

# Citizens for Legal Responsibility®

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February 20, 2004

Hon. Robert J. Baron  
12th Judicial Circuit Court  
14 W. Jefferson Street  
Joliet, IL 60432

Dear Judge Baron:

It has been brought to our attention that several judges in the Circuit Court of Will County are engaged in acting without jurisdiction.

The Illinois Supreme Court has defined fraud by an officer of the court as “anything calculated to deceive, \* \* \* whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth or by look or gesture.” ***In re Armentrout***, 99 Ill.2d 242, 457 N.E.2d 1262 (1983). As you know, courts have ruled that intent is not a necessary element when an officer of the court engages in fraud, as an officer of the court has a fiduciary requirement to the courts.

Illinois courts have further held that when “fraud upon the courts” occurs, the judge is deprived of jurisdiction, and therefore his/her orders are void, a nullity.

When this occurs, the law holds that the judge is not acting in a judicial capacity, but is only acting *in his person*, and is acting without any immunity. ***Scheuer v. Rhodes***, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974).

Before it becomes necessary for anyone to take action against any Will County judges, it is advisable for them to be certain that they are acting with jurisdiction at all times.

On a separate note, judges have a legal duty to scrutinize the Petition for Fees presented to the judge for payment of attorney fees. ***Corti v. Fleisher***, 93 Ill.App.3d 517, 417 N.E.2d 764 (1981). Should a judge authorize payment of attorney fees when the attorney has not been truthful to the court at all times, not some of the time, and not partially truthful, the attorney is therefore engaged in a fraud upon the court, the judge is deprived of jurisdiction, and the order issued for attorney fees is void, a nullity.

CLR believes that should this occur, the judge becomes liable personally for the unauthorized attorney fees which he/she has failed to properly scrutinize, as the judge has not been engaged in a judicial decision?

Yours truly,

Citizens for Legal Responsibility

Tom Howard