

IN THE SUPREME COURT
APPEAL FROM THE MICHIGAN COURT OF APPEALS

LIVINGSTON COUNTY;

Plaintiff/ Appellee

v.

MSC No.

COA No. 352122

Lower Case No. 19-30228-CZ

BANK OF NEW YORK MELLON,
SUSAN EVERILL, AND
MICHAEL-EDMUND BAMBAS,
DTE ENERGY COMPANY,
as a necessary party only

Defendants

And,

Michael Edmund Bambas,
Appellant,

v.

LIVINGSTON COUNTY,
Appellee.



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DEFENDANT/ APPELLANT MICHAEL BAMBAS APPEAL FOR THE TERMINATION
OF THE INJUNCTION AND TO DECLARE THE ADMINISTRATIVE PROCEDURES
ACT UNCONSTITUTIONAL

**“THE APPEAL INVOLVES A RULING THAT A PROVISION OF THE
CONSTITUTION, A STATUTE, RULE OR REGULATION, OR OTHER STATE
GOVERNMENTAL ACTION IS INVALID”**

NOW COMES, Defendant/ Appellant Michael Bambas (“Bambas”), an individual person, a citizen of the United States of America, in Pro Per, and hereby requests that this honorable Court Grant Defendant/ Appellant Bambas Appeal For The Termination of The Injunction and To Declare The Administrative Procedures Act Unconstitutional.

ORAL ARGUMENT REQUESTED

TABLE OF CONTENTS

Table of Contents.....iii

Index of Authorities.....iv

Index of Exhibits.....vii

Statement of Questions Involved.....viii

Introduction.....1

Statement of Facts.....4

The Court’s Failure to Follow the Constitution.....6

Administrative Procedures Act.....8

Contractual Mandates are Unconstitutional.....10

Acts of Perjury.....14

Property Ownership.....18

Illegal Inspection of House and Property.....22

Violation of MCR 2.300 Discovery.....26

Personal Property Held Hostage.....28

Executive Orders Are Not A Law.....29

Conclusion.....30

Request For Relief.....32

INDEX OF AUTHORITIES

CASES

- A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935)
- AGO 82-7. *Cf. Colonnade Catering Corp. v. United States*, 397 U.S. 72 (1970)
- Arizona v. Gant*, 556 U. S. 332, 345 (2009)
- Benton v. State*, 329 So.2d 385 (1 D.C.A. Fla., 1976)
- Brown v Illinois*, 422 US 590, 602; 95 S Ct 2254; 45 L Ed 2d 416 (1975)
- Byrd v. United States*, 584 U.S. ____ (2018)
- Chimel v. California*, 395 U. S. 752, 761 (1969)
- City of Seattle*, 387 U.S. 541 (1967)
- Florida v Jardines*, 569 US ____; 133 S Ct 1409; 185 L Ed 2d 495 (2013)
- Florida v Royer*, 460 US 491, 507-508; 103 S Ct 1319; 75 L Ed 2d 229 (1983)
- Jones v. City of Longwood, Florida*, 404 So.2d 1083 (5 D.C.A. Fla., 1981)
- Katz v United States*, 389 US 347, 357; 88 S Ct 507; 19 L Ed 2d 576 (1967)
- Kentucky v King*, 563 US 452, 469; 131 S Ct 1849; 179 L Ed 2d 865 (2011)
- Mapp v. Ohio*, 367 U.S. 643, *rehearing denied*, 368 U.S. 871 (1961)
- Marbury v. Madison*, (1803)
- Michigan v. Tyler*, 436 U.S. 499 (1978).
- Norton v. Shelby County*, 118 U.S. 425 (1886)
- Oliver v United States*, 466 US 170, 177; 104 S Ct 1735; 80 L Ed 2d 214 (1984)
- Parsons v. State*, 334 So.2d 308 (1 D.C.A. Fla., 1976)
- People v Champion*, 452 Mich 92, 98; 549 NW2d 849 (1996)
- Taylor v. Louisiana*, 419 US 522, 698; 95 S Ct 692 (1975)

United States v. Sokolow, 450 F.2d 324 (5th Cir. 1971)

Wong Sun v United States, 371 US 471, 486; 83 S Ct 407; 9 L Ed 2d 441 (1963)

The SUPREME AUTHORITY

GOD

U.S. CONSTITUTION

Article I

Article I Sec 8

Article II

Article III

4th Amendment

14th Amendment

MICHIGAN CONSTITUTION

Article III Sec 2

Article IV Sec 1

Article VII Sec 1

FEDERAL STATUTES

42 USC 1983

MICHIGAN LAW

MCL 125.1501, et seq

MCL 125.1504(1)

MCL 445.2001

MCL 460.9(q)

MICHIGAN COURT RULES

MCR 2.300

OTHER

Administrative Procedures Act of 1969

Residential Building Code

Uniform Commercial Code (“UCC”)

Black’s Law Dictionary, 2nd Edition

INDEX OF EXHIBITS

EXHIBIT

DESCRIPTION

1	Affidavit of Abandonment
2	Susan Everill, Deposition Transcript
3	Flash Drive, voice recordings, pictures
4	Sheriff Deed, 8/24/12
5	Sheriff Deed, 7/26/13
6	Covenant Deed,
7	No Trespass picture
8	Court Order, 3/12/19
9	Pictures

STATEMENTS OF QUESTIONS INVOLVED

1. Whether the U.S. Constitution is the Supreme Law of the United States of America?

Appellant answers “yes”.

Appellees would answer “no”.

The Court should answer “yes”.

2. Whether the U.S. Constitution allows the delegation of powers from one branch of government to another?

Appellant answers “no”

Appellees would answer “yes”.

The Court should answer “no”.

3. Whether the Michigan Constitution allows the delegation of powers from one branch of government to another?

Appellant answers “no”.

Appellees would answer “yes”.

The Court should answer “no”.

4. Whether the Administrative Procedures Act is constitutional?

Appellant answers “no”.

Appellees would answer “yes”.

The Court should answer “no”.

5. Whether Livingston County, as part of the executive branch, has legislative authority?

Appellant answers “no”.

Appellees would answer “yes”.

The Court should answer “no”.

6. Whether Michael Bambas has a right to a fair trial?

Appellant answers "yes"

Appellees would answer "no".

The Court should answer "yes".

7. Whether the Constitutional rights of Michael Bambas were violated, therefore, giving grounds for a Counter Complaint?

Appellant answers "yes".

Appellees would answer "no".

The Court should answer "yes".

8. Whether the claims made by Michael Bambas have merit, based upon the U.S. Constitution and the Michigan Constitution?

Appellant answers "yes".

Appellees would answer "no".

The Court should answer "yes".

9. Whether Livingston County is entitled, or should be rewarded, sanctions for violating the U.S. Constitution and the Michigan Constitution?

Appellant answers "no".

Appellees would answer "yes".

The Court should answer "no".

INTRODUCTION

The issues before this Court are Constitutional and should be viewed *de novo* in order to preserve the integrity of the judicial system and to ensure that the Constitutional rights of the parties are preserved.

The U.S. Constitution is a written document, “NOT” a living document, and is the foundation of all laws that we the people agree to live by in this country.

Defendant / Appellant Bambas (“Bambas”), is one of 4 defendants listed in this case filed by Plaintiff / Appellee Livingston County (the “County”), on February 25, 2019.

The other Defendants in this case include Bank of New York Mellon, Susan Everill, and DTE Energy Company, as a necessary party only.

This case involves real and personal property located at 6704 Sheldon Rd., Whitmore Lake, MI 48139, (the “Property”).

The County declared jurisdictional control, through the building department, over a manufactured house, (the “House”), that is located on the Property described above.

The County has stated on the record that their authority, over all structures, derives from a Michigan law known as the Stille-Derossett-Hale Single State Construction Code Act, MCL 125.1501, et seq. (the “SSCCA”), and the Michigan Residential Code (the “Code”).

The County, as a State owned corporation under the executive branch, claims to have the authority to force or mandate individuals into contractual agreements against their will by demanding that all individuals acquire permits from the building department or any other government subdivision to do any and all improvements to their homes or property.

The County’s suit is demanding that a permanent injunction be put in place that would force the defendants to acquire building permits for any repairs or improvements to the manufactured house located on the Property.

The County has also claimed that the 2015 Michigan Residential Code book is a law that requires the defendants, and any other individuals, to follow or face legal ramifications.

The County’s suit is without merit or standing, and the lower court failed to acquire subject matter jurisdiction of the parties or of the subject matter because the County presented a misrepresentation of material facts, lacked any first hand knowledge pertaining to the allegations, committed perjury, fraud, intimidation, coercion, and admitted to violating a list of state and federal laws.

The actions of the County and the lower court violated the Constitutional rights of Bambas and the other defendants in this case.

Bambas is not a lawyer, nor does Bambas make any claim to represent any of the other defendants in this case, only that the violations committed by the County and the Court effect all of the defendants of this case, as well as all of the citizens of the State of Michigan.

The lower court failed to follow the rule of law and in doing so violated the Constitutional rights of Bambas by denying him the right of discovery according to the court rules, MCR 2.300 Discovery, which is a violation of the 14th Amendment under the Due Process Clause.

The lower court demonstrated acts of discrimination against Bambas, as a *Pro Se* litigant, by refusing to allow Bambas access to the Property or the House, for purposes of discovery, but allowed the County and the other defendants access to the Property and House.

In addition, Judge Geddis ordered that Bambas would not be allowed to acquire any of his personal property that was located within the House or on the Property which has nothing to do with obtaining a building permit as described in the Plaintiffs verified complaint..

This Order from Judge Geddis, which is to this day, holding personal property belonging to Bambas and other individuals hostage, has resulted in the identity theft of Bambas and others because company documents that were in the possession of Bambas, and stored in the House, have been stolen.

These documents include client lists, credit card numbers, social security numbers, federal tax I.D. Numbers, stock certificates, medical records, and much more.

Furthermore, Judge Geddis issued a temporary injunctive Order that prohibited all of the defendants from working on the House and Property, however, Defendant Susan Everill admitted during her deposition that she had been working on the House and Property, and that she changed the locks to the House giving her the only access to the documents that were stolen.

Bambas, as well as others who's personal information had been stolen, contacted the local police, Hamburg Twp., however, the police refused to conduct any investigation and refused to take any police reports from any of the victims.

As a result, Bambas filed Motions containing threshold questions which the court was required or bound to answer, but failed to do so.

Bambas raised the issues of judge disqualification, subject matter jurisdiction, and

standing on the first day of the proceedings, stating that motions regarding disqualification were already pending before the higher courts, however, Judge Geddis ignored the request by Bambas to stay the case, pending the higher courts decision, instead, Judge Geddis decided that the case was to continue forward.

The Court also failed to take a prudent position by dismissing Bambas' Motion for a Evidentiary Hearing for the production of all documents related to the proof of ownership of the Property and House located at 6704 Sheldon Rd., Whitmore Lake, MI 48139, in accordance with the Uniform Commercial Code ("UCC").

Instead, the 44th Circuit Court dismissed all of Bambas's motions, including the Demand For a Jury Trial, without stating any fact of law as a bases for the dismissals.

In addition, the Court dismissed the case before any evidence or documentation had been presented or before discovery had been concluded.

The purpose of a jury is to guard against the exercise of arbitrary power - - to make available the common sense judgment of the community as a hedge against the overzealous or mistaken prosecutor and in preference to the professional or perhaps over conditioned or biased response of a judge. *Taylor v. Louisiana*, 419 US 522, 698; 95 S Ct 692 (1975).

The issue of ownership of the Property and House has been in dispute since the beginning of this case and has still not been resolved.

The Courts have, without explanation, dismissed the validity of the documents that have been presented before the court by Bambas, including evidence proving that an act of fraud had been placed upon the Court by the Plaintiff Livingston County.

As a result of the actions taken by the County and the Orders issued by the Court, there now exists several Constitutional issues and violations that have been committed against Bambas.

Therefore, this Court is being asked to review the evidence in this case and issue its opinion and rulings according to the rule of law, the Michigan Constitution, and the U.S. Constitution, and in doing so, persevere the inalienable rights of Bambas and his property by dismissing the permanent injunction.

STATEMENT OF FACTS

The Plaintiff Livingston County (the "County"), filed this suit as a witch hunt for information regarding a property known as 6704 Sheldon Rd., Whitmore Lake, MI 48189 (the "Property"), where a manufactured house (the "House"), is located.

In 2016, Bambas discovered documents filed with the Livingston County Register of Deeds, that showed the Property and House to be abandoned, [Ex. 1] and upon further investigation, Bambas met Susan Everill ("Everill"), who "claimed" to be the new owner of the Property.

Everill and Bambas came to a verbal agreement regarding the repairs to the House and Property, which included Bambas becoming a tenant, and being allowed to live in the House while repairs were being done.

Livingston County has officially identified themselves as a corporate entity in this case, which is consistent with the **Michigan Constitution, Article VII § 1**, and has taken the position that a mandated contract must exist between the County and any individual that is, or is going to be, doing repairs on the House and Property.

Hamburg Township and Livingston County Building Department ("Building Dept"), have stated on the record that no permits for the work had been applied for or granted, that without the existence of a permit, Bambas is performing unlawful construction.

The Show Cause hearing, which was requested by the County, was scheduled for February 27, 2019, however, the County failed to give proper notice of the hearing to the Defendant's, including Bambas, who received a phone call from the County's attorney the night before the hearing instructing Bambas to appear before Judge Geddis for the Show Cause hearing, and to make matters worse, Bambas was never served with the complaint until the case was called before the Court, and it was only then that the County allowed Bambas to see the allegations that were being made against him.

According to the County's complaint and statements made by the County's attorney's, Bambas was being accused of committing a crime and violating the law, however, the County failed to state with any clarity as to whether the laws Bambas was allegedly violating were judicial laws or administrative laws, and having been ambushed with these allegations, by the Counties failure to properly serve Bambas with the complaint, Bambas exercised his Constitutional right not to testify, so that he may not inadvertently incriminate himself for an alleged crime that was never clearly defined by the Plaintiff or the Court, and that is why

Bambas refused to testify regarding his connection to the Property, or any testimony in opposition to the injunction.

In addition, Bambas informed Judge Geddis that the issue of judge disqualification was before the Michigan Court of Appeals (“COA”), and in order not to waste the Courts time or the party’s money, Bambas requested that Judge Geddis take a prudent approach and place this case on a stay, pending the outcome of the higher court, however, Judge Geddis denied the request, and later, sanctioned Bambas for filing a judge disqualification motion and accused Bambas of causing delays in the proceedings.

As a result of the actions of the County, when they turned the power off without notice, a violation of Michigan State law, **MCL 460.9(q)**, which caused property damage to the personal belongings of Bambas, that are still to this day being held hostage and located within the House, along with damage to the structure of the House itself, Bambas filed a counterclaim for damages. Which the lower court denied before discovery had been concluded.

The County has made the claim that Bambas obstructed the discovery process under **MCR 2.300**, however, it was a combination of the County and Judge Geddis, through the use of the injunction, that interfered with the discovery process, not Bambas.

The County continued its disregard for the Constitutional rights of Bambas, when they entered into the House without permission from Bambas, and without a search warrant, which is required when a public official, under the color of law, enters private property for the purpose of gathering information, and as a result of these illegal actions by the County, Bambas’ **4th Amendment** rights were violated.

The County has made the claim that the **Stille-Derossett-Hale Single State Construction Code Act, MCL 125.1501, et seq.** (the “SSCCA”) gives the County the authority to promulgate rules, guidelines, and adopt the **Michigan Residential Code Book of 2015** (the “Code”), as enforceable un-legislated laws, that have the power and authority to mandate individuals into contractual agreements against their will, and both the lower court and the COA have condoned this form of conduct.

The Permanent Injunction Order by Judge Geddis was done without subject matter jurisdiction, is based upon an act of fraud by the County, discriminates against only one of the defendants, that being Bambas, violated the due process rights of Bambas, prohibits Bambas from discovery under **MCR 2.300**, and allowed **4th Amendment** violations against Bambas by

allowing Plaintiff access to the Property and House without the permission of Bambas or obtaining a warrant.

There has been one thing that has been consistent throughout this entire case, both the Courts and the County have relied upon the court rules as their foundation and justification for their position and rulings instead of following the Constitution, and in doing so, have failed to adhere to their oath to uphold the Constitution.

THE COURT'S FAILURE TO FOLLOW THE CONSTITUTION

The permanent Injunction, that was put in place on December 12, 2019, by Judge Geddis, and upheld by the COA, is based upon the County's position that for any work or repairs to be conducted on the House and Property, a building permit must be applied for and approved by the County building official, and if approved, a building permit will be issued that would allow the work or repairs to the House and Property to continue.

The County convinced the lower court and the COA that Bambas was performing unlawful construction on the House and Property, and was in violation of the **SSCCA**, for refusing to acquire a permit for the repairs that were being done.

The County has relied heavily upon the **SSCCA** as their source of authority to promulgate rules and adopt codes with the force of law, and in doing so, force or mandate that individuals enter into a contractual agreement against their will with the County, which is a corporate entity, as stated within the Michigan Constitution, **Article VII § 1**,

The **SSCCA** states the following: "AN ACT to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures;....."

The **SSCCA** clearly states that the construction code commission is limited to only being able to create rules, not laws, as stated in **MCL 125.1504(1)**; The director shall prepare and promulgate the state construction code consisting of rules governing the construction, use, and occupation of buildings and structures, including land area incidental to the buildings and structures, the manufacture and installation of building components and equipment, the construction and installation of premanufactured units, the standards and requirements for materials to be used in connection with the units, and other requirements relating to the safety,

including safety from fire, and sanitation facilities of the buildings and structures.

As stated within the statute MCL 125.1504(1), there is no language that allows the commission to create any kind of law, they can however, create rules.

The Court can also observe the fact that the use of the word rule or rules is consistent within the SSCCA statute, and that the use of the word law never appears in the context that the SSCCA has legislative powers.

If the rules promulgated by the SSCCA are a law, then these laws would be defined as an Administrative Law, and would only apply to the department or agency that created them, to regulate that specific department or agencies activities, as defined in **Black's Law Dictionary 2nd Edition** as; *The body of law and procedures that is created by and governs administrative agencies or specific parts of government.*

It is now clear that the County's allegations that Bambas violated the law is misleading at best, because the County is not claiming that a judicial law was violated, which would be a law passed by Congress or state legislature, rather, the County is claiming that Bambas has violated an administrative law, which is un-legislated and pertains to administrative procedures, and that is why the County never filed a police report, and that is why Bambas was never formally charged with violating any law.

The lower court granted the County's request for the injunction based upon an alleged violation of an administrative law. The County never made the claim that Bambas violated any judicial law, therefore, the lower court lacks subject matter jurisdiction because the all of the allegations are based upon administrative law and not judicial law, and because the County failed to follow the administrative law procedures regarding any violations and objections to the enforcement of an administrative law.

Furthermore, the COA admitted on the record that departments and agencies, like the building department, are allowed to promulgate rules with the force of law, and in doing so, bypass the legislative branch and circumvent the U.S. Constitution and the Michigan Constitution.

The COA specifically referenced the **Administrative Procedures Act** ("APA"), as the source of this authority, and the presiding judge declared that, "it is perfectly within the parameters of the Constitution for the legislature to delegate to an administrative body the power to make rules...", for the presiding judge to make this statement, the COA is ignoring the separation of

powers stated within the Constitution.

Furthermore, the presiding judge failed to state where within the 18 enumerated powers, granted to the legislature by the people, are the parameters to delegate legislative authority to the executive or judicial branch of government.

ADMINISTRATIVE PROCEDURES ACT

If it is this Court's position to ignore the founding father's original intent and interpretation of the U.S. Constitution and declare that the delegation of authority from one branch of government to another is now permissible, then this Court is obligated to show where and how this transfer of power is constitutionally valid.

During the hearing of March 25, 2021, Bambas stated on the record how **the Code** is not a law, and how the legislature cannot delegate legislative authority to an agency within the executive branch without violating the **Michigan Constitution and the U.S. Constitution**.

Judge Borrello stated that Bambas was correct, but then, Judge Borrello made a statement that argues against the Constitution and violates his oath as a judge to uphold the Constitution.

The following are Judge Borrello remarks to Bambas, "you are correct that a code does not have the force of law unless.... unless who ever created the code was given that authority. It is very common place in our system for the legislature to delegate rule making authority to a variety of different.... shall we say administrative tribunals. Here there's a specific statute where in the state legislature gave the authority to the director of this particular branch of government to promulgate rules so when that authority is given in such a manner those rules are therefore enforceable in a court of law. Now I'm not going to get into are they the law because it's a distinction for our purposes without a difference."

Within this statement, Judge Borrello makes 2 distinct points of interest,

1. That the Code does not have the force of law.
2. That the legislators of the State of Michigan gave authority to a director of an agency within the executive branch of Michigan, the ability to promulgate rules with the force of law.

This statement by Judge Borrello contradicts itself and violates the separation of power stated in **Articles I, II, & III of the U.S. Constitution**, and **Article III Sec 2 of the Michigan**

Constitution; The powers of government are divided into three branches; legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

In addition; **Article IV Sec 1. The legislative power of the State of Michigan** is vested in a senate and a house of representatives.

This Court must state specifically, where within the Michigan Constitution and the U.S. Constitution does the legislative branch have the authority to delegate it's authority to another branch of government, because should this Court fail to show where this alleged authority derives from, the statements that were made on the record by Judge Borrello will lack any validity.

In response to other comments made by Bambas, Judge Borrello stated for the record the following; "You are correct, only the legislature has the authority to make legislation. However, it is perfectly within the parameters of the Constitution for the legislature to delegate to an administrative body the power to make rules and decide particular cases. That happens very, very frequently in our system of government and that's exactly what happened here with the construction code."

It is clear that this statement by Judge Borrello contradicts itself, if "ONLY" the legislature has the authority to make legislation, then where do the parameters to delegate authority exist within the Constitution?

This Court is obligated to address and clarify by stating where within the **Michigan and U.S. Constitution** do these parameters exist, because if these parameters do not exist, then this Court committed an error, and must rule in favor of Bambas to preserve his Constitutional rights.

When Bambas asked Judge Borrello if the Code had the force of law, the Judge responded; "It absolutely is the position of... now I can't speak for Judge Swartzle and I can't speak for Judge Beckering, but that would be my position, yes.... that because the legislature had delegated the rule making authority that these rules that have been adopted, provided that they comply with the Administrative Procedures Act... they have the full force of law."

Here Judge Borrello makes reference to the Administrative Procedures Act ("**APA**"), and indicates that the APA is the source of authority that grants agencies under the executive branch the ability or the authority to promulgate rules with the force of law.

It is clear that the **APA** violates the legislative process as stated in both the Michigan and

U.S. Constitution, and is therefore, unconstitutional.

According to the U.S. Supreme Court, “An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never passed.” *Norton v. Shelby County*, 118 U.S. 425 (1886).

“All laws which are repugnant to the Constitution are null and void.” *Maybury v. Madison*, 5 U.S. 137 (1803).

Logically and legally, local elected officials who are sworn to uphold the Constitution are duty bound to protect the people under their care from those that would wrongly enforce that which is clearly NOT the law.

“Pretended legislation” is NOT law but a violation of law.

Therefore, the refusal to enforce “Pretended Legislation” whether it comes from the Judicial or Executive branch is a validation of the law.

The lower court and the COA have erred in their decision by arguing against the Constitution and using the APA to circumvent the legislative process stated within the Michigan Constitution and the U.S. Constitution.

CONTRACTUAL MANDATES ARE UNCONSTITUTIONAL

The U.S. Constitution is the organic fundamental law by which all other laws are founded and according to Article 1 Sec 1; All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

According to Articles I, II, and III of the U.S. Constitution, respectively vest the legislative, executive, and judicial powers each in a separate department of the federal government. This separation of powers, which draws upon ideas advanced by John Locke, Baron de Montesquieu, and Sir William Blackstone, reflects the Framers’ intention that undue power not be combined in any one department lest, being unchecked, it become tyrannical.

The separation, by which each department may exercise only its own constitutional powers, is fundamental to the idea of a limited government accountable to the people. The principle is particularly noteworthy in regard to the Congress.

The Constitution declares that the Congress may exercise only those legislative powers

“herein granted.” That the power assigned to each branch must remain with that branch, and may be expressed only by that branch, is central to the theory.

This basic principle is enforced by the Constitution’s scheme of enumerated powers. The President and the federal courts are vested with the executive and judicial powers, respectively. Neither power includes a general power of lawmaking. Nor can the Congress confer such a lawmaking power by statute, for the simple reason that the Congress has no enumerated power to create lawmakers.

In *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935), the Supreme Court held that "Congress is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested."

According to Article III Sec 2 of the Michigan Constitution; The powers of government are divided into three branches; legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

In addition; Article IV Sec 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

As the Court can see, both the Michigan and the U.S. Constitution do not authorize the delegation of power from one branch of government to another, and as stated by John Locke; *“The Legislature cannot transfer the Power of making Laws to any other hands. For it being but a delegated Power from the People, they, who have it, cannot pass it over to others. ... And when the people have said, We will submit to rules, and be governed by laws made by such men, and in such forms, nobody else can say other men shall make laws for them.”*

In addition, Bambas raised the issue of agencies having the authority to force an individual into a contractual agreement against their will, which constitutes contractual duress, making any contract under duress unenforceable in any court of law, as ruled on by the U.S. Supreme Court in Obama care.

The lower court and the COA have failed to address this Constitutional issue of contractual duress.

According to the U.S. Constitution, Congress may exercise only the eighteen 18 enumerated powers explicitly outlined in Article 1, Section 8, and the power to require citizens to purchase goods or services is NOT enumerated among the 18 clauses of Article 1, Section 8, of

the Constitution, and therefore, the Federal Government does NOT have that power.

In *United States v. Lopez* and *United States v. Morrison*, the Supreme Court struck down federal attempts to regulate non-commercial activity, even considering predicted effects of such non-commerce upon interstate commerce. In these two cases, the Supreme Court ruled that federal government had overreached authority granted by the Commerce Clause. In *Gonzales V. Raich*, the Supreme Court wrote: "Despite congressional findings that such crimes had an adverse impact on interstate commerce, we held the statute [*in Morrison*] unconstitutional because, like the statute in *Lopez*, it did not regulate economic activity."

The status of being a citizen of the State of Michigan arises out of an absence of commerce and is entirely passive: In other words, being a citizen of a State or Nation is NOT fundamentally a channel for interstate commerce, nor a person or thing in interstate commerce.

In *Gonzales v. Raich*, the Supreme Court ruled that the Fed had Commerce Clause authority due to the aggregate effects of non-commerce activity (growing marijuana at home for personal medicinal use) upon potential Interstate Commerce. Meaning, if individuals are allowed to grow marijuana at home for "personal medicinal purposes," this opens a Pandora's Box for increased illegal interstate sale of marijuana. Nevertheless, the High Court has never held that the Commerce Clause, even when aided by the Necessary and Proper Clause, can be used to require citizens to buy goods or services, and to depart from this 200-year history, permitting national government to require citizens to buy goods and services will deprive the Commerce Clause of any effective limits, contrary to limits set in *Lopez* and *Morrison*. Authorizing the fed to force citizens to buy health insurance under penalty of law, would create police powers indistinguishable from those reserved to the States by the Bill of Rights and thwart the constitutional scheme of few and enumerated powers assigned to the federal government.

Concurring with the Majority Opinion in *Gonzales v. Raich*, Justice Scalia ruled that regulation of non-economic under the Commerce Clause is possible only through the Necessary and Proper Clause, but this Clause establishes that the means by which laws are instituted must be "appropriate," "plainly adapted to that end," and are "consistent with the letter and spirit of the Constitution." Plainly stated: Congress cannot use unconstitutional means to execute the laws they pass.

In 1798, Justice Chase wrote these words in one of the first Supreme Court decisions: "An ACT of Legislature (for I cannot call it a Law) contrary to the great first

principles of the [Constitution], cannot be considered a rightful exercise of legislative authority . . . A few instances will suffice to explain what I mean. A . . . law that takes property from A and gives it to B: It is against all reason and justice, for a people to entrust a Legislature with SUCH powers." This analysis applies equally to citizen-to-citizen subsidy that occurs through the Obama Care mandate.

According to the ruling of United States District Judge Henry E. Hudson on December 13, 2010, "The unchecked expansion of congressional power to the limits suggested by [ObamaCare] would invite unbridled exercise of federal police power. At its core, this dispute is not simply about regulating the business of insurance or crafting a scheme of universal health insurance coverage, it's about an individual's right to choose to participate."

"Every application of Commerce Clause power found to be constitutionally sound by the Supreme Court involved some form of action, transaction, or deed placed in motion by an individual or legal entity, ... The constitutional viability of [ObamaCare] in this case turns on whether or not a person's decision to refuse to purchase health care insurance is such an activity."

Hudson's ruling rejects the government's view that a decision not to buy health insurance is economic activity subject to regulation under the Commerce Clause. The Federal Judge explained that no high court has extended Commerce Clause powers "to compel individual to involuntarily enter the stream of commerce by purchasing a commodity in the private market," and thus, concluded that the ObamaCare mandate "exceeds the Commerce Clause powers vested in Congress under Article I"

The Government tried to justify ObamaCare through the Constitution's "Necessary and Proper Clause," which grants broad Congressional powers that are not enumerated powers. In an 1819 Supreme Court decision, Justice John Marshall wrote that Congressional Authority via the Necessary and Proper Clause, while broad, "its authority is not unbridled." Thus, Congress has only power to enact laws that are "within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional."

Judge Hudson ruled that the ObamaCare mandate "is neither within the letter nor the spirit of the Constitution."

"If a person's decision not to purchase health insurance at a particular point in time does not constitute the type of economic activity subject to regulation under the Commerce Clause,

then logically an attempt to enforce such a provision under the Necessary and Proper Clause is equally offensive to the Constitution."

Therefore, an individual that chooses not to hire a building department, by paying for a service, is within that individual's right and does not violate any laws, even by means of promulgated rules.

For governmental subdivisions, like the building department, to promulgate rules with the force of law through the use of the APA, is repugnant to the Constitution, which makes the APA unconstitutional.

ACTS OF PERJURY

The County has repeatedly stated that Susan Everill ("Everill"), never gave Bambas permission to do any work on the manufactured House that is located on the Property.

During the deposition, Everill makes numerous misleading and incorrect statements regarding the business relationship between Bambas and Everill.

On October 3, 2019, Livingston County's attorney, T. Joseph Seward (P35095) conducted Susan Everill's deposition, where Everill, accompanied by her attorney Mark C. Vanneste (P73001), testified under oath to the following;

1. On the day Everill and Bambas first met, Everill testified that, "...my neighbor at Fernlands contacted me and said that there was somebody suspicious around asking about me, and it didn't seem right..." then Everill goes on to say, "...and the Mr. Bambas told me that – that he was going to have that house..." [Ex. 2, page 36, lines 7-10, 24-25]. Everill continues this statement saying, "...and I told him that that's not right, that I own the Property, that's why I'm paying taxes on it, and so no, he can't steal my house." [Ex. 2, page 37, lines 14-16]. Then Everill states, "...and I immediately felt that it was a scam." [Ex. 2, page 38, line 11].

These statements give the appearance that Everill is about to be a victim of a crime, and that Bambas was about to steal the House from Everill, however, if Everill is about to be a victim of a "scam", then why would Everill even consider doing business with Bambas, as stated in the next part of Everill's testimony.

2. Everill informs Bambas that she is cannot afford doing any repairs on the House and Property, so Bambas makes Everill an offer, that he will bank-roll the repairs in exchange for being able to live there, this is confirmed by the following testimony by Everill, “Then he wanted me to let him live there for free in exchange for him doing work on the Property.” [Ex. 2, page 37, lines 20-21]. Everill then states, “He just wanted someplace to live, and he would do kind of like the construction work in exchange.” [Ex. 2, page 38, lines 8-10]. Everill continues by stating, “So he kept contacting me, and I told him what I would need to see to even consider it...” [Ex. 2, page 38, lines 20-21].

In these statements, Everill admits that Bambas made an offer to repair the House and Property in exchange for rent, which indicates that Everill was not going to be a victim of any scam or crime.

In addition, Everill testifies that Bambas kept pursuing her on this matter, which is a false statement, because on August 6, 2016, Everill contacted Bambas and requested a meeting at the House and Property to discuss the contract and renovations that were to take place on the House and Property. [Ex. 3, Flash Drive, audio recording 8/6/16]

3. Everill and Bambas did solidify an agreement regarding the repairs to the House and Property, and Bambas began the repairs some time around the end of August of 2016. Everill then testified that, “So I told him that I would need to see proof of – proof of a legitimate business contractor’s license, insurance.....I would need to speak to people that he’s done work for so that I could find out what they thought of his work and what their experience was.” [Ex. 2, page 38-39, lines 25, 1-5].

The testimony Everill gave here can be confirmed by a voicemail she left on Bambas’ phone on August 12, 2016. [Ex. 3, Flash Drive, audio recording 8/12/16]. In that recording, Everill clearly states, “...I don’t know if I can get back here in time to attend and meet everyone that you work with...”. Which was one of the requests that Everill had made of Bambas, and based upon her tone of voice, Everill does not sound like someone that is being victimized.

4. The testimony Everill then gives contradicts the actual events that took place, Everill states, “...you just said that he was going to do the work? I never agreed to him doing

the work. This was just an estimate”. [Ex. 2, page 52, lines 9-11]. Everill is then asked the following question by Mr. Seward, “Okay. And what you’re telling me is: You never actually indicated to him in any fashion that you wanted to go forward with this work.”, Everill answered, “Correct”. [Ex. 2, page 52, lines 19-22]. Everill then testifies that, “I don’t think he was doing work from `16 to `18. It seems like the work was started just recently. Right?.....I didn’t know that he was doing any work there. I explicitly said that we did not have a deal, and he could not start work – because I was still trying to get quotes from other contractors to see if his numbers were even reasonable.” [Ex. 2, page 61, lines 5-6, 8-12]. Then Everill gives the following, what appears to be a “coached” testimony in an attempt to appear as a victim in these events, by stating, “No. I was very clear, because like I said from the beginning, it felt like a scam, like, something felt wrong. And so I was very, very careful with my words, to make sure every time he would say things like, oh, I’m going to go and start doing this, then I would say, No, we don’t have an agreement, No, you can’t start work, you know, none of these other requirements have been met yet, so you don’t have the job yet”. [Ex. 2, page 86, lines 18-25].

Everill has failed to tell the truth when she testified that she was only gathering estimates for the work to be done, that there was never any agreement to have any work done on the House and Property, and she also falsely testified that she had no knowledge of any of the repairs’ that were taking place on the House and Property.

Everill has lied under oath, and the evidence can be found in the voicemail recording of 11/10/16. In this recording, Everill states that she is at Allied Roofing picking out the shingle and drip edge colors, and then discusses a skylight order for the House, thus, proving that there was an agreement, that Everill knew work was being done on the House, and that Bambas has been telling the truth the entire time. [Ex. 3, Flash Drive, 11/10/16]

Furthermore, in Exhibit 3, which can be found on the Flash Drive, shows the House with a new roof, being installed on 11/12/16. [Ex. 3, Flash Drive photos]

During the deposition, Attorney Seward asked Everill about the existence of a Confidentiality Agreement, which Everill responded, “No, there has never been an agreement, there is no document, that was never discussed, no”. [Ex. 2, page 54, lines 22-23].

In regards to the Confidentiality Agreement, it is our company policy that is standard with all of our clients or potential clients. The Confidentiality Agreement is similar to those used by banks, credit card companies, and many other corporate entities. The promulgated corporate rules that make up the Confidentiality Agreement states, in part, that no personal information pertaining to a client or potential client will be released to any outside third party, under any and all circumstances, without written consent from the client, therefore, because Everill never gave any written consent to release any of her personal information, no information has or will be given.

It is clear, based upon the voicemails and photos, that Everill lied under oath at her deposition, and in addition to that, The County's attorney's, T. Joseph Seward (P35095) ("Seward"), along with David D. Burrell (P77525) ("Burrell"), had full knowledge of these voice recordings that proved Everill was lying, however, they chose to ignore the evidence, and continued their lie before the lower court and the COA, by continually stating that Everill had no knowledge of the work being done on the House and Property.

Seward and Burrell, have willfully and with malice, placed a fraud upon the courts by promoting testimony, made by Everill, that they knew was a lie, because they had received a copy of the voicemails on December 9, 2019, as an exhibit attached to Bambas' Objection to Plaintiff's Motion For Summary Disposition, before Judge Geddis.

In addition, Judge Geddis had also received the same voice recordings on December 9, 2019, showing the act of perjury by Everill, however, Judge Geddis failed to take any action against Everill for perjury or the County's attorneys for the fraud that they had placed upon the court.

Instead, Judge Geddis sanctioned Bambas for attempting to uphold his Constitutional right to a fair trial.

Furthermore, the COA also had a copy of the voice recordings, but failed to take any action against the County or Everill for their actions.

PROPERTY OWNERSHIP

The County raised the issue of permits and ownership of the Property through their original pleadings.

Both the County and the lower Court have become complacent in accepting a document that allegedly proves ownership of the Property.

This document is a Covenant Deed that was signed on April 4, 2019 and recorded with the Livingston County Register of Deeds on April 22, 2019.

The language contained within this document is specific in that it states; "Seller makes no representations or warranties, of any kind or nature whatsoever, other than those set out above, whether expressed, implied, implied by law, or otherwise, concerning the condition of the title of the property prior to the date the seller acquired title."

In addition, it states; "The real property described above is conveyed subject to the following: All easements, covenants, conditions and restrictions of record; All legal highways; Zoning, building and other laws, ordinances and regulations; Real estate taxes and assessments not yet due and payable; Rights of tenants in possession."

This Covenant Deed only pertains to the real property known as 6704 Sheldon Rd., Whitmore Lake, MI 48189, Township of Hamburg, in Livingston County.

This Covenant Deed does not mention the manufactured house that is located on the Property.

The reason that the Covenant Deed fails to mention the manufactured house is because manufactured homes are not considered real property, they are considered personal property.

As a result, manufactured homes are not deeded at the County Register of Deeds, they are titled through the Secretary of State, and Defendant Susan Everill ("Everill"), testified at her deposition that the house was in fact a manufactured house.

To better understand the time-line of ownership as it relates to the documentation and the law, the following depicts the chain of ownership:

- Sheriff sale took place on 8/15/12.
- Sheriff Deed filed with Livingston County Register of Deeds on 8/24/12. (NOTE: Sheriff Deed is defective) (Ex. 4)
- Affidavit of Abandonment signed on 11/2/12. (Ex. 1)
- Affidavit of Abandonment filed with the Livingston County Register of Deeds on

11/6/12.

- New Sheriff Deed signed on 7/22/13.
- New Sheriff Deed filed with the Livingston County Register of Deeds on 7/26/13. (Ex. 5)
- At some point, Everill allegedly purchases the Property, after 7/26/13, in 2013.
- At some point around 8/2016, Everill and Bambas meet and discuss renovations of the House located on the Property. (Flash drive Ex. 3, 8/6/16)
- At some point around 1/2017, Everill fails to respond to any correspondences moving forward.
- Plaintiff files lawsuit 2/26/19.
- Covenant Deed signed on 4/4/19.
- Plaintiff enters the House for inspection on 4/10/19.
- Covenant Deed filed with Livingston County Register of Deeds on 4/22/19. (Ex. 6)

There are several things that the Court should pay close attention to contained within the time-line.

To begin with, the Sheriff Deed is defective for several reasons;

- No proof of ownership was produced and presented to the Sheriff department by the servicer of the promissory Note or mortgage.
- Bank of New York Mellon failed to physically pay for the Property at the time of the Sheriff sale. In other words, there was never any monetary exchange between the Bank and the Sheriffs department.
- The Property was never legally conveyed to the Sheriffs department, therefore, the Sheriffs department could not convey the Property to the highest bidder at the Sheriffs sale.
- This was discovered during an interview with Livingston County Sheriff Deputy C. Hur, who conducts the Sheriff sales.
- The Covenant Deed does not warrant that Everill is the true and sole owner of the Property.
- The Covenant Deed does not convey the manufactured house that is located on the Property.

The reason that the Covenant Deed, or any other kind of deed including a warranty deed,

cannot convey a manufactured house is because a manufactured house is not considered to be real property, it is considered to be personal property.

The only way that this house could be conveyed as real property is if the original owner, when the House was placed on the Property, filed a Affidavit of Affixture of Mobile Home with the Michigan Department of Licensing and Regulatory Affairs.

This Document, once approved, would then need to be filed with the Livingston County Register of Deeds, then from that recording date moving forward, the House would then be classified as real property.

As of the date of this brief, Bambas has no knowledge of any such documents existence or that any such document has been recorded with the Livingston County Register of Deeds, which means that the House is still classified as a manufactured home and is still considered personal property, not real property.

As a result of the Affidavit of Affixture not being filed, Everill is not the owner of the manufactured house that is located on the Property.

Everill might be the owner, in full or in part, of the Property, but she is not the owner of the manufactured house.

Furthermore, Everill testified at her deposition that she had purchased the Property some time in 2013, however, the Covenant Deed was signed and recorded in April 2019 leaving a 6 year gap in question.

If Everill did purchase the Property in 2013, then the Covenant Deed is a fraudulent representation of the conveyance of the Property because it states that Everill purchased the Property on April 4, 2019.

If Everill, according to the Covenant Deed, did not purchase the Property until April 4, 2019, and there exists no evidence to suggest that the House was a part of that transaction, then Everill was never the owner of the Property prior to that date.

Furthermore, according to the rulings of Judge Brennan which were upheld by Judge D. Reader and Judge Hatty of the Livingston County courts, conveyance of real property does not become official until the recording date posted on the deed, from the deed's office, moving forward.

This would then mean that the House inspection that took place on April 10, 2019 was done illegally because Everill was not the "possible" owner of the Property, and Everill was

not the owner of the House, therefore, Everill could not give permission to the Plaintiff to enter or do an inspection of the House or Property.

As a result, any and all evidence and information gathered by the Plaintiff is inadmissible as evidence because the Plaintiff never acquired permission from the owner of the Property or of the House, nor did the Plaintiff acquire a warrant to enter the premises.

Therefore, based upon the time-line and recorded documents, Everill has failed to show and prove that she is the sole owner of the Property or that she has any financial interest in the Property or the House.

Everill has failed to prove that she has any right of ownership to the manufactured home located on the Property.

Furthermore, Everill testified at her deposition that she does not have any personal property located on the Property.

Even if it is assumed that the Covenant Deed is valid, Everill did not become the owner of the Property until April 22, 2019, the date of the recorded Covenant Deed moving forward, thus making the inspection and information gathering by the Plaintiff illegal and inadmissible in court.

Everill testified that she allegedly purchased the Property in 2013, however, Everill failed to ever maintain the Property or the House, therefore, she has abandoned the Property and the House.

There exists an affidavit of abandonment, by the previous owners, filed with the county deeds office.

Bank of Mellon declared to Bambas that they were not the owners of the Property, and this has been confirmed by the Plaintiff within their pleadings.

Bambas has maintained the Property, has been paying the utilities, has been doing all of the repairs and maintenance to the manufactured house without any assistance from Everill.

Everill has failed to pay for any of the maintenance or repairs to the House or Property. [Ex. 2, page 89, lines 4-7].

Therefore, Bambas has a vested interest in the Property and the House, which he alone has maintained and repaired.

Bambas raised the issue of ownership and motioned from the courtroom floor for an evidentiary hearing into the ownership issue.

However, the Plaintiff objected to this Motion, Everill failed to respond or show up for court, and the lower Court denied the Motion, therefore, all of the documents and testimony that has been entered onto the record stands unopposed, and must viewed by the Court as truthful.

ILLEGAL INSPECTION OF HOUSE AND PROPERTY

Plaintiff has failed to show that the lack of a permit to do maintenance and repairs on the Property or House violates any laws of the State of Michigan.

Plaintiff has failed to show how any individual is mandated to obtain a permit for maintenance and repairs to private personal property under the law.

Plaintiff has failed to show, and prove, that the Defendant has violated any of laws of the State of Michigan or that there exists any ongoing criminal activity on the Property or House.

Plaintiff has failed to prove that they or any other governmental subdivision under the executive branch has the Constitutional authority to legislate laws or to make rules, guidelines, and Codes into laws without violating the separation of powers stated within the Michigan Constitution and the U.S. Constitution.

Plaintiff has failed to show and prove that all individuals are contractually bound to follow the rules, guidelines, and Codes created by these governmental subdivisions, which fall under the jurisdiction of the executive branch of government.

As a result of Plaintiff's inability show that any violation of the law exists, and because the County's head building official testified that there was nobody with first hand knowledge of any work being done on the Property or House, Plaintiff's inspection demand of the Property and House fails to meet the necessary criteria for probable cause, for this inspection to take place legally.

The County is insisting that they have the right and the authority to inspect the Property and House, under the pretext of the health and safety of the public, any time they so demand. However, the County's inspection violates the Constitutional rights of Bambas under the 4th and 14th Amendment.

The 4th Amendment states that; "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,

and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

The Fourth Amendment to the United States Constitution, made applicable to the states through the due process clause of the Fourteenth Amendment, *Mapp v. Ohio*, 367 U.S. 643, *rehearing denied*, 368 U.S. 871 (1961), guarantees to all persons the right of privacy free from unreasonable state intrusion.

In addition, administrative searches or inspections such as those under consideration in the instant inquiry, which are conducted outside the judicial process without consent and without prior approval (as evidenced by an administrative search warrant) are not reasonable, unless a showing can be made that the administrative search or inspection falls within one of the well-established exceptions to this rule. *See, e.g.,* *See v. City of Seattle*, 387 U.S. 541 (1967); *United States v. Sokolow*, 450 F.2d 324 (5th Cir. 1971); *Benton v. State*, 329 So.2d 385 (1 D.C.A. Fla., 1976); *Parsons v. State*, 334 So.2d 308 (1 D.C.A. Fla., 1976); and AGO 82-7. *Cf. Colonnade Catering Corp. v. United States*, 397 U.S. 72 (1970), and *Michigan v. Tyler*, 436 U.S. 499 (1978).

Furthermore, both business or commercial premises and private residences are afforded protection from unreasonable searches by Art. I § 11, State Const., and the Fourth Amendment to the U.S. Constitution. *See See v. City of Seattle*, *supra*, in which the U.S. Supreme Court held that administrative inspections of commercial structures as well as private residences are forbidden by the Fourth Amendment when conducted without a warrant; and *Jones v. City of Longwood, Florida*, 404 So.2d 1083 (5 D.C.A. Fla., 1981), in which the court, in a wrongful death action, stated that an ordinance requiring the building inspector and fire chief to periodically inspect all buildings and structures within the city was qualified by the Fourth Amendment and could not authorize inspection of private property without a warrant.

Plaintiff has failed to show that there exists any ongoing criminal activity or that the Bambas as violated any laws of the State of Michigan that could support any factual bases of probable cause for an administrative warrant.

Furthermore, in May of 2018 the United States Supreme Court, in a unanimous decision, opined that “[f]ew protections are as essential to individual liberty as the right to be free from unreasonable searches and seizures.” *Byrd v. United States*, 584 U.S. ____ (2018). The Court

explained that "[t]he Framers made that right explicit in the Bill of Rights following their experience with the indignities and invasions of privacy wrought by "general warrants and warrantless searches that had so alienated the colonists and had helped speed the movement for independence." *Chimel v. California*, 395 U. S. 752, 761 (1969). Ever mindful of the Fourth Amendment and its history, the Court has viewed with disfavor practices that permit "police officers unbridled discretion to rummage at will among a person's private effects." *Arizona v. Gant*, 556 U. S. 332, 345 (2009)."

Therefore, because Plaintiff failed to show the existence of any statutory authority for warrantless searches, with regards to local Code enforcement boards or Code inspectors, the administrative searches or inspections under consideration may not be constitutionally conducted without the consent of the owner, the operator, or occupant of the affected premises or without a duly issued search or administrative inspection warrant.

Furthermore, the County and township officials have admitted to trespassing upon the Property and House for the sole purpose of gathering information without the permission of Bambas, and absent the existence of a warrant.

Plaintiff has admitted to trespassing and has acknowledged the existence of no trespassing signs located on the Property and House, but chose to ignore them during their information gathering. [Ex. 7]

Plaintiff's actions were conducted outside the scope of what is called the "implied license", and therefore, have violated the 4th Amendment rights of the Bambas, which parallels the same actions described in *Florida v Jardines*, 569 US ___; 133 S Ct 1409; 185 L Ed 2d 495 (2013).

Although the public, and thus the County officials, generally have an implied license to "approach the door by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave," the police in *Jardines* had not complied with the scope of that implied license.

A "knock and talk," when performed within its proper scope, is not a search at all. *Jardines*, 569 US at ___; 133 S Ct at 1415. The proper scope of a knock and talk is determined by the "implied license" that is granted to "solicitors, hawkers, and peddlers of all kinds." *Id.* at ___; 133 S Ct at 1415 (citation and quotation marks omitted). "Thus, a police officer not armed with a warrant may approach a home and knock, precisely because that is

‘no more than any private citizen might do.’” Id. at ___; 133 S Ct at 1416, quoting *Kentucky v King*, 563 US 452, 469; 131 S Ct 1849; 179 L Ed 2d 865 (2011)

In general, a search or seizure within a home or its curtilage without a warrant is per se an unreasonable search under the Fourth Amendment. *People v Champion*, 452 Mich 92, 98; 549 NW2d 849 (1996); *Katz v United States*, 389 US 347, 357; 88 S Ct 507; 19 L Ed 2d 576 (1967).

Another example would be, looking into the windows of a home from a sidewalk or other public area is not a search. But it is information-gathering, such that, if the police trespass on the home’s curtilage and peer through the windows from that vantage point, they have conducted a search. The trespass converts conduct that would not otherwise constitute a search into a search.

The *Jardines* Court distinguished between trespasses that implicate the Fourth Amendment and those that do not. For instance, police may trespass and search in open fields without violating the Fourth Amendment because “an open field . . . is not one of those protected areas enumerated in the Fourth Amendment.” *Jones*, 565 US at 411, citing *Oliver v United States*, 466 US 170, 177; 104 S Ct 1735; 80 L Ed 2d 214 (1984). But because the curtilage is part of the home, *Oliver*, 466 US at 180, and homes are protected by the Fourth Amendment, trespassing on the curtilage implicates Fourth Amendment protections. Plaintiff’s have openly admitted to gathering information while trespassing upon the Property and House, and therefore, have admitted to violating the 4th Amendment rights of the Defendant *Bambas*.

All of the information gathered by the Plaintiff’s falls within the definition of the exclusionary rule, and cannot be use in any court proceeding.

In addition, the defendants’ consent—even if voluntary—is invalid unless it is sufficiently attenuated from the warrantless search. The Supreme Court has repeatedly held that evidence obtained through an illegal search or seizure is tainted by that initial illegality unless sufficiently attenuated from it. See *Wong Sun v United States*, 371 US 471, 486; 83 S Ct 407; 9 L Ed 2d 441 (1963) (holding that evidence acquired after an illegal search must be suppressed unless the government shows that its acquisition of the evidence resulted from “an intervening independent act of free will” sufficient “to purge 14 the primary taint of the unlawful invasion”). That analysis has been applied to both consensual statements and—

particularly relevant here—consensual searches. *Brown v Illinois*, 422 US 590, 602; 95 S Ct 2254; 45 L Ed 2d 416 (1975) (holding that when an inculpatory statement follows an unlawful arrest, a finding of voluntariness does not obviate the need to make a separate Fourth Amendment determination as to whether the statement was “ ‘sufficiently an act of free will to purge the primary taint’ ”), quoting *Wong Sun*, 371 US at 486; *Florida v Royer*, 460 US 491, 507-508; 103 S Ct 1319; 75 L Ed 2d 229 (1983)

What matters is that the County sought to gather information by way of a trespass on Fourth-Amendment-protected Property and House, and because the County did not have a warrant or any other exception to the warrant requirement, the Court can conclude that the approaches made by the County have violated the Fourth Amendment rights of the Defendant Bambas.

The Plaintiff violated the 4th Amendment rights of the Defendant Bambas with their warrantless search of the Property and House, and in doing so, have violated 42 U.S.C. § 1983 which states; “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia”.

Wherefore, the County has admitted their guilt under oath to violating Michigan laws and violating the Constitutional rights of the Defendant Bambas.

VIOLATION OF MCR 2.300 DISCOVERY

On March 12, 2019, the lower Court issued an Order of preliminary injunction regarding 6704 Sheldon Rd., Whitmore Lake, MI 48189 (the “Property”).

Under the heading, IT IS ORDERED, part 2 states the following; “Defendants are

enjoined and restrained, whether alone or in concert with others, including any officers, agent, representative, and/or employee of Defendants, until further Order of this Court, from carrying out or causing to be carried out construction and/or electrical work on the property located at 6704 Sheldon Road, Whitmore Lake, MI 48189 without first obtaining all permits required by applicable law and regulations to do such work. [Ex. 8]

According to this Order, the scope of access onto the Property and House is limited to only the prohibiting of work or electrical service hookup.

This Order does not state anywhere that the parties listed in this case are forbidden from entering the Property or the House for the purpose of discovery.

Plaintiff has admitted to entering the Property and the House several times to gather information and evidence relevant to their case.

Defendant Susan Everill (“Everill”), has admitted to entering the Property and House, not only to gather information, but to do work on the Property and House in complete violation of the March 12, 2019 court Order.

However, Defendant Michael Bambas has been denied access to the Property and House by the Plaintiff and Everill.

Everill has even gone so far as to change the locks on the House preventing Bambas from being able to access the interior for information gathering.

In addition, Everill, by changing the locks on the House, is now holding personal property that she has admitted in her deposition, does not belong to her.

Furthermore, it has been discovered that after the locks were changed, with Everill holding the only key to the House, legal documents, evidence, client lists, credit card numbers, social security numbers, federal tax ID numbers, stock certificates, and much more in the way of documents have been stolen while in the care of Everill.

Bambas learned that both the Plaintiff and Everill contacted local police and instructed them to prevent Bambas from entering the Property and House no matter what. Bambas has been threatened by the Hamburg Police that should Bambas so much as step foot onto the Property and House, he will be arrested.

This denial to access the Property and House violates the Constitutional rights of Bambas, as a defendant in this case, under the Rules of discovery.

According to MCR 2.302(B)(1) states; In General. Parties may obtain discovery

regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, custody, condition, and location of books, documents, or other tangible things, or electronically stored information and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Bambas has the right of discovery, uninhibited by any of the parties or outside influence, in order to put on a proper defense.

To summarize, Bambas has been prohibited by the Plaintiff and Everill from being able to gather evidence in his own defense.

Both the Plaintiff and Everill, through their respective attorneys, have violated the Michigan Court Rules regarding discovery.

As a result of their actions, legal documents, evidence, client lists, credit card numbers, social security numbers, federal tax ID numbers, stock certificates, and much more in the way of documents have been stolen.

This Court should rule to remove the permanent injunction and begin to restore the Constitutional rights of Bambas and require Everill to return all of the documents or other items that were stolen immediately.

PERSONAL PROPERTY HELD HOSTAGE

Both the Plaintiff and Defendant Susan Everill have failed to respond or produce any evidence or documentation that can dispute any of the evidence Bambas has presented to the Court.

The Covenant Deed that was filed on April 22, 2019 does not warrant that Everill is the true and only owner of the Property, and it does not give any conveyance of ownership of the House to Everill.

Everill affirmed at her deposition that she does not have any personal property located on the Property or in the House.

In addition, Bambas has been, until the injunction was put in place, maintaining the Property and the House, and as of the date of this appeal, Bambas is still paying the utilities for the Property and House.

Both the Plaintiff and Everill have admitted that Bambas has personal belongings at the Property and in the House. [Ex. 9]

The permanent injunction is holding the personal belongings of Bambas hostage as well as other individuals whose personal belongs are on the Property and in the House, and who are not a party to this case, and yet, Judge Geddis has proclaimed that nobody can ascertain their personal belongings regardless of their party status to this case.

Judge Geddis is not only violating the Constitutional rights of Bambas, but the Constitutional rights of those who are not even a party to this case.

This is just one more reason why the permanent injunction must be removed.

EXECUTIVE ORDERS ARE NOT A LAW

The County claims that, as a governmental subdivision under the executive branch, it has the authority to promulgate rules with the force of law, that it has the authority to adopt a Code, and enforce the Code with the force of law, according to MCL 125.1506, that the governing authority is vested within the "Administrative Procedures Act of 1969" ("APA"), which states; AN ACT to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of certain publications; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to create and establish certain committees and offices; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date.

This is the same APA that the COA claims grants legislative authority to the executive and judicial branches of government, and that the act of delegating legislative authority from the legislative branch to the executive and judicial, is permitted according to the Constitution.

However, this claim of legislative authority by governmental subdivisions, like the Plaintiff, is unconstitutional for many reasons.

First, no where within the 18 enumerated powers granted to the legislative branch is it permissible for the legislative branch to delegate its authority to any other branch of government.

Second, the Michigan Constitution prohibits the violation of the separation of powers, and should a breach occur, then Article VI clause 2, the Supremacy Clause, of the U.S. Constitution would prohibit any violation in the separation of powers.

Third, any statute created by Congress or any state legislature that is repugnant to the Constitution is null and void. *Maybury v. Madison*, 5 U.S. 137 (1803)

Fourth, the U.S. Supreme Court has already ruled on this matter in, *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935), the Supreme Court held that "Congress is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested."

Fifth, according to MCL 445.2001, Executive Reorganization Order, E.R.O. No. 1996-2, this is an executive order that was issued by Governor John Engler to the following executive departments in the State of Michigan; Department of Consumer and Industry Services, Department of Commerce, Bureau of Occupational and Professional Regulation, Public Service Commission, Family Independence Agency, Department of Labor, Department of Treasury, Department of Management and Budget, and the Department of Agriculture, and the last line in the order states; In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days from the filing of this Order, which includes The State Construction Code Commission.

The language contained within MCL 445.2001, Executive Reorganization Order, E.R.O. No. 1996-2, is that of an executive order only, and does not grant any legislative authority to the governmental subdivisions of the State of Michigan, which includes the County, and any claims by the County that they possess the authority to promulgate rules with the force of law, now fails, because this Court, the Michigan Supreme Court, has already ruled that Governor Whitmer, head of the executive branch of Michigan does not have legislative authority as member of the executive branch.

Therefore, if the Governor of Michigan lacks legislative authority, as head of the executive branch, then all governmental subdivisions, including the County, under the Governors direction, lack legislative authority, and in keeping with this Courts ruling, the APA is unconstitutional, making all of the promulgated rules that were created by these executive departments, unconstitutional and void as a matter of law.

CONCLUSION: Bambas brought this case, this appeal, to this Court, because of the blatant disregard, on the part of the County and the lower courts, towards the Michigan Constitution, the U.S. Constitution, and the Constitutional rights of Bambas and the American people.

The County has used the APA to violate state and federal laws, to deprive Bambas of his right to jury trial, and a fair trial by prohibiting Bambas from conducting discovery and accessing exculpatory evidence, to promote perjury and fraud upon the court, to violate the 4th Amendment rights of Bambas by conducting illegal searches, to incite intimidation and coercion and force people into contractual agreements against their will, to withhold personal property that belongs to Bambas and others who are not a party to this case, as well as many other violations.

The injunction was based upon the County's claim that an administrative law was violated, and Judge Geddis, in the lower court, failed to recognize that the APA, which is what the administrative law was based upon, is unconstitutional. The County never made any claim that Bambas violated any state or federal laws, only that Bambas was refusing to follow their self-made promulgated rules, that they call law.

The County's entire case is based upon its ability to promulgate rules with the force of law, thus forcing individuals into contractual agreements against their will, by forcing them to acquire a permit to work on private property.

The County's only source of authority to carry out these acts of rulemaking stems from the SSCCA enacting the APA, which is a statute, passed by Congress, that is repugnant to the Constitution.

For the County, or any other governmental subdivision, to be given the authority of all 3 branches of government, will lead to tyranny. Our founding fathers designed the U.S. Government, specifically, with 3 separate branches so that no one branch has power over the other, a form of check and balance so that tyranny could not exist. To allow, not just elected officials, but non-elected officials unbridled, unchecked power and authority to create rules with the power of law, circumventing the Michigan Constitution, the U.S. Constitution, and the entire legislative process, can only lead to our own demise as a nation.

The Administrative Procedures Act is unconstitutional, because it allows elected and non-elected officials the ability to promulgate a rule with the force of law, unchecked by our system of government, and the courts blindly uphold these rules with no thought to the future of this

nation or its people.

This Michigan Supreme Court, recognize that Governor Whitmer's executive orders in regards to the pandemic and the State shutdown, were not laws because the Governor did not have legislative authority as a member of the executive branch.

Therefore, if the Governor of the State of Michigan, the head of the executive branch, does not have legislative authority, then in keeping with this Courts ruling, all governmental subdivisions under the executive branch, do not have legislative authority, making the APA unconstitutional, and all of the promulgated rules unenforceable as a law.

WHEREFORE, Defendant / Appellant Michael E. Bambas respectfully requests that this Honorable Court Grant Defendant/ Appellant Bambas Appeal and so Order the Relief Requested;

1. That the injunction be terminated and access to any and all personal belongings be allowed immediately.
2. That all sanctions imposed against Bambas be terminated.
3. That this Court issue a ruling declaring the Administrative Procedures Act unconstitutional and unenforceable.
4. That this Court issue a ruling that the adopted Building Code is not a law.
5. That this Court state specifically where within the 18 enumerated powers of the legislature in the Michigan and U.S. Constitution, grants the legislative branch the authority to delegate it's legislative powers to the executive or judicial branch of government.

Respectfully Submitted,



Michael E. Bambas
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June 15, 2021
Date