

IN THE STATE OF ILLINOIS
FOURTH district APPELLATE COURT
<http://www.state.il.us/court/appellatecourt/4thdist>

AN APPEAL OF CASE 09-LM-1414

DENIED AUGUST 23, 2010 champaign county court/ judge T. Difanis. The cause of dismissal:

“for lack of a clear an concise statement of your position”.

JAMES FRANK OSTERBUR pro se
2191 county road 2500 E, ST. Joseph IL 61873

vs.

PROVENA COVENANT MEDICAL CENTER
1400 W. Park st, Urbana IL 61801

MR. DANIEL SLAYDEN attorney for the defense
14 W. Cass st, 3rd floor, Joliet, IL 60843-4116

filing DATED: AUGUST 30, 2010

1. The basis of this appeal is then: WHAT could be more clear? Than a two part trial whereby it is clearly evident and absolutely without doubt, given the documentation of this trial. The first part: Given the utterly clear and convincing reality of testimony that is more than merely preponderance: 464 F. 2d 471,474 this case develops and is established on the fact, that one contractual agreement was made and accepted/ BUT AN ALTERNATE reality was charged, by Provena. Whether in fact the emergency room was used IS NOT the foundation of this case. This contractual dispute is, I agreed for the “fast track service”/ and was told no different. THAT IS NOT, what I am charged for: an emergency room is NOT what I accepted, distinctly stated the emergency room is refused/ AND the admittance staff at provena medical KNEW AND UNDERSTOOD that to be so. By her testimony “yes, we have fast track”. The contract was then made, based upon the initiating staff understanding: and my testimony to her, WITH CLEAR AND CONVINCING TESTIMONY, “I DID NOT desire the emergency room”.
2. As is the “preparation for trial” document; page 5, line 11-14, the judge knows. This document issued by me to the court; with clear and convincing statements therein, establish that fact is beyond dispute: **and NOT POSSIBLE, for the judge to misconstrue, he knew/ as does this judge Difanis.** Thereby when a child could be conceived of to understand a statement written or oral in court/ so must the judge understand; or it is FRAUD, LIES, AND THEFT of my inherent guaranteed rights as a citizen of this state and nation. Due process includes, “the reasonable assertion: a judge CANNOT assume ignorance as his defense/ as a

substitute for justice”. That is not a legal argument/ rather than is cause for reclusion, or step aside.

3. The second half of this trial is: WHEN IS the establishment of constitutional first amendment law NOT concise? **Is not the law, the law! The first amendment is very clear: and it gives NO allowance for “the whim of a judge”/ it is law!** From the first amendment “quote.....or the right of the people peaceably to assemble and to petition the government for a redress of grievances”. A legal right, wherein and whereby peaceful assembly is given to be, the assignment of a courtroom, and its jury shall decide: if my complaint has merit. And if so through our ownership of this nation, we then decide as a community/ state/ or nation what that redress shall be. IT IS NOT the right of a judge to decide redress/ it is a jury that begins the process, and the people who enforce and declare this shall be so. That is, the meaning of Democracy/ the elemental truth of ownership described by WE THE PEOPLE.
4. The foundation of this second demand, disciplined as a partition of the trial called 09-LM-1414 has been proven a NEED FOR THE PEOPLE, through this legal process beyond all reasonable doubt 25 F. 556. 558. That a citizen/ patient has no rights in this county courtroom, no protection in federal district or appellate court. Page 3, line 16-24/ page 4, line 1-4. thereby justice here in these courtrooms is not blind/ it is prejudicial and biased against the citizen/ patient; and for the power of money.
5. That a pro se plaintiff has no opportunity to present or sustain a case in this courtroom either state or nation has been clearly proven. The right of a jury trial guaranteed me by the constitutional amendment 7; has been stolen, by the judge. With his declaration of ignorance/ a demand made consistently throughout every trial that has my name on it. My demand is for jury trial page 4 line 8-9/ MY CONSTITUTIONAL RIGHT, IS CLEAR. Thereby the law is NOT obeyed, and the judge stands in treason: the subversive actions which seek to undue, and undermine a nation, its law, its democracy, and its people.
6. That a clear conspiracy against the citizen/ patient: particularly this pro se plaintiff exists. With a long line of legal cases “James F. Osterbur” ; exists to prove beyond all possibility of doubt, this fact is so. Establishes the evidence: without doubt, that if I cannot be heard, discarded with ignorance and the disrespect of both law and citizen; as is the words ““for lack of a clear and concise statement of your position”. THEN understanding, how few pro se litigants can do as well as I. Discovers and dictates: Therein we see a court in disrepute, a judiciary in open contempt of the people, law, and nation. Protecting the lawyer/ protecting the money/ protecting the diploma: and SACRIFICING the citizen or nation. Did he not set me up for theft: no trial/ pay any damn amount they ask, plus any damn amount the lawyer asks. Without an opportunity for justice: THIS IS SIMPLE AND PLAIN EXTORTION. IT IS, A judiciary in complete and

utter disrespect, choosing for power and pride and against the citizenry and nation.

7. This is, A power conspiracy against the people, by defying their absolute right to the law, to their own democracy as WE THE PEOPLE ARE THE OWNERS HERE. This claim of ignorance, as well as the alternative assertion by the court called frivolous: RATHER THAN FACTS/ EVIDENCE/ JUSTICE/ OR LAW, strips the fourteenth amendment and each citizen of their right to DUE PROCESS. Consequently it is traitorous, and done with the deliberate intent to adversely possess the constitution/ thereby defeating democracy. And opening the door for swindle, fraud, and extortion, by using the policing power against the people themselves. This demand that descends to treason or traitor against this nation and its democracy called WE THE PEOPLE, at a time in our history: when in fact we are in such desperate need. Due to the failure and fools who have led us to these conditions page 4 line 8-12, with severe and extreme threats on all sides [IT IS, a part of redress in court, to distinguish and identify these threats].
8. The purposeful and deliberate collusion and contempt held by, and proven in the state and federal courts; **by the judiciary, against the first amendment of this US CONSTITUTION**, and this state of IL constitution as well. Has been PROVEN in the various courts which chose to disobey the law of OUR UNITED STATES CONSTITUTION. The right and reality of our ownership, and our clear legal ability to demand accountability and ownership of this nation through the court.
9. Causing the clear and consistent demand: WE MUST have redress of grievances; 367 F. Supp. 91, 101. Not a game, IT IS THE LAW. The act of a traitor or felon exists, OR a reality of organized crime is proven, when that law is imprisoned by those hired to do the very opposite/ and have given their oath to protect and defend instead. THIS FIRST AMENDMENT REDRESS: gives us our right to OWN, and our authority to decide/ examine and investigate. It is the rule of law which makes the leaders obey OUR laws, OUR DEMAND of this first amendment redress of grievances. Our guaranteed democracy proven by the terms of WE THE PEOPLE DO, have power over the nation, its direction, and its description ourselves.
10. In the first half of trial: WHERE is the credibility of contract law more plain than a business agreement clearly made between the representative staff and I. **PRIOR to admittance:** (not in the emergency room! I came for, asked for, “convenient care services, as is common to other hospitals”. And the staff stated unequivocally YES, we have that, its called fast track”). Therefore she did understand, and knew what I expected. And with that expectation comes the, “common charge (as had been paid in the past at another hospital)” between \$200-\$400 dollars, including doctor charges. Not a charge substantially more; as was given to me.

11. Defense attorney Slayden states “page 2, lines 18-23” the mail delivered to him no amended complaint; nothing. Yet we know page 5, the court grants to me, as of June 9 page 5, line 16-17, thirty days to refile. Yet we know, the motion to arrest judgment and return to the law is filed on July 22, page 3 line 12. Which means this lawyer made no mention at all to the court when thirty days had past by; and if he had received no amended complaint: IS THAT NOT what he would have done/ simply said its over, the deadline is past? **Indeed he would.** Instead I filed motion on the 43rd day: the deadline, was at 30 days, had no amended complaint existed. Would you not suppose a trial of this length and determination been of interest/ did it escape his mind? Or is this plain and clear perjury? Or is it the sign of collusion between lawyer and judge in closed conversations having made the decision between them to: “give him NOTHING to say”? Page 3, line 8-10; the judge demands NO right to examine or define how this came to be! As to this trial which does have national potential: do you not suppose Provena and its doctor who also received all documentation; would not have been interested; calling their lawyer, to question him.
12. Clearly and without doubt, the contractual matters of this trial leave no room for confusion; centuries of dealing with contractual dispute exist, and it is plain and simple as expressed in the preparations for trial, mentioned and (throughout the trial papers as well): and acknowledged by judge, “with a nod of his head”/ established, with the words “all right”. Page 5, line 11-14. nothing more was required in the testimony of this day for what is essentially “perfectly clear”. Both as contractual law and constitutional law. Plain and simple/ and BOTH, discarded by the judge with contempt.
13. The secondary partition of trial herein as it regards redress of grievances is absolutely clear, but less defined DUE TO THE **FACT, even though it is a law established with the first amendment**, NOT ONE single legal case has been tried in this USA since its birth in 1776. Therefore secondary relationships through simple verbal argument, as is the testimony of august 23; were provided due to the arrogance plainly viewed, sitting on the bench. Although more than sufficient information existed: when coupled to the federal and federal appellate trial *[the judge knows, page 4, line 23-24 which removed judge Leonhard. Do you really think a legal case removing or legally threatening a judge would not have been found? NOT one legal argument against me was won, in federal or appellate court: more graft and corruption displayed instead.]* Therefore, I again instructed the court, “this is not a small matter, to which the judge replied “is not a clear an concise statement of your position” Page 5, line 18 I reminded him that 5 trillion dollars page 4, line 5; is completely unsustainable. Which means, in clear and concise terms, the entire system is about to collapse, as anyone with a comprehension of grade school math, can understand. NOT a description of medicines or any other value. ALL MONEY is distinctly a consequence of

human: does a tree demand money before you cut it down? No, all money is a demand by human to human: and these charges, by these human beings seek to enslave the others and me; amendment thirteen prohibits “neither slavery nor involuntary servitude.... shall exist”. Or more plainly, not by any means or construction of society; including the extortion in health care! WE NEED REDRESS NOW, for the sake of this nation.

14. The judge lies, (because a jury of my peers, would have understand/ a jury granted to me by the seven amendment). The judge strips from me DUE PROCESS by deliberately removing me from the courtroom wherein I seek not only justice for myself but for the nation as well. With the words: “for lack of a clear and concise statement of your position”; a position of proclaimed ignorance; I am discarded. Even though my position is absolutely clear, and it is a jury that has the right to decide, if my cause and complaint has merit according to the seventh and fourteenth amendments: NOT a judge. He is merely an employee, it is the law that decides where justice rules. The law did not decide here/ the judge declares himself superior to the constitution and its declared purpose of democracy for this people; of this USA. How can that be true? He subverts justice, and seeks control over my life with consequences: stealing from me, the money this trial contents for; a thug, by any other name.
15. So we ask the question: WHY does the defense prevail page 5 line 22? WHY is this matter dismissed with prejudice, which by definition assumes and asserts: that in the matter of the doctors billing, which is tied to this case/ but was delivered after the case was filed; cannot be tried. Dismissal with prejudice means: “the merits are so substantial to withhold me from court/ the case so inferior”; that I have no legal rights left in this courthouse; regarding any and all aspects of this case. A matter of some value to me, as this is my life, my work, and the nation I do live in.
16. Therefore to ascertain what grand lesson *[did he not topple all contractual law precedents/ did he not dissuade, defy, and dissemble a first amendment legal right]* **in justice, law, fair play, or constitutional right. Indeed he did!** Therefore we look to the defense; who has provided to me and to this court, these things: as we look at his filing, “for the merits”.
17. Defense motion to dismiss April 20, 2010 quote pursuant to 735 ILCS 5/2-615 (a) ..is devoid of any plain and concise statement of claim, and it is the hospitals position that ...”none of the pleadings contain any logical reasoning”. ...substantially insufficient at law, and is certainly not definite and specific enough for the defendant to form only answer thereto(c) defect in pleading, substantial defects in prior pleadings may be considered (d)...the court may enter appropriate orders..
18. rule of the court 5/2-615 and its subsets are illegitimate authorities to justice/ they DO NOT have the power of law: thereby these do NOT have the opportunity to

destroy a trial. The work of the defense contains NO legal precedents regarding contractual law or constitutional law.

19. Not a single word regarding the merits, facts, claims, or evidence. **Simply the tried and true rape of the American people: BY CLAIMING, "I/WE don't understand; and we won't learn"! Period.** Because the reality of American justice is: PAY the damn lawyer OR malfeasance and malicious reality will arise.
20. ACCORDING to citizen (*same, not different*) judge (*employed by the people, with a job granted by oath, to do*) Difanis (*an individual*); page 5, line 22 "counsel, you've prevailed". Without a single meritorious word/ without the slightest reference to the case itself. Not with law. Not with justice, fair play, equity or equality: but with plain and simple treason, the judge "stands in the alley as a thug". Granting the robber, to take whatever you want, an act of utter prejudice/ or the brand of a coward, who cannot break the code of organized crime. No legal rights for me. No constitutional rights for this nation. No guaranteed or inherent citizen's right. No fourteenth amendment provided to me. No seventh amendment guarantee. No first amendment redress of grievances, as is the true DEMOCRACY CALLED WE THE PEOPLE. No adherence to facts. No evidence or presentation of the facts, no argument establishing a record by the reality of this case. **No acceptance, THAT I DID pay for this service in a court of law FOR JUSTICE; so that the law would decide; AND THAT IS A CONTRACT.** THEREBY a contract broken by the court. The judge is a worker, hired to do his job/ as with EVERY OTHER WORKER, he is not entitled to change the job for which he was hired, that is contractual fraud, and employee dissidence (no right). Instead of law, the judge assumes, & the lawyer identifies and participates: that criminal legal fraud is not a felony/ if done by the judge. **I say its treason/** because the nation itself depends upon justice, and fair play to sustain and create peace/ the alternative is war, as seen in so many nations! The fraud here is: that a judge acts or thinks he is superior to the law. That a rule of the court (little more than punctuation) is superior to the **first** (did I not demand redress), **fourth** (am I not in court as plainly stated, because the contract was changed), **seventh** (is this money in question not substantially over \$1000.00), and **fourteenth** (DUE PROCESS, is not a game) amendments of the US constitution.

CONCLUSION AND DEMAND:

RETURN THIS MATTER TO COURT/ **OBEY THE LAW!** ESTABLISH A JURY BY LOTTERY, AND PREPARE FOR THOSE WHO WILL BECOME THE JURY, with the necessary media information about where they shall come, to get their number, and take their chances on being a member of the jury for this trial.

THE LISTING of trials established by James Frank Osterbur: as a participation in this appeal of 09-LM-1414. PROOF, the court is in contempt of the law and the pro se litigant, or worse! By trials at the various levels of “common citizen”.

Oldest, are found at www.trialforlife.info (the **abstract**; links are bad, simply go down the page to written text, or edit for item numbers; they follow one another, starting at the bottom of the page.) ***each trial is what it is/ but what it is clearly defines the reality of a courtroom and a citizen in this USA.*** One trial needs a tiny bit of explanation Osterbur vs. Alit Selimi/ Danville courthouse: Which failed to notify, either of trial or that trial was dismissed/ and kept no record. The judge discards this case, even though I stood in that courtroom with testimony/ with payment made; and clear purpose. His cause, I was not physically there at a motion that is essentially to make certain the defendant knows what he is being charged for; HE KNEW. To be dismissed for a purpose that was not more than to say “present”/ is not justice, nor the intent for justice. My decision was: an immigrant on trial for, “fool (he was offered just pay the material bill, because my nephew is the only reason I am here; he refused)/ liar (he refused to honor both the oral contract previous to the work, & the written contract established by the work)/ failure (he would have gone bankrupt without me)/ and thief (he threatens me, in an effort to resist payment) as testimony provides.” those things coupled to the intent to deport/ his loss in this case would have been bankruptcy for him. And any man who has that must to lose, particularly an immigrant, who has proven a desire or intent for violence, at the end of his sanity: will potentially find murder as a way out. ***This trial called redress of grievances, IS MORE important to me, than him or the money;*** NOTHING has deterred me, and I spent my life on it/ BECAUSE it is needed, and clearly proven to be true. Therefore the selimi trial has waited for this day, when I no longer can lose your chance as a planet to survive. Go to www.justtalking3.info, and look for “**the list**” on the left side of the homepage. To see primary threats, and learn why.

www.justtalking.info has trials

www.justtalking2.info has the primary US supreme court case 08-1339

& www.justtalking3.info **where this trial is located**