plaintiffs their reasonable costs and attorneys' fees pursuant to 42 U.S.C § 1988 : and the court grant plaintiffs such other and further relief as may be just and equitable.

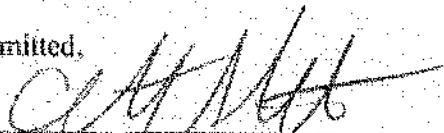
Respectfully submitted,



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