

**IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT  
McHENRY COUNTY, ILLINOIS**

TERRY R. MOHR, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
AMY L. KINSELLA, )  
 )  
Defendant. )

00AR650

**FILED**

**JUL 14 2003**

VERNON W. KAYS, JR.  
McHENRY CTY. CIR. CLK.

**EMERGENCY MOTION TO RECUSE/REMOVE  
JUDGE MICHAEL J. SULLIVAN**

NOW COMES the defendant, Amy L. Kinsella, pro se, and moves this honorable court to recuse/remove Judge Michael J. Sullivan, instanter, from this case.

In support of this motion, defendant states the following:

It is apparent from a review of the record of this case, and the Defendant incorporates herein the Defendant's Motion to Dismiss the Plaintiff's Complaint and all other motions and Memorandum of Law, previously submitted by the defendant in this case, that Judge Sullivan either (1) does not understand that Supreme Court Rule 63 (A)(1) which states that "a judge should be faithful to the law and maintain professional competence in it" and/or (2) he is partial against me. In either event, Judge Sullivan is incapable of conducting an impartial hearing, as required by the Supreme Law of the Land. Steffel v. Thompson, 415 U.S. 452, 94 S.Ct. 1209 (1974) ("state courts have the solemn responsibility, equally with the federal courts `to guard, enforce, and protect every right granted or secured by the constitution of the United States.") As only a partial evidence of the statements made by Judge Sullivan in his void order of July 10, 2003 [Exhibit A], the defendant submits the following:

1. The law holds that the public policy of Illinois "is reflected in its constitution, its statutes and its judicial decisions." Albert Brooks Friedman, Ltd. v. Malevitis, 304 Ill.App.3d 979, 710 N.E.2d 843 (1999). Judge Sullivan's void orders do not follow the definition of public

policy of the State of Illinois or its meaning.

In Premier Electrical Construction Company v. American National Bank of Chicago, 276 Ill.App.3d 816, 658 N.E.2d 877 (1995), the Appellate Court stated that "A local rule has the force of a statute and is binding on the trial court as well as the parties." Judge Sullivan's orders are contrary to Public Policy and therefore are void.

The Supreme Law of the Land holds that a judge must not only be impartial, he must give the appearance of impartiality. Levine v. United States, 362 U.S. 610, 80 S.Ct. 1038 (1960) ("justice must satisfy the appearance of justice"), Offutt v. United States, 348 U.S. 11, 14, 75 S.Ct. 11, 13 (1954). Judge Sullivan is neither impartial, nor does he give the appearance of impartiality by issuing void orders which are contrary to the Public Policy of the state of Illinois.

The Mandatory Arbitration Local Rules of the 19th Judicial Circuit, issued pursuant to orders of the Illinois Supreme Court, do apply to this Plaintiff's actions. The orders to date issued by Judge Sullivan state that **BOTH** Supreme Court Rules and the local rules which have the force of a statute do not apply to the Plaintiffs action. However, the Supreme Law of the Land holds that:

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it." Malone v. Bowdoin, 369 U.S. 643, 82 S.Ct. 980 (1962), quoting United States v. Lee, 106 U.S. 196, 221, 1 S.Ct. 240, 261 (1882).

Judge Sullivan has ruled that the Mandatory Arbitration Local Rules of the Circuit Court of the Nineteenth Judicial Circuit are not the public policy of the State of Illinois and of the Circuit Court of McHenry County, and are discretionary. The rules of the court are not discretionary and must be followed by both the litigants and the courts.

The Mandatory Arbitration Local Rules holds that certain verbiage, "THIS IS AN ARBITRATION CASE" must be included in the Summons and Complaint, as stated in Rule 17.03 [Exhibit B]. This Court acknowledges that this mandatory verbiage is NOT included in the

Complaint. The Complaint violates the public policy of the State of Illinois and of McHenry County. The order of July 10, 2003 is void as it violates public policy.

Just as the Illinois Supreme Court held in Holmstedt v. Holmstedt, 383 Ill. 290, 49 N.E.2d 25 (1943), that "It was the duty of the court as soon as he discerned within his own mind any feeling of opposition to a pronounced public policy of the State such as might prejudice him for or against either party to the litigation, promptly and of his own motion, to disqualify himself and have the case reassigned." Judge Sullivan has a DUTY to recuse himself.

2. As to ¶2 of the July 10, 2003 void order issued by Judge Sullivan, the Illinois Supreme Court has defined fraud as it applies to all attorneys/judges. Contrary to Judge Sullivan's order of July 10, 2003, fraud is an issue before this court. It is an issue before all courts. And it is especially an issue in this court where Judge Sullivan is a participant in the fraud. In this court where Judge Michael J. Sullivan, Terry R. Mohr, Carol Hill, and now Mary Nader act in concert with each other to engage in "fraud upon this court". And where all four attorneys (a judge is an attorney, In re Witt, 145 Ill.2d 380, 583 N.E.2d 526 (1991) have a separate and independent duty to report the others under Skolnick v. Alheimer & Grey, 191 Ill.2d 214, 730 N.E.2d 4 (2000).

Contrary to Judge Sullivan's void order of July 10, 2003, the statements of "fraud upon the court" are a basis for dismissal, especially where it is based on Judge Sullivan's "fraud upon this court".

"Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply **VOID, AND THIS EVEN PRIOR TO REVERSAL.**" [Emphasis added]. Valley v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 41 S. Ct. 116 (1920)

3. As to ¶3 of Judge Sullivan's void order, blatant violation of my First Amendment Rights by Judge Sullivan is an issue before this court. "State courts have the solemn responsibility, equally with the federal courts to guard, enforce, and protect every right granted

or secured by the constitution of the United States.”

In the event the Judge Sullivan was unable to read or understand the defendants previously filed Memorandum of Law, the Defendants First Amendment Rights include an adequate, complete, effective, fair, full, impartial and meaningful access to this court. Therefore, contrary to the void order entered by Judge Sullivan on July 10, 2003, it is subject matter for this court to consider. The Courts failure to consider it violates this defendant First Amendment Rights and is an additional reason why this court is without jurisdiction and the order of July 10, 2003 is void, of no legal force or effect.

¶3 of the July 10, 2003 void order refers to Count III of the Defendant Verified Motion to Dismiss the Plaintiff's Complaint. In Count III, the verified statement was made that:

“Should attorney Mohr be so positive that Judge Sullivan will grant him a judgment in the amount of \$11,506.95 before even a hearing on purported fees, then Judge Sullivan cannot be considered to be impartial. Any appearance of partiality on the part of Judge Sullivan would violate the Defendant's First Amendment Rights, the Supreme Law of the Land, and Judge Sullivan would also be acting in violation of the Article VI, clause 3, to the U.S. Constitution. Either event would deprive Judge Sullivan of any lawful authority to issue a valid order for any fees to attorney Mohr, as Judge Sullivan would be acting in his person, and not with any judicial authority. Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974).”

The verified statement of partiality was not disputed. It stated that an appearance of partiality on the part of Judge Sullivan would deprive him of jurisdiction. It stands as true, since neither Judge Sullivan nor the Plaintiff disputed the statement. The denial of the Defendant's Motion by a judge without jurisdiction does not dispute the verified facts stated.

4. The void order of July 10, 2003, as well as other previous orders, contain a false statement about “the court having jurisdiction”. The court does not have jurisdiction, as jurisdiction, if any, was lost by the “fraud upon the court” by Judge Sullivan and the Plaintiff and his attorneys. Armstrong v. Obuscino, 300 Ill. 140, 133 N.E. 58 (1921); Johnson v. Theis, 282 Ill.App.3d 966, 669 N.E.2d 590 (1996) (“A mandatory provision in a statute is one which the omission to follow renders the proceeding to which it relates illegal and void.”). This proceeding is illegal and void.

5. The Court must be a disinterested party. IRMO Pagano, 181 Ill.App.3d 547, 537 N.E.2d 398 (1989). The Court is not a disinterested party where the judge is involved in a “fraud upon the court”, or where the judge is not impartial or gives the appearance of partiality.

One of the mandatory requirements of a judge is that he be both impartial and also give the appearance of impartiality. Judge Sullivan is not impartial nor has he given the appearance of impartiality in this action. The void orders issued by this court regarding the Defendants motions before this court and ignoring the Memorandum of Law filed with the court are further evidence of Judge Sullivan’s partiality against the Defendant.

6. Under Article VI, clause 3, of the U.S. Constitution, every judge takes an oath to support the U.S. Constitution. Whenever any judge violates the Constitution in the course of performing his/her duties, then that judge is acting without lawful authority, has defrauded not only the Defendant or the Plaintiff involved, but has also defrauded the government. The judge or the government attorney is paid to support the U.S. Constitution. By not supporting the Constitution, the judge is collecting monies for work not performed, in effect, receiving stolen property.

It is not a judicial function to attack the U.S. Constitution. Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958).

It is not a judicial function to issue a void order, an order issued without jurisdiction. The U.S. Supreme Court has ruled that a judge who acts without jurisdiction, is engaged in treason. Judge Sullivan is acting without jurisdiction in this case. U.S. v. Will, 449 U.S. 200, 216, 101 S.Ct. 471 (1980).

It is not a judicial function to engage in a crime, especially a crime against the Government.

Judge Michael J. Sullivan acted in violation of the Constitution, he warred against the Constitution and against the government which he had taken an oath to uphold and which pays him. Under the law, Judge Sullivan was not acting as a judge, but as a private person. Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974).

The U.S. Supreme Court has stated that a judge violates the U.S. Constitution whenever the judge issues an order without jurisdiction. The judge has committed a “fraud upon the court” and upon the Constitution.

Judge Michael J. Sullivan has committed “fraud upon the court” and upon the Constitution. Judge Michael J. Sullivan has engaged in actions in which he brings the judicial office into disrepute.

7. Defendant truly believes that Judge Sullivan has not been impartial and has already made up his mind on granting the Plaintiff’s fee petition before this court, and that he and the Plaintiff have engaged in acts of collusion to prevent Defendant from having her day in court, that he will continue to violate the defendant’s First Amendment Right to an adequate, complete, effective, fair, full, impartial and meaningful hearing on the Defendant’s defense on the fee petition, that he has, and will continue to, engage in acts in depriving the Defendant of the honest governmental services that the Defendant has a Constitutional Right to receive, that the Court is without jurisdiction in this matter due to the actions of Judge Sullivan and the Plaintiff and his attorneys.

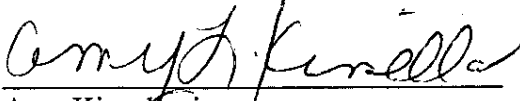
## CONCLUSION

Judge Sullivan must recuse himself. He is not impartial; he does not give the appearance of impartiality. He has engaged in fraud upon the court and the Defendant, by his not complying with the local rules and the Supreme Court Rules. He has violated the Defendants Constitutional Rights depriving him and the court of jurisdiction. In addition, the fraud upon this court by attorney Mohr, and his attorney’s; deprive this court of jurisdiction.

WHEREFORE, the Defendant prays that this Honorable court issue an order for the removal of Judge Sullivan for his violations and for ignoring the Supreme Court Rules and the

Mandatory Arbitration Local Rules of McHenry County and the Defendants Constitutional Rights which apply to this case. Such action is in **violation** of the Public Policy of the State of Illinois.

Respectfully submitted,

  
Amy Kinsella, in pro per

Amy Kinsella  
9808 Prairie Ridge  
Apt. 1-D  
Richmond, IL. 60071

CIRCUIT COURT FOR THE 19th JUDICIAL CIRCUIT

STATE OF ILLINOIS }  
COUNTY OF McHENRY } SS

GEN. NO. 00 AR 650

Jury  Non-Jury

*Jerry R. Moter*

vs.

*Amy L. Kixrella*

FILED  
McHENRY COUNTY, ILLINOIS  
JUL 10 2003  
VERNON W. KAYS, JR.  
CLERK OF THE CIRCUIT COURT

Date 7-10-03

Plaintiff's Attorney M. Taden

Defendant's Attorney [Signature]

ORDER

This matter coming before this Honorable Court on Respondent's Verified Motion to Dismiss the Plaintiff's Complaint; the Court having heard arguments of both parties; the Court having jurisdiction and being fully advised in the premises;

The Court finds that:

1. As to Count I the omitted "arbitration" verbiage is not basis for dismissal nor is it against public policy.
2. As to Count II, the allegations are not a basis for dismissal.
3. As to Count III, the subject matter is not an issue before this Court;

Therefore, the Court Orders:

1. Respondent's Verified Motion to Dismiss the Plaintiff's Complaint filed July 3, 2003 is denied;
2. Respondent's Oral Motion to Continue trial is denied.

Prepared by: \_\_\_\_\_

Attorney for: \_\_\_\_\_

Attorney Registration No.: \_\_\_\_\_

Judge Michael Jellison

arbitrators for each county within the 19<sup>th</sup> Judicial Circuit. These arbitrators will be called for service on a random, rotating basis within the respective county. The list shall identify those arbitrators who are approved to serve as chairpersons. Every panel of arbitrators shall be chaired by a member of the bar who has been engaged in trial practice for at least five years within the preceding ten years of the filing of the application, or a retired judge. Except for emergency calls, notice of the date set for arbitration shall be provided to the arbitrators not less than 45 days prior to the scheduled date. Each panel will consist of three (3) arbitrators, or such lesser number as may be agreed upon in writing by the parties.

(d) Not more than one member or associate of a firm, office or association of attorneys shall be appointed to the same panel. Upon appointment to a case, an arbitrator shall notify the court and withdraw from the case if any grounds appear to exist for disqualification pursuant to the Illinois Code of Judicial Conduct.

(e) Each arbitrator shall take an oath of office in conformity with the form provided in Supreme Court Rule 94.

(f) Upon completion of each day's arbitration proceedings, the Arbitration Administrator will process the necessary voucher through the Administrative Office of the Illinois Courts for payment of the arbitrators. Each arbitrator will be compensated at the rate of \$100.00 per half day, not to exceed \$200.00 per day.

### **17.03 (amended) SCHEDULING OF HEARINGS (SUPREME COURT RULE 88)**

(a) For all actions which fall within the purview of this rule, the complaint and the original and all alias summons must state in upper case letters in the upper right, "hand corner THIS IS AN ARBITRATION CASE." On the effective date of these rules,



IN THE CIRCUIT OF THE 19<sup>TH</sup> JUDICIAL CIRCUIT  
MCHENRY COUNTY

IN RE:

CASE NO. 00 AR650

TERRY R. MOHR,  
Plaintiff,

v.

AMY L. KINSELLA,  
Defendant.

**FILED**

JUL 14 2003

VERNON W. KAYS, JR.  
MCHENRY CTY. CIR. CLK.

PROOF OF SERVICE

The undersigned, being duly sworn, says that on July 14, 2003, she served a copy of the attached *Emergency Motion to Recuse/Remove Judge Michael J. Sullivan* upon:

Mohr, Mangiamele, Bruce, Gilmore & Hafferkamp, P.C.  
3402 W. Elm Street, McHenry, IL. 60050

Judge Michael J. Sullivan  
McHenry County Government Center  
2200 N. Seminary Avenue, Woodstock, IL.

Judge Ward S. Arnold  
McHenry County Government Center  
2200 N. Seminary Avenue, Woodstock, IL.

Courtesy Copy

Internet

For Publication

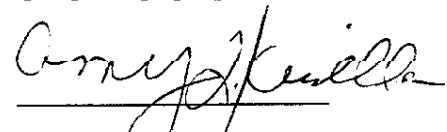
Illinois Supreme Court Justices  
Springfield, IL. 62701

Courtesy Copy

Panel of Circuit Judges of the Nineteenth Judicial Circuit  
18 N. County Street, Waukegan, IL. 60085-4359


Courtesy Copy

by personally serving Mohr, Mangiamele, Bruce, Gilmore & Hafferkamp, P.C. at their offices at 3402 W. Elm Street, McHenry, IL., by personally serving Judge Ward S. Arnold in his office, by personally serving Judge Sullivan in his courtroom, and by serving all other parties, addressed above, by depositing a copy thereof, enclosed in an envelope, in the United States mail at McHenry, Illinois, proper postage prepaid, before the hour of 6:00p.m.

  
\_\_\_\_\_  
Amy Kinsella

**CERTIFICATION BY VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

  
\_\_\_\_\_  
Amy Kinsella

Amy Kinsella  
9808 Prairie Ridge – Apt. 1-D  
Richmond, IL, 60071