IN THE UNITED STATES DISRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MILES D. THOMAS,	:	**CIVIL ACTION LAW**
Plaintiff	:	**NO. 10-CV-1196**
	:	
v.	:	
	:	**JUDGE JONES**
WILLIAM SANDSTROM; et al.,	:	
Defendants	:	**JURY TRIAL DEMANDED**

MOTION TO OPEN JUDGMENT WITH SUPPORTING AUTHORITIES

AND NOW comes the Plaintiff, Miles Thomas, *pro se*, pursuant to Fed. R. Civ. P. 60(b), and moves to have the judgment in the above-referenced matter opened, and in support thereof, avers as follows:

1. During the litigation of the above-captioned cases, Plaintiff was represented by Attorney Don Bailey, and Andrew Ostrowski, and the case was assigned to Judge Jones. Judge Jones has entered an Order recusing himself from all of Mr. Bailey's cases. Judge Jones testified at the August 11 and 12, 2011 hearings of Don Bailey, and testified that he has turned Mr. Ostrowski in to the Disciplinary Board in connection with my case. He also testified that he didn't give Mr. Bailey time to respond in at least one case because he knew what he was going to say. The transcripts of the Bailey discipline proceedings, in which I was identified as a witness, are incorporated herein by reference.

2. The principal basis from which this motion flows is evidence in the public record that Mr. Bailey has been targeted and treated differently, and prejudicially, due to the nature of the cases that he files, of which ours was one. Judge Jones allegedly recused himself in

connection with disciplinary proceedings pending in the Pennsylvania Supreme Court Disciplinary Board, and in the middle district. Judges Kane, Conner, and Jones all recused themselves on or about the same day, and Judge Scirica of the Third Circuit has also recused himself from Mr. Bailey's cases. I have a case pending before the Third Circuit. Mr. Bailey has alleged that these Judges and others have engaged in misconduct.

3. Plaintiff believes that there is an abundance of evidence which has been revealed and continues to be revealed in connection with the Pennsylvania disciplinary proceedings that has shown that Judge Jones had a long-term bias and prejudice against Mr. Bailey which clearly overlapped with the handling of my case, and has given me very reasonable cause to believe that I have been adversely affected and had my case improperly dismissed as part of a pattern of conduct to hurt and harm Mr. Bailey and the civil rights clients that he represents, of which are am one. Mr. Ostrowski and his clients have been included as well. I knew my case was meritorious when I found my attorneys, and I knew the decisions dismissing my case and denying my rights to litigate it were wrong, and believed that I was being the subject of just bad decisions that did not make sense. The ongoing proceedings against Mr. Bailey have caused me to believe I have been injured by the same course of conduct.

4. Rule 60(b) clearly provides me with the remedy of reopening my case based upon Judge Jones' recusal under Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988) where the Court stated:

> Although § 455 defines the circumstances that mandate disqualification of federal judges, it neither prescribes nor prohibits any particular remedy for a violation of that duty. Congress has wisely delegated to the judiciary the task of fashioning the remedies that will best serve the purpose of the legislation. In considering whether a remedy is appropriate, we do well to bear in mind that in many cases — and this is such an example — the Court of Appeals is in a better position to evaluate the significance

> of a violation than is this Court. Its judgment as to the proper remedy should thus be afforded our due consideration. A review of the facts demonstrates that the Court of Appeals' determination that a new trial is in order is well supported.
>
> Section 455 does not, on its own, authorize the reopening of closed litigation. However, as respondent and the Court of Appeals recognized, Federal Rule of Civil Procedure 60(b) provides a procedure whereby, in appropriate cases, a party may be relieved of a final judgment. In particular, Rule 60(b)(6), upon which respondent relies, grants federal courts broad authority to relieve a party from a final judgment "upon such terms as are just," provided that the motion is made within a reasonable time and is not premised on one of the grounds for relief enumerated in clauses (b)(1) through (b)(5). The Rule does not particularize the factors that justify relief, but we have previously noted that it provides courts with authority "adequate to enable them to vacate judgments whenever such action is appropriate to accomplish justice," Klapprott v. United States, 335 U.S. 601, 614-615 (1940), while also cautioning that it should only be applied in "extraordinary circumstances," Ackerman V. United States, 340 U.S. 193 (1950). Rule 60(b)(6) relief is accordingly neither categorically available nor categorically unavailable for all § 455(a) violations. We conclude that in determining whether a judgment should be vacated for a violation of § 455 (a), it is appropriate to consider the risk of injustice to the parties in the particular case, the risk that the denial of relief will produce injustice in other cases, and the risk of undermining the public's confidence in the judicial process. We must continuously bear in mind that "to perform its high function in the best way `justice must satisfy the appearance of justice.' " In re Murchison, 349 U.S. 133, 136 (1955) (citation omitted).

5. I believe that the course of conduct that has been revealed through the disciplinary proceedings against Don Bailey has constituted, inter alia, an interference with my access to the courts. See Christopher v. Harbury, 536 U.S. 402, 412-15 (2002), where the Supreme Court summarized access to courts claims as follows:

> This Court's prior cases on denial of access to courts have not extended over the entire range of claims that have been brought under that general rubric elsewhere, but if we consider examples in the Courts of Appeals as well as our own, two categories emerge. In the first are claims that systemic official action frustrates a plaintiff or plaintiff class in preparing and filing suits at the present time. Thus, in the prison litigation cases, the relief sought may be a law library for a prisoner's use in preparing a case, or a reader for an illiterate prisoner, or simply a lawyer. In

> denial-of-access cases challenging filing fees that poor plaintiffs cannot afford to pay, the object is an order requiring waiver of a fee to open the courthouse door for desired litigation, such as direct appeals or federal habeas petitions in criminal cases, or civil suits asserting family-law rights. In cases of this sort, the essence of the access claim is that official action is presently denying an opportunity to litigate for a class of potential plaintiffs. The opportunity has not been lost for all time, however, but only in the short term; the object of the denial-of-access suit, and the justification for recognizing that claim, is to place the plaintiff in a position to pursue a separate claim for relief once the frustrating condition has been removed.
>
> The second category covers claims not in aid of a class of suits yet to be evidence), no matter what official action may be in the future. The official acts claimed to have denied access may allegedly have caused the loss or inadequate settlement of a meritorious case, or the loss of an opportunity to seek some particular order of relief, as Harbury alleges here. These cases do not look litigated, but of specific cases that cannot now be tried (or tried with all material forward to a class of future litigation, but backward to a time when specific litigation ended poorly, or could not have commenced, or could have produced a remedy subsequently unobtainable. The ultimate object of these sorts of access claims, then, is not the judgment in a further lawsuit, but simply the judgment in the access claim itself, in providing relief obtainable in no other suit in the future.
>
> While the circumstances thus vary, the ultimate justification for recognizing each kind of claim is the same. Whether an access claim turns on a litigating opportunity yet to be gained or an opportunity already lost, the very point of recognizing any access claim is to provide some effective vindication for a separate and distinct right to seek judicial relief for some wrong. However unsettled the basis of the constitutional right of access to courts, our cases rest on the recognition that the right is ancillary to the underlying claim, without which a plaintiff cannot have suffered injury by being shut out of court.

(citations omitted).

6. I suggest that Judge Jones is guilty of treating my attorneys, Don Bailey and Andy Ostrowski, and by extension me as a litigant, in a demonstrably egregious and hostile manner. My case was very clear as my dog was wrongfully taken from me and I wanted it back, and there was no cause to keep it. For some reason, even though we scheduled hearings and appeared in court, Judge Jones would not simply make a decision to order the return of my dog to me. Instead, he gathered people in his courtroom, and even made me testify, but then interrupted the

proceedings, and never made a decision. It was frustrating and confusing and made no sense to me. Also, Thom Lewis became a major issue in my case, and I did not at the time understand why. I did not know that Thom Lewis had filed a case involving allegations about things that occurred at the PLCB when Judge Jones was the Chairman. That case, and things that Mr. Bailey said in that case, are at the heart of the disciplinary action against Mr. Bailey. Mr. Ostrowski and I were puzzled about why Mr. Lewis was such an issue in that case, and I have come to learn that Mr. Bailey was sanctioned by the federal courts for over $40,000 in connection with the Thom Lewis case. Mr. Ostrowski told me he did not know anything about all the connections to the Thom Lewis case when he was handling my case, and this all became clear much later. Thom is who I got the dog from in my case, and I had an agreement with him to care for the dog if or when I became ill and unavailable, but the Humane Society would not release the dog to Thom. I have also learned that Patti Bednarik with the disciplinary board was somehow involved in possible illegal dog trafficking activities, and that she was reviewing Thom's case for discipline before it was even served. They all have connections to people with the Humane Society.

I am not really even sure how this case got dismissed. I know that Mr. Ostrowski was helping me diligently on my cases before his discipline was handed down by the courts. I have learned that my case has become an issue for Mr. Ostrowski somehow. I know that there was a problem with the mail being received at 100 Spangler Road, which is the address of Steve Conklin, who has also been mistreated by the federal courts. I had people helping me maintain my cases, and Mr. Bailey agreed to represent me in my other appeal, and I was not provided with all due notice of everything in my case, and even sent a letter to Judge Jones because nobody form the court made any efforts to let me know what was going on with my cases. I believe

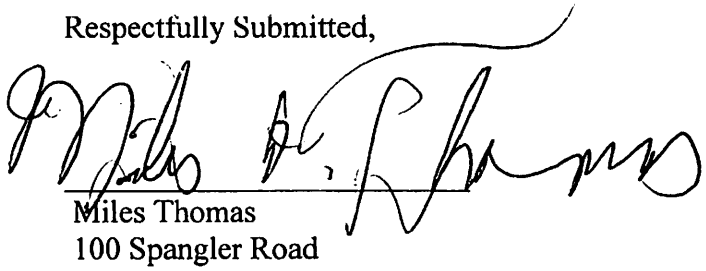
there may even have been an issue with mail being held at the post office wrongfully. I really feel that I was mistreated and abused by the courts in my cases, both of which were presided over by Judge Jones, and that there is a substantial basis to conclude that my case was handled prejudicially and should be reopened.

7. Based upon the foregoing, the record of all disciplinary proceedings, and the other motions like this in other cases, which are all incorporated herein by reference, I am requesting that this court schedule a hearing, and that I be permitted to submit further evidence and argument in support of this motion.

8. I intend for this to serve as my legal memorandum as well, and will reserve the right to reply to any briefs or arguments offered by the defendants, and offer additional argument at the time of and after the hearing or other proceedings.

WHEREFORE, Plaintiff respectfully requests that the judgment entered against him in the foregoing matter be re-opened.

Respectfully Submitted,



Miles Thomas
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CERTIFICATE OF SERVICE

I, Miles Thomas, am making efforts to get the addresses and serve the defendants attorneys with this motion, and am relying on the electronic filing system to have this motion distributed, being filed this 4 day of November, 2011. I am trying to get help getting the addresses so I can mail this to them, and will let the court know when I do that.

Respectfully Submitted,

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