

United States District Court
District of New Jersey

-----x Civil Docket No. 3:10-CV-04814-
GEB-DEA

Nicholas E. Purpura, *pro se*
Donald R. Laster Jr. *pro se*
et al.

Plaintiffs

v.

**NOTICE OF
APPEAL TO ORDER
BY JUDGE FREDA L. WOLFSON
DISMISSING PETITIONERS' CLAIM &
MOTION TO EXPEDITE**

Individually & in their Official Capacity

UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;

KATHLEEN SEBELIUS, in her official capacity

Individually & in their Official Capacity as the
Secretary of the United States, Department of Health
And Human Services;

UNITED STATES DEPARTMENT OF THE TREASURY;

TIMOTHY F. GEITHNER, in his official capacity as the
Secretary of the United States Department of the Treasury;

UNITED STATES DEPARTMENT OF LABOR; and HILDA
L. SOLIS, in her official capacity as Secretary of the United States
Department of Labor,

Defendants.

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**TO THE HONORABLE COURT, DEFENDANTS AND THEIR ATTORNEYS OF
RECORD, AND ALL INTERESTED PARTIES:**

COMES NOW Nicholas E. Purpura and Donald R. Laster, Jr., et al. (Petitioners) to file this timely Motion of Notice of Appeal, and Motion to Expedite the Order of April 21, 2011 (Exhibit 1) Dismissing Petitioners' Petition based upon lack of subject matter jurisdiction pursuant to Federal Rules of Civil Procedures (FRCP) 12(b)(1); that will have grave consequence by the precedent it would establish if left standing. Petitioners' respectfully request this Honorable Circuit Court reverse said finding Order in its entirety.

The District Court action stripped Petitioners' of their Constitutional Rights and virtually erased the Constitution, Statutory law, as well as rendered Circuit and Supreme Court precedent null and void.

The Defendants in this action failed to address a single allegation as required by FRCP 8(b), and Rule 8 (d). In the interest of substantial justice Petitioners pray they can come before the Circuit Court as soon as possible to plead their case. And it will be based upon the facts, law, and Federal Rules of Procedure that this matter will be adjudicated by this Court. Petitioners say, this Petition has been intentionally protracted in the District Court. Petitioners have also been denied proper procedural "*due process*". If this action is protracted any longer Petitioners as well as the American people as a whole will continue to suffer ill reversal damage that strips Petitioners of the Constitutional Rights.

JURISDICTION

This Honorable Court has Original Jurisdiction to hear all matters involving Constitutional and Civil Rights violations. No doctrine, law, statute or moral reason exists that would bar this Federal Court from addressing the merits of Petitioners' complaint due to the violations of Petitioners federally protected guaranteed federal civil rights.

QUESTIONS PRESENTED

- I. Whether the District Court erred in dismissing Petitioners' claims pursuant to '*lack of jurisdiction*' arbitrarily and capriciously without any legal bases. And whether the Court, by its own admission, had not reached or examined the merits of the claims;
- II. Whether the District Court refused to recognize Petitioners' political status as sovereign "Natural Born" "Citizens" of these United States". Thereby disenfranchised Petitioners' from our government thus creating law valid for one political class of citizens, but not valid for all classes;
- III. Whether Petitioners Constitutional rights have been abrogated, thus denying Petitioners "*due process*" and "*equal protection*" Rights guaranteed under the Constitution.

- IV. Whether the District Court failed/refused to adhere to proper judicial procedure resulted in the deprivation of Petitioners Constitutional civil rights as a Citizen of these United States by failing to conduct a straight-forward inquiry into the ongoing violation of federal law and Constitution of the United States. By failing to do so placed Petitioners' and all Americans in jeopardy of political persecution by allowing one branch of government to unconstitutionally force citizens to obey an unconstitutional law through wrongful use of threatening ... or fear of economic harm to surrender a federally protected rights.
- V. Whether the District Court suspended the Constitution and decided to interrupt law and authorities to suit a political purpose suspended Petitioners civil rights by:
- Ruling upon its own interpretation of what the law should mean, redefining established Constitutional authority, statutes, and the Federal Rules of Civil Procedure;
 - As a fact-finder failed in its fiduciary duty by ignoring the explicit facts presented;
 - By judicial fiat created a counterfeit "standing argument" claiming the Court "*lacked of jurisdiction*" to challenge a branch of government's unconstitutional exercise of power;
 - Refusing to weight arguments as written and/or meaning of the text and laws. The text's and law's purpose and customary practices associate with the Constitution, statutory regulations and meanings as outlined in the Federal Rules of Civil Procedure (hereafter FRCP). Thus deprived Petitioners of their Constitutional rights;
 - Acted with *deliberate indifference*, and *obstruction of justice* aiding and abetting in the unconstitutional actions of Defendants and their attorneys;
 - Whether the District Court by judicial fiat ruled to suit a personal ideology or benefit, violated its fiduciary duty essential to controlling protected rights set forth in the Constitution that indicates the end of the "*rule of law*".
- VI. Whether District Court usurped Supreme Court precedent by violating proper procedural "*due process*" and "*equal protection*" by denying Petitioners' the required "*evidentiary hearing*" in a matter of finality.
- VII. Whether the District Court without proper jurisdiction ruled on an issue that was not properly before the Court; that contradicted the Court's previous order of January 4th 2011. Clearly usurped the FRCP by granting procedurally infirm extensions of time void any

proper motion for an enlargement of time for good purpose pertaining to a Motion or Order [A practice that took place throughout these legal proceeding].

VIII. Whether Petitioners' should have been granted an automatic judgment in their favor by law as set forth in the FRCP, see Rule 8 (d) for failure to put forth any opposition. Thereby admitting Counts 5, 6, 7, 12, 13, and 14 that the assetion are correct and factual.

IN CONCLUSION

It is also inarguable Petitioners' litigation was intentionally protracted by the District Court that failed and refuse to address the merits, consistently suffered abusive improper judicial procedure. Petitioners realize that law sometimes tends to sleep, but it is not dead. The United States Constitution is the Supreme law of the land and has been rendered "*null and void*" by "H.R. 3590" that shedded the United States Constitution.

Respectfully submitted,

Nicholas E. Purpura,

Donald R. Laster, Jr.

cc: Ethan P.

PROOF OF SERVICE

I, _____, served:

NOTICE OF MOTION TO APPEAL & EXPEDITE PETITION

To: Etahn P. Davis, Esq.,
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave. N.W., Room 7320
Washington, D.C. 20530

and,

Assistant U.S. District Attorney Tony West
United States District Court (TNJ)
402 East State Street
Trenton, NJ. 08608
New York, NY 10271

I served the above referenced document by causing a true and correct copy to be mailed Certified Return receipt.

I declare I am a citizen of the United States, am over the age of 21, reside in New Jersey, and am not a party to this action.

I declare under the penalty of perjury under the laws of New Jersey and this United States that the foregoing is true to the best of my knowledge.

Dated: May ___, 2011