

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND: CRIMINAL TERM

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THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

-against-

RICHARD LUTHMANN,

Defendant.

-----X

**AFFIDAVIT IN
REPLY**

Indictment No.: 379/2018

STATE OF FLORIDA)
)
COUNTY OF LEE)

SS:

RICHARD LUTHMANN, being duly sworn, deposes and says:

1. I am the Defendant (“Luthmann”) in the above-captioned case.
2. Luthmann makes this Affidavit in Reply for the motion now returnable on February 28, 2023.

PRELIMINARY STATEMENT

3. Public perceptions of the criminal justice system are driven, in large part, by how lawyers and judges are depicted in the mass media. And these perceptions can be both positive and negative. The perception that a prosecutor may be dirty or dealing foul blows undermines the entire process, the same way a smart, honest, and diligent prosecutor elevates the administration of justice.

4. One indelible example of the popular perception of the justice system is presented in Rob Reiner and Aaron Sorkin’s 1993 classic A Few Good Men. The climax of the movie is the showdown between the Tom Cruise character, a JAG, and Jack Nicholson’s portrayal of a fictional marine, Colonel Nathan R. Jessup, a man who had abused his position of trust and violated the

rights of a man placed in his charge, resulting in his death. Through a vigorous cross-examination, the Tom Cruise character gets the Marine Colonel to admit his serious criminal culpability in open court. At that moment, the Tom Cruise character steps back from the witness box, approaches the bench, and tells the judge, “Your Honor, the witness has rights,” throwing the Nicholson character from confrontation to confusion.

5. In the same way, I say to you, Justice Mundy, the Special Prosecutor, Mr. Nelson, has rights. In his sworn papers in opposition to this motion, Mr. Nelson admitted to very serious criminal activity. Irrespective of how this motion or any further proceedings play out, it is clear Mr. Nelson lied to the Court and perjured himself. Mr. Nelson has abused the confidence of the People of the State of New York and this Court. (*Matter of Soares v Herrick*, 20 NY3d 139, 146 [2012]).

6. This Court would not only be remiss if it did not address this issue swiftly and immediately, but the undersigned believes the Court’s reputation would be immediately, irreparably, and forever harmed. Luthmann asks the Court to consider addressing the issues raised by Mr. Nelson’s conduct at the outset because there is actual prejudice that warrants this Court to act. Mr. Nelson should be disqualified and removed as Special Prosecutor, censured and reprimanded by the Court, and referred to the proper disciplinary and/or prosecutorial authorities.

7. It may be in Mr. Nelson’s best interests if the Court cuts him off as quickly as possible; the man is very confused. The more Mr. Nelson speaks, the more he appears to compound the legal and ethical predicament, not only for himself but for the system of justice to which he took an oath of attorney to protect and defend. He has actually and irreparably undermined any ability he may have to continue as a special prosecutor in this matter and has lost the confidence

of the People of the State of New York, based not only upon the appearance of impropriety, but also based upon actual dishonesty, unethical activity, and apparent criminality.

8. Mr. Nelson's actions have already been reported to the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts. The Committee is awaiting Your Honor's resolution of the pending motion prior to acting. See the attached **EXHIBIT "A."** All eyes are on the Court.

**SPECIAL PROSECUTOR NELSON'S NEW PERJURY,
LYING, AND DISHONESTY IN SWORN STATEMENTS TO
THE COURT IN THIS APPLICATION DETAILED**

9. Luthmann calls for Your Honor to refer Nelson to the Attorney Grievance Committee. Luthmann alleges Nelson allowed and encouraged Justice Ronald Castorina Jr.'s potential perjury in the 2018 grand jury proceeding in this case, resulting in Luthmann's defective indictment. Luthmann claims Nelson and Castorina's lies, perjury, and other criminal activity are fundamental matters that the Court must address, including Mr. Nelson's legal consultations with Perry Reich, a disbarred attorney who did federal prison time, where the sheer multitude of Mr. Nelson's crimes and violations warrant the dismissal of this case.

10. However, Mr. Nelson's instant perjury in this motion jumps the line on everything else. Mr. Nelson submitted an Affirmation in Opposition to the instant Motion ("Nelson Aff."). The Nelson Aff. is larded with lies, dishonesty, perjury, and false statements made under oath.

11. Mr. Nelson has admitted legal consultations with his (and consequently the People's) "Legal Advisor" - Disbarred Felon Perry Reich. (Matter of Reich, 25 AD3d 1063 [3d Dept 2006]). Nelson Aff, at ¶ 16. Mr. Nelson swore to the Court:

Regarding his claim that the indictment should be dismissed or the Special District Attorney removed, defendant references an e-mail conversation with Mr. Reich, which merely sought interpretation of decisions posed in a hypothetical setting. This had no effect on the

Grand Jury, was not presented to the Grand Jury during the presentation. Defendant's claim does not rise to an unauthorized practice of law.

12. Mr. Nelson sought out disbarred lawyer Perry Reich to “guide” him on avoiding communicating to the Grand Jury that the First Amendment protected Luthmann’s activities.

13. From jump, the entire case against Luthmann is and was problematic. Attorney Thomas Tormey, a seasoned criminal attorney and the previously-appointed special prosecutor under County Law § 701, investigated and returned the Luthmann case. The case was not prosecutable on First Amendment grounds. Mr. Nelson’s entire job in this politically-motivated prosecution was to “Get Luthmann,” US and NYS constitutions be damned. Mr. Reich and Mr. Nelson conspired to deny Luthmann his constitutional rights in the grand jury room and elsewhere.

14. In the Nelson Aff., Mr. Nelson admits the email between him and Reich is genuine.

¶ 16.

15. Nelson claims he “merely sought interpretation of decisions posed in a hypothetical setting.” *Id.*

16. Nelson further claims the email conversation with Reich “had no effect on the Grand Jury, was not presented to the Grand Jury...[and] does not rise to an unauthorized practice of law.” *Id.*

17. Throughout his entire Affirmation, Nelson “whistles past the graveyard” on his knowing introduction of false testimony by Ronald Castorina, Jr., a New York State Supreme Court Justice. By failing to raise or answer on the issue, Nelson has waived and conceded the serious perjury and subornation of perjury infecting the entire grand jury process. These were the People’s witnesses and the People’s grand jury presentation, mired in dishonesty, falsity, fraud, and perjury.

18. From their Facebook conversations attached to the moving papers, Justice Castorina was Luthmann's co-conspirator. See the attached **EXHIBIT "B."** Castorina's testimony is perjury. Nelson's knowing introduction of the same, though one-sided questions and "willful ignorance" of Castorina's conduct is a subornation of perjury. Nelson and Castorina colluded to violate the law and take Luthmann out, acting upon what appears to be someone more powerful's orders. No one is this stupid. But who is more powerful than a Special Prosecutor and a Supreme Court Justice?

**MR. NELSON LIES TO THIS COURT UNASHAMEDLY
AND UNABASHEDLY**

19. Special Staten Island District Attorney Eric Nelson lies to Your Honor's face, playing Your Honor for some kind of fool. Mr. Nelson lies to the Court in his Affirmation, which he swore was true "under the penalties of perjury."

20. The Nelson-Reich email of August 12, 2018, was produced as **EXHIBIT "F"** in the original moving papers. Mr. Nelson produced this email as part of discovery to Luthmann's attorneys, Arthur Aidala and Mario Romano. Luthmann was away in federal prison, never saw the discovery, and was denied access to counsel because of Covid-19 when this email was produced. It was not discovered at the time of disclosure. Luthmann discovered the "smoking gun" email only last year, because of Covid-19, Mr. Romano's illness, and other reasons buried the exonerating email.

21. The Nelson-Reich email of August 12, 2018, was clearly referencing Luthmann's case. There is only one case in the history of the State of New York that has these facts. In April 2020, Frank Donnelly of the Staten Island Advance wrote that Luthmann's case was the "first of its kind":

In November 2018, Luthmann was arraigned on a 17-count indictment accusing him of multiple felony charges of falsifying business records and identity theft. The charges stemmed from his alleged activities on Facebook.

It was believed to be the first case of its kind in New York.

He was also charged with criminal impersonation, election law violations, stalking and falsely reporting an incident to the NYPD. See the attached **EXHIBIT "C."**

22. The Nelson-Reich email of August 12, 2018, was produced as part of the Special Prosecutor's required disclosure to Luthmann's Brooklyn lawyers, Arthur Aidala and Mario Romano, both extremely handsome men. By Nelson's prior inclusion of the email in the discovery documents, there is no question it is part of Luthmann's case.

23. The Nelson-Reich email was sent in the middle of the Luthmann grand jury proceedings, which took place in August 2018.

24. Nelson's question wasn't about a "hypothetical case." Nelson asked Reich whether he had to explain the First Amendment, saying, "Do I need to explain the law to the [Grand Jury]?"

25. Why did Nelson need to ask Perry Reich what to do? Because Nelson didn't know what to do himself. He was an incompetent Special Prosecutor. Before the Luthmann case, Nelson eeked a living collecting back child support in Family Court. His appointment as Special Prosecutor was a feeding trough for him. He had carte blanche with one proviso: Get Luthmann. Get him at all costs.

26. Nelson was placed in a predicament when, despite his best efforts to tiptoe around the legal landmines that would blow up the Luthmann vendetta prosecution, there were questions about Luthmann, and the First Amendment posed by grand jurors. Nelson could not have that:

GRAND JUROR: Can you state what freedom of speech, what is -- the second amendment?

GRAND JURY FOREPERSON: First Amendment.

MR. NELSON: First Amendment

GRAND JUROR: Can you tell us what the whole thing --

MR. NELSON: I'm not going to give a course on freedom of speech.

GRAND JUROR: I can look it up though?

MR. NELSON: You could look it up in terms of what freedom of speech means, but not in the context of this case.

GRAND JUROR: No, just --

MR. NELSON: You have a right to go on the Internet and look at anything as long as it doesn't pertain to this particular case.

GRAND JUROR: Okay.

27. Grand Jurors asked Special Prosecutor Eric Nelson about the First Amendment.

Nelson responded, "I'm not going to give a course on Freedom of Speech." A Prosecutor's job is to truthfully advise the grand jury on the facts and the law.

**NELSON VIOLATES APPELLATE DIVISION ORDERS
AND COURT RULES WHILE REPRESENTATIVE OF THE
PEOPLE OF THE STATE OF NEW YORK**

28. Nelson claims his questions to Perry Reich were about a "hypothetical case."

Nelson further claims Reich is a "former attorney," not caring to distinguish between permitted legal opinion with retired or non-practicing lawyers and prohibited legal opinion with disbarred attorneys.

29. Nelson's communications with his legal advisor, Perry Reich, were prohibited legal opinion. Why? Because the New York State Supreme Court, Second Department ORDERED it so in Perry Reich's disbarment:

ORDERED that respondent is commanded to desist and refrain from the practice of law in any form, either as principal or as agent, clerk or employee of another; respondent is forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority, or to give to another an opinion as to the law or its application, or any advice with relation thereto. . (Matter of Reich, 25 AD3d 1063 [3d Dept 2006])

30. This Order of the Appellate Division should come as no surprise to Mr. Nelson. Luthmann included it in his Affidavit in Support at ¶ 29. The Appellate Division Order was attached to the moving papers as **EXHIBIT "G."**

31. In formulating his response to this motion in his Affirmation in Opposition, Mr. Nelson must have read the Appellate Division's language and the Perry Reich Order. He no doubt billed the NYC Taxpayers for it.

32. The Appellate Division also has Court Rules regulating the conduct of disbarred attorneys (see 22 NYCRR 806.9). These rules do not apply to "former attorneys," only "disbarred attorneys."

33. If Nelson was seeking advice from Reich (which he was), not only did he engage in the unauthorized practice of law (which he did), but he was also violating an Order of the Appellate Division and multiple of that Court's rules.

34. Eric Nelson did all this as a representative of the People of the State of New York and a Special Richmond County District Attorney.

NELSON'S "HYPOTHETICAL CASE" IS A LIE AND PERJURY

35. Nelson's "hypothetical case" argument is a line of bullshit. Nelson tells Reich in the email, "I am also going to include a misdemeanor false reporting an incident and stalking on a candidate." Anyone who can read the "smoking gun" email can see that.

36. Nelson's email to Reich was about Luthmann's case. If there is any question, ask Mr. Nelson to bring to the Court's attention another case in the history of the State of New York (or anywhere else for that matter) with any semblance of the facts he and his "legal advisor" Mr. Reich discussed.

37. Eric Nelson lied to Your Honor in his papers.

38. The Appellate Division ordered Perry Reich disbarred, commanding him to desist and refrain from the practice of law in any form, or to give any legal opinion or advice. Eric Nelson knew all about the Appellate Division Order when he made Perry Reich his legal advisor.

39. In Nelson's recently-filed Affirmation, he has his own opinions about the Appellate Division's language "give to another an opinion as to the law or its application, or any advice with relation thereto." In fact, Nelson totally disregarded the Appellate Division's command:

The practice of law it embraces the preparation of pleadings and other papers incident to actions and special proceedings and the management of such actions and proceedings on behalf of clients before judges and courts, and in addition conveyancing, the preparation of legal instruments of all kinds, and in general all advice to clients and all action taken for them in matters connected with the law...An e-mail communication from an attorney asking a former attorney regarding a question about the meaning of a case cannot be deemed the practice of law. Nelson Aff. at ¶ 16.

40. Nelson's case wasn't in Moot Court at community college, and Reich and Nelson both knew it. Nelson needed advice on how to "Get Luthmann." His continued usefulness to his masters (and thus his continued fees), depended upon it. Nelson, Castorina, and their colluders could not let Luthmann slip away on a technicality like the US Constitution. The legal and political fallout would be too great.

41. Perry Reich is not a "former attorney." He didn't retire or become an investment banker. Perry Reich is a disbarred attorney whose conduct is regulated by Appellate Division Rules.

42. Nelson is not a mere attorney in this instance. Nelson is a Special Prosecutor, the People's representative.

43. If the Supreme Court ignores Mr. Nelson and Mr. Reich's activity, then Luthmann will understand it to mean that 22 NYCRR 806.9 no longer applies, either to him or to any other disbarred attorney. Luthmann will seek to perform legal work because there evidently is no proscription in so doing. And if anyone says anything, I will point to Mr. Reich's activity, blessed by a Special Prosecutor, to show that it is a reasonable interpretation to believe the Appellate

Division's Rules concerning Disbarred attorneys no longer apply, and Luthmann is free to do just about anything he wants without impunity.

44. Given Mr. Nelson's disregard for the Appellate Division's Order and rulings, on top of his outright lies in Your Honor's courtroom, the Court has but one choice: to look askance at Nelson's collusion with Reich, his shady co-conspirator and "legal advisor," who combined to circumvent Luthmann's constitutional rights is an indictment fundamentally flawed by criminality.

45. The Appellate Division is clear that Nelson's performance before the grand jury was deficient:

A New York district attorney is required to instruct the grand jury on the law with respect to matters before it, N.Y. Crim. Proc. Law § 190.25(6). If the district attorney fails to instruct the grand jury on a defense that would eliminate a needless or unfounded prosecution, the proceeding is defective, mandating dismissal of the indictment, N.Y. Crim. Proc. Law § 210.35(5). (People v Samuels, 12 AD3d 695, 696 [2d Dept 2004])

46. Nelson was obligated to be a "legal advisor" to the grand jury and instruct them on the law. Nelson responded, "I'm not going to give a course on Freedom of Speech."

47. Eric Nelson brought this case to Your Honor's court. Nelson represented himself and this case as genuine and forthright, as a Special Prosecutor on behalf of the People of New York. In actuality, Nelson sold a web of deceit spun with perjury, collusion, lies, and other criminal behavior - and his dishonesty before this Court continues, unashamedly and unabashed.

48. Mr. Nelson has miserably failed in his role as special prosecutor and cannot, by any stretch, have the continued confidence of the Supreme Court or the People of the State of New York. Mr. Nelson should be given his walking papers, in part for his own good. Mr. Nelson should be disqualified and removed from this case.

49. Luthmann cannot see how the Court's consideration of the instant application gets beyond this fundamental point. Mr. Nelson must go, and Court is obligated to tell the public why. These branches of the motion must be addressed first, particularly because of Mr. Nelson's brazen lies, perjury, and false oaths before the Court:

- a. Disqualification of the Special District Attorney.
- b. Preclusion of the Special District Attorney from taking any fees or expenses on this motion from New York taxpayers.
- c. Preclusion of the Special District Attorney from billing the City or State of New York or any political, governmental, or administrative subdivision thereof, for the Special District Attorney's fees or expenses on this motion;
- d. The reprimand and publicly censure the Special District Attorney; or in the alternative/in addition
- e. Reference of this matter for attorney discipline to the Attorney Grievance Department of the Appellate Division, Second Department; or in the alternative/in addition
- f. Reference of this matter for investigation and criminal prosecution by New York State Attorney General Letitia James.

50. This is not new ground for the Court. Luthmann asked for this relief last year. See the Supplemental Affidavit of Richard Luthmann dated May 18, 2022, attached herewith as **EXHIBIT "D"** ("May 2022 Luthmann Aff.") and incorporated by reference as if fully herein stated. Your Honor "punted" back then. Nelson's lies, brazenness, perjury, and misconduct have only gotten worse. The Court can't punt again without addressing these issues. The risks are too great that the justice system and the Court will be perceived as impotent.

51. In the May 2022 Luthmann Aff., Luthmann said:

31. Special Prosecutor Nelson is either willfully dishonest or utterly sloppy. Both are concerning because he is a Special Prosecutor who has offered evidence to the Grand Jury in this case. How much of that evidence is false? Here, Special Prosecutor Nelson fails to correct false evidence that he created when everyone knows it's false. What did he do inside the SECRET Grand Jury? We know what he did here. He violated:

RPC Rule 8.4 by engaging in conduct that adversely reflects on the lawyer's honesty, trustworthiness, and/or fitness as a lawyer; and/or by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and/or prejudicial to the administration of justice; and/or engaging in conduct that adversely reflects on the lawyer's fitness as a lawyer;

RPC Rule 3.8 by engaging in conduct that ignores the special responsibilities and duties of a prosecutor;

32. The Prosecutor's role is special. Dishonest and/or utterly sloppy prosecutors threaten the rule of law and the integrity of the criminal justice system. This Special Prosecutor should be removed.

52. The instant issues with Mr. Nelson are well beyond sloppiness. The Court must act or give damn good reasons why the Court fails to exercise judgment and assumes the posture of an ostrich.

53. The remaining issues- hybrid or pro se representation, vacating the judgment of conviction, and dismissal and vacatur of the indictment- must be taken up by a new prosecutor. Both Luthmann and the People of the State of New York deserve competence and honesty.

54. To the extent the Court wishes to resolve the merits of the motion, Luthmann will address the "meat" of Mr. Nelson's Affirmation in Opposition, but Luthmann must admit, the overriding question that comes to mind is "Where's the beef?"

RELIEF REQUESTED

55. Luthmann respectfully requests this Honorable Court issues an Order:
- a. Permitting hybrid representation, or in the alternative permitting the Defendant to proceed *pro se*;
 - b. Excusing Defendant's physical appearance on the return date of the motion and either deciding the motion on the papers or allowing for a Zoom/videoconferencing appearance based on Federal pre-emption and the Supremacy Clause of the United States Constitution;
 - c. Disqualifying the Special District Attorney;
 - d. Vacating the Judgment of the Court pursuant to CPL § 440.10;
 - e. Dismissing this matter with prejudice; and
 - f. Precluding the Special District Attorney from taking any fees or expenses on this motion;
 - g. Precluding the Special District Attorney from billing the City or State of New York or any political, governmental, or administrative subdivision thereof, for the Special District Attorney's fees or expenses on this motion;
 - h. Reprimanding and publicly censuring the Special District Attorney; or in the alternative
 - i. Referring this matter for attorney discipline to the Attorney Grievance Department of the Appellate Division, Second Department;
 - j. Referring this matter for investigation and criminal prosecution by New York State Attorney General Letitia James; and
 - k. For such other and further relief as the Court shall deem just and proper.

**LUTHMANN’S RESPONSE TO MR. NELSON’S
AFFIRMATION AND MEMORANDUM IN OPPOSITION**

**NELSON SEEKS TO PRECLUDE LUTHMANN FROM
CONSTITUTIONAL RIGHTS INCLUDING THE
OPPORTUNITY TO BE HEARD**

56. At the outset, Luthmann must point out how crass and inept Mr. Nelson is. In his Memorandum in Opposition (“Nelson Memo”) he states:

At the outset, given defendant's conviction of serious federal offenses, the People are at a loss to understand why defendant is making this application inasmuch as it can have no practical effect. Unfortunately, we believe that it is simply an attempt to avoid the orders of protection and engage in a pattern of harassment against certain public officials. Nelson Memo at 2.

57. Mr. Nelson’s limited knowledge of criminal law is apparent. First, there are important legal reasons why Luthmann would want an illegally-obtained conviction removed from his record – above and beyond the fact it was illegally obtained.

58. Luthmann has New York State and Federal convictions. With respect to his Federal conviction, Luthmann filed a Reservation of Rights and Declaration of Actual Innocence with the US District Court for the Eastern District of New York. See the attached **EXHIBIT “E.”** That document states:

6. I was politically railroaded in this case and will get into that more fully in the future. I believe Hillary Clinton, Former Rep. Joe Crowley, Chuck Schumer, Former Rep Michael E. McMahon¹, and others pushed a political contract through the EDNY to “get Luthmann.” At the time, I was the Law Chair of the New York State Reform Party, the now-defunct “Fifth” ballot access line under New York Election Law. I was a driving force in that party, and if I were not “taken out” by the NYS Democrats with an axe to grind, we would have run a celebrity for Governor on the gubernatorial line in 2018 and kept ballot access. My indictment crippled that party, as was intended. I was canceled.

FN1 - McMahon became Richmond County, New York (Staten Island) District Attorney on January 1, 2016. Luthmann and his co-

defendants Padula and Beck, were all legal objectors and/or political operatives working against McMahon's candidacy, calling attention to a "Lazarus moment," where dead Democrats apparently "arose" to sign his ballot access petition. I guess voting Democrat is one way to ensure "life after death":

"What is to be noted is that the signatures of seven dead people appeared on [McMahon's] petitions. At least five living people have signed sworn affidavits that their signatures appeared on petitions that they didn't sign.

Rachel Shapiro, STATEN ISLAND ADVANCE (Aug. 06, 2015), available at:

https://www.silive.com/opinion/strictly-political/2015/08/call_it_political_fraud_is_a_s.html

7. I was screwing with the money and patronage of the NYS Democrat and Conservative Parties. I wasn't a Republican, so the RINOs didn't protect me. But everyone in NYS politics knew about the Federal Grand Jury, which was supposed to be secret, including NYS Conservative Party Chairman, the very pompous Jerry Kassar. See the attached **EXHIBIT "A."** It is concerning that Federal Grand Jury chambers have such "leaky seals." Maybe the Republican Congress can get to the bottom of this.

8. I got taken out, in part, for filing a dirty trick of a "Pre-Election Surprise" case against Hillary Clinton. A week before the November 8, 2016, election, I claimed (truthfully) "Bill Clinton is a rapist" because I defended my client's right to free speech. See the attached **EXHIBIT "B."** Bill and Hillary didn't like it. But if my activities swayed even a few meaningful votes to keep those killers out of the Oval, I consider the four years I spent in the deep state gulag well worth it. Given a choice and knowing the consequences, I would do it again. I will not shy away from the front lines in defense of liberty.

9. I was referred that case by Roger Stone, a Great American and an expert on Government Fuckery himself. No less prestigious an outlet than New York Magazine reported all about it. See the attached **EXHIBIT "C."**

10. I was prosecuted for felony "First Amendment Crimes" and "Election Law Violations" involving satire and free speech. Proceedings are also pending in New York State Supreme Court *People v. Luthmann*, 2022 N.Y. Slip Op. 67767, (N.Y. App. Div.

2022); *People v. Luthmann*, Index No. 379/2018, (N.Y. Sup. Ct. Rich. Cty.).²

FN2 - In that case, at an August 1, 2018, grand jury proceeding, sitting New York State Supreme Court Justice Ronald Castorina, Jr. committed perjury, suborned by Special Richmond County District Attorney Eric Nelson. Nelson also committed the felony of Unauthorized Practice of Law by knowingly engaging disbarred attorney and federal felon Perry Reich to help illegally circumvent Nelson's duties as legal advisor to the grand jury. A complaint has been filed with the Public Integrity Unit of New York Attorney General Letitia James' Office Submission # 1-419121442. The political nature of this criminal misconduct is unprecedented. The perjury of an NYS Supreme Court Justice and the commission of multiple felonies by a Special Prosecutor to secure a felony conviction could only have been the result of massive political pressure. I also reserve my rights to allow these proceedings to run their course because they may also produce evidence of misconduct, improper coordination with Federal Authorities, political contracts, or other issues that may be squarely relevant here

59. Luthmann further states in the Reservation of Rights and Declaration of Actual Innocence:

41. I am actually innocent of all the charges against me. The entire indictment was a political contract and "hit-job," instituted by a bent Acting US Attorney seeking to curry political favor for her soft landing into private practice and pressed forward by career-advancement-hungry Prosecutrix, whom I believe cheated and violated the US Constitution to secure my conviction.

42. The Plea Colloquy also establishes my actual innocence of the Government's charges. Once the *Raniere* proceedings have run their course, I intend to file a comprehensive motion. But in short, at the Plea Colloquy and again at Sentencing, the Court accepted an insufficient factual allocation to justify the crimes pleaded to. Concerning the wire fraud, I stated that I *represented clients who had committed fraud*. I never said I was part of the fraud or made any criminal agreement.

43. Moreover, the Plea Colloquy does contain a sufficient allocation to the extortionate credit conspiracy. The Magistrate Judge was even unsure from his statements from the bench.

44. I reserve the right to address all the issues raised herein upon the resolution of critical issues by the courts.

60. Mr. Nelson lies to this Court when he states the instant application can have “no practical effect” in the face of a declaration of actual innocence. Mr. Nelson is attempting to stifle Luthmann’s opportunity to be heard and petition the Court for the redress of grievances, constitutional rights, and the firmament of due process. Mr. Nelson’s statements are part and parcel of Mr. Nelson’s deliberate indifference to the civil rights of the criminal defendant he has wrongly and maliciously prosecuted.

61. Moreover, to the extent that there are one or several convictions, they are legally significant. Since Mr. Nelson does not practice criminal law but rather child support collections, he does not know this. However, there are many places in the law where criminal history is taken into consideration. See, e.g., United States Sentencing Guidelines §4A1.1 – Criminal History. The same criminal activity will be criminalized far more harshly the more extensive a criminal history. This principle seems like common sense but appears to elude Mr. Nelson’s understanding.

**NELSON’S TREATMENT OF LUTHMANN WARRANTS A
GREATER-THAN-GENOCIDAL RESPONSE**

62. Law Enforcement has a rule – get home safe every day at the end of your shift. That is why when there is a cop-killer, you really don’t expect that person to live if the cops corner them. Society forgives an itchy trigger finger in these circumstances.

63. Prisoners have the same rule. Get home alive at the end of your bid.

64. Mr. Nelson made this statement as to Luthmann’s motivations:

Unfortunately, we believe that it is simply an attempt to avoid the orders of protection and engage in a pattern of harassment against certain public officials. Nelson Memo at 2.

65. Who is “WE”? Is Nelson using the “Royal” WE? Does WE refer to Nelson and his “Legal Advisor” Perry Reich? Luthmann believes the WE refers to Nelson’s marionetteer, Smiling Jack himself.

66. McMahon is a “victim” of Luthmann’s First Amendment crimes. Luthmann’s “pattern of harassment” is First Amendment-protected activity. Luthmann dares Nelson to do anything. Truly.

67. The point about a greater-than-genocidal response is that even a Jew would probably piss on an Arab if he were on fire to put him out. Nelson would get no such luck from Luthmann. Nelson tried to kill Luthmann. Nelson, with his co-conspirator Michael McMahon attempted “institutional homicide” on Luthmann in 2020. See the attached **EXHIBIT “F.”**

68. If a perp tried to kill a cop and ended up with a bullet in him because of an itchy trigger finger, no one would shed a tear. Eric Nelson tried to kill Luthmann. Do the math.

69. And Luthmann has been saying this all along. In the May 2022 Luthmann Aff, Luthmann states in ¶¶ 23 and 24:

...[O]nce COVID-19 hit, the McMahons and Special Prosecutor Nelson wanted to use the health crisis in the prisons to see if they could get lucky and kill Luthmann using “institutional homicide.” They knew of Luthmann’s co-morbidities and health problems but knowingly used this case to preclude Luthmann from petitioning the Federal Court for compassionate relief. Because of the pending “detrainer,” Luthmann’s security level was raised from a “Club Fed” prison camp to LSCI-Allenwood, an institution chock full of violent criminals, CHOMOs, baby rapists, pedophiles, and other scum of the earth.

24. Luthmann should have an opportunity to be heard and explore these issues. It may come out that Luthmann is the one who is really in need of an Order of Protection against the McMahons.

70. Luthmann can only quote Shakespeare: “If you prick us, do we not bleed? if you tickle us, do we not laugh? if you poison us, do we not die? and if you wrong us, shall we not revenge?” The Merchant of Venice.

71. Vengeance is the most natural of human emotions. Luthmann believes Nelson tried to kill him. Luthmann respects that the Court has a monopoly on vengeance, as justice under the law. Luthmann has resisted natural inclination and continually petitioned the Court, which has to this point, ignored Luthmann’s pleas. At what point is Luthmann justified in seeking another forum? At what point is the public perception that Luthmann cannot get justice in the McMahon-controlled New York State Courts on Staten Island, and another forum is the only meaningful justice available to him?¹ If the Court cannot meaningful dispense justice, the public has a right to know why.

¹ Luthmann previously raised the concerns that the Court was getting strong-armed by the Office of Court Administration and the McMahons and was effectively powerless to act in the May 2022 Luthmann Aff:

**THE SUPREME COURT SHOULD ADDRESS RECUSAL
ON THE RECORD**

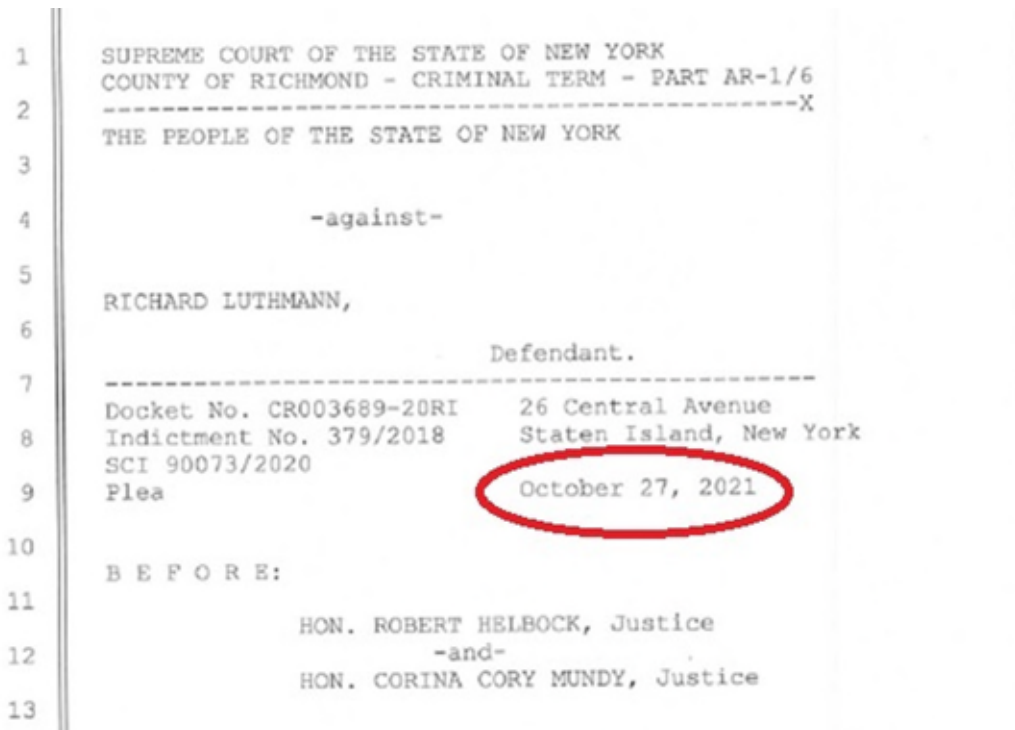
17. Though Special Prosecutor Nelson does not want to address the apparent issues of political hackery that swirl around and encompass this entire First Amendment Flashpoint case, and that is the Special District Attorney’s right, the McMahons are Political Hacks. The fact that the McMahons both hold Public Office changes nothing, as Political Hacks are Political Hacks, and neither a cheesy suit nor lipstick changes that. Even when standing on its hind legs, a pig is a pig, as George Orwell taught us in Animal Farm. And a Hack is a Hack even when dressed in a cheesy suit, as Dean Wormer taught us in Animal House (“That’s it, Mister...You’re on Double Secret Probation!).

18. For example, Judy McMahon is known to “silence” civil servants and Staten Island Courts personnel: “THIS IS THE GUY WHO WAS FUNNELING INFORMATION TO THE ADVANCE. WE HAD TO SHUT HIM UP AT 18 RICHMOND TERRACE.”

NELSON KNOWINGLY OFFERS THE COURT FALSE EXHIBITS

72. Nelson relies on a defective and false transcript dated October 27, 2021. No purported plea was taken that day. Nelson knows this. And Nelson knows the purported Plea Transcript is falsely sworn to. Yet he has offered this same defective Plea Agreement innumerable times to this Court (in applications last June) and to the Appellate Division, Second Department.

73. The purported Plea Transcript is false and dishonest. The Court cannot rely upon such a false and dishonest document for any purpose.



Available for public consumption at: <https://bit.ly/3PrPek8> [last visited May 18, 2022]. These are Judy McMahon’s own words.

19. Because the McMahons wield power with the Office of Court Administration (whether perceived or actual), Luthmann is concerned that the Court might get “cornered” in a hallway somewhere and threatened to be moved by OCA, for example, to Bronx County to do traffic cases. OCA is also notoriously filled with Political Hacks, and Luthmann would like to opportune the Court to state unequivocally on the record that there is no fear of McMahon manipulation in this case, whether actual or perceived.

74. If a parking ticket had the wrong year on it, the case would get thrown out. Mr. Nelson had every chance to get the right documents before the Court. He failed, and he should have all references to the purported Plea Agreement stricken. The Court cannot condone arguments based upon falsity and lies. The purported Plea Agreement is invalid on its face:

75. Mr. Nelson references this false, dishonest, and defective purported Plea Agreement in the Nelson Aff. at ¶¶ 3, 4, and 5. These paragraphs should be stricken in their entirety.

76. Again, this is not new ground. Luthmann has been saying this all along. In the May 2022 Luthmann Aff, Luthmann states in ¶ 30:

30. First off, Special Prosecutor Nelson was given notice that the purported Fake Plea and Fake Sentencing took place on October 27, 2020. The docket sheet on WebCrimis attached as EXHIBIT “A” even says it. Special Prosecutor Nelson keeps representing the date to the Court as October 27, 2021. Special Prosecutor submitted a sworn Transcript of proceedings on “October 27, 2021,” a date that he knows to be false and untrue, making the sworn statement false. Special Prosecutor Nelson should be sanctioned for failing to withdraw his false Affirmations and supporting false Affidavits. This willful and knowing failure to correct falsehoods violates many provisions of the Lawyer’s Rules of Professional Conduct:

- RPC Rule 3.3 by knowingly making false statements of fact before the Court and/or failing to correct false statements of material fact and law made to the tribunal;
- RPC Rule 3.4 by knowingly using false evidence; and/or participating in the creation of evidence that is obviously false; and/or RPC Rule 3.4 by engaging in conduct contrary to the Rules of Professional Conduct.

77. Will Your Honor, once again, sit idly by while Mr. Nelson knowingly makes false statements to the Court and fails to correct false statements of fact? Mr. Nelson’s actions risk making this Court look like a joke, his own personal “rubber stamp,” devoid of standards or independent judgment.

EVERYTHING LUTHMANN SAYS ABOUT NELSON IS TRUE

78. In ¶¶ 7 of the Nelson Aff., Nelson says:
7. Defendant's motion should be denied for his allegations are not grounded in facts, but makes baseless, scurrilous allegations and are therefore meritless.
79. Someone has to tell Mr. Nelson that's not how law works. Mr. Nelson has to specify his objections. Nelson identifies no statements that are "baseless" or "scurrilous." Without any specific objections, Nelson cannot make the leap to "meritless."
80. Nelson's reasoning reminds Luthmann of the saying by comedian Lewis Black:
- "Behind me, I heard a young woman of 25 say, "If it weren't for my horse, I wouldn't have spent that year in college." Now, I'm gonna repeat that, because it bears repeating. "If it weren't for my horse..." as in, giddyup, giddyup, let's go — "I wouldn't have spent that year in college," which is a degree-granting institution. Don't think about that too long, or BLOOD will shoot out your NOSE!"
81. Nelson attempts to give specificity to Luthmann's "baseless" and "scurrilous" statements in ¶ 9 of the Nelson Aff.. Nelson's only problem is all of them are true:
- a. "Special Prosecutor Nelson should be disqualified, censured, referred to Attorney Discipline, prosecuted, convicted....." This statement is true. These things usually happen when you perjure yourself and lie to the Court. Mr. Nelson should ask his "Legal Advisor" Perry Reich all about it.
 - b. "Nelson belongs in the shed next to Family Court, is on the lower end of the food chain, and is just incapable." The applicable legal phrase is *Res Ipsa Loquitur*. Nelson is an "incompetent-by-design" special prosecutor. See the attached **EXHIBIT "G."**
 - c. "Luthmann's 'Hellbound Train' has left the station." Attorney Grievances, formal complaints to the Commission on Judicial Ethics, and the NYS Attorney

General's Public Integrity Bureau – yes, several trains have already left the station.

- d. “Luthmann is a warrior and he (Luthmann) wants to bring full force on Nelson and his masters in the Staten Island Swamp.” Nelson and his handlers sent Luthmann away to “Gladiator School” for four (4) years. Is it really surprising he returned a Gladiator?

EVERYTHING NELSON SAYS IS WRONG, LEGALLY AND FACTUALLY

I. Luthmann Asks the Court for Hybrid Representation, Or in The Alternative, Demands the Court Recognize His Constitutional Right to Self-Representation; Nelson Agrees.

82. Nelson and Luthmann agree because a defendant has no constitutional right to hybrid representation, the decision to allow such representation lies within the sound discretion of the trial court. (*People v Rodriguez*, 95 NY2d 497, 500 [2000]).

83. Nelson, however, tries to make the asinine claim that the Court should not entertain Luthmann's papers (and consequently Nelson's perjury and egregious constitutional and criminal violations). Nelson Aff. at ¶¶ 10 – 11 states:

10. The decision to grant a defendant hybrid representation rests is in the discretion of the Court, and the Courts should not accept motion papers or arguments from a pro-se defendant which an attorney would be reluctant to make. An attorney certainly would not submit the papers Mr. Luthmann has done and the Court should hold defendant to the same standards as any individual seeking to file papers with the Court.

11. Defendant seeks to engage in baseless, divisive ad hominem attacks and in a "scorched earth" policy against the prosecutor and anyone who has stood in his way. No attorney worth his salt would ever put his name on the papers defendant filed in support of his motion. This should not be countenanced in any proceeding, whether by counsel or a pro se litigant and granting the application for a hybrid representation would give defendant cover to do so.

84. “[T]he Courts should not accept motion papers or arguments from a pro-se defendant which an attorney would be reluctant to make. An attorney certainly would not submit the papers Mr. Luthmann has done...No attorney worth his salt would ever put his name on the papers Mr. Luthmann has done... .” Wrong.

85. First, Mr. Nelson perjured himself in sworn documents submitted to this Court. No attorney would ever put their name on Mr. Nelson’s papers. Any deficiencies in Luthmann’s appears pale in comparison to what Mr. Nelson has put before the Court.

86. Next, Luthmann has a right to an opportunity to be heard. Just because what Luthmann says might be an offensive or uncomfortable exposition of misconduct and criminality for some (including Mr. Nelson personally), it does not give license for anyone to absolve this Court of its core truth-finding function.

87. Luthmann gave his reasons for why he believed there was a conflict between how he wanted to express himself and “go-between” of counsel. Luthmann wants nothing lost in translation. Luthmann’s Affidavit in Support of this application specifically states at ¶¶ 5- 8:

5. A defendant who chooses to defend through counsel cannot, as of right, make motions, file a supplemental brief on appeal, sum up before a jury, or otherwise participate personally in the proceedings. By accepting counseled representation, a defendant assigns control of much of the case to the lawyer, who, by reason of training and experience, is entrusted with sifting out weak arguments, charting strategy, and making day-to-day decisions over the course of the proceedings. *Id.*

6. Aidala and Romano make good arguments. Luthmann makes the best arguments. Denial of hybrid representation necessitates Luthmann’s dismissal of Aidala and Romano because Luthmann believes in his opportunity to be heard under the Due Process Clause under the Fifth and Fourteenth Amendments of the US Constitution. Luthmann believes that counsel will muzzle him and his ability to seek and obtain every stitch of relief he is entitled to under the law.

7. Luthmann was formerly a “scorched earth” attorney litigator. Luthmann can easily sift out weak arguments, chart

strategy, and make day-to-day decisions over the course of the proceedings. Luthmann would like to scorch the earth under and around Special Prosecutor Nelson's feet because Special Prosecutor Nelson is a dishonest Swamp Creature who engaged in at least two (2) felonies in the course of procuring Luthmann's Indictment in this matter.

8. And Special Prosecutor Nelson deserved the full measure of Luthmann's love and attention. To be as blunt as possible: the representative of the People of the State of New York in this case committed at least two (2) felonies to secure a felony indictment against Luthmann.

88. None of this is a surprise to Nelson or the Court. Luthmann previously stated these reasons in the May 2022 Luthmann Aff. at ¶¶ 12 – 14:

12. Luthmann is presently entertaining the idea of keeping his attorneys as "hybrid counsel" only because the presence of hybrid counsel allows for a resolution of this case short of legal decisions and a jury verdict.² Luthmann cannot pay his lawyers. Luthmann will not deal with Special Prosecutor Nelson, whom he believes is complicit in attempted "institutional homicide" and the McMahon's de facto Staten Island "Ministry of Truth." Luthmann seeks to have Nelson disqualified and removed. Luthmann does not trust any deals. Luthmann will not make any deals. The Special District Attorney will continue to have two choices: A) litigate this case at a cost to N.Y.C. Taxpayers that will be in the millions by the time Luthmann is finished, or B) walk into the court and make a motion to dismiss all charges with prejudice. Luthmann prefers to litigate.

13. Luthmann does not wish to be silenced or dismissed "because Luthmann has counsel." This has happened already. When Luthmann called the court for basic scheduling information, the clerk directed Luthmann to chambers. When Luthmann calls chambers for basic scheduling information, chambers take messages and never call Luthmann back. Then, chambers admonish Luthmann's lawyers and tell them to tell Luthmann to stop calling chambers. If the Court and the litigants can "get away" with treating Luthmann poorly because Luthmann has an attorney, Luthmann will be compelled to proceed Pro Se so that Luthmann may have a real opportunity to be heard.

² If the Judgment in this matter isn't vacated and the indictment isn't dismissed with prejudice, which it should be for the reasons stated *infra.*, in the moving papers, and in all the proceedings had in this case.

14. Additionally, Luthmann does not wish to leave the legal arguments on the issues Luthmann has raised to anyone but Luthmann, including other counsel. Luthmann knows these issues inside and out, and Luthmann has been preparing himself for some time.

89. Attorneys Aidala and Romano have not weighed in on the merits of the motion. The reason is because Luthmann cannot pay them and no one should work for free. Nelson knows this. He's billed the NYC Taxpayers nearly \$1 million for his work on this case. Nelson thinks he should get paid.

90. And there are plenty of lawyers who believe the matters raised here have merit. Luthmann has spoken to several. Once Nelson's crimes are exposed, and this matter is dismissed, Nelson will become intimately involved with the civil rights lawyers who believe the allegations have merit. Nelson will be sued personally because qualified immunity of prosecutors does not attach pre-indictment, particularly to false, fraudulent, and criminal grand jury presentations. (*Morse v. Fusto*, 804 F.3d 538, 540 [2d Cir. 2015]) (Qualified immunity is unavailable on a claim where that claim is premised on proof that a defendant knowingly fabricated evidence and where a reasonable jury could so find)). Nelson engaged in the knowing creation and introduction of false and/or misleading evidence by a government officer acting in an investigative capacity, qualifying as an unconstitutional deprivation of Luthmann's rights. *Morse*, 804 F.3d at 540.

91. Finally, Nelson tries to insinuate that there is no valid basis for the Court to grant Luthmann hybrid representation, in a transparent attempt to gin up a dispute between Luthmann on the one hand, and Aidala and Romano on the other. Nelson Memo at 3 (“[I]t is an appropriate exercise of discretion to deny the application for hybrid representation, as there is no conflict between counsel and the client.”). No one is taking that bait. In fact, Attorneys Aidala and Romano can only help the Court in the resolution of this matter. Luthmann loves demolition derbies and

wouldn't mind taking the guardrails off. Luthmann now lives in the American South where people have been known to die bloodily in twisted metal at Monster Truck Rallies that get unhinged. Maybe that's what Nelson wants because it is a pretext to cover up his own misconduct and criminality. Nelson has nothing to say about Luthmann's right to self-represent.

92. Defendant must knowingly, voluntarily, and intelligently waive his right to counsel (*see Faretta v California*, 422 US 806, 95 S Ct 2525, 45 L Ed 2d 562 [1975]; *People v Arroyo*, 98 NY2d 101, 772 NE2d 1154, 745 NYS2d 796 [2002]; *People v Smith*, 92 NY2d 516, 705 NE2d 1205, 683 NYS2d 164 [1998]; *People v Pettus*, 22 AD3d 869, 870 [2d Dept 2005]).

93. Luthmann knowingly, voluntarily, and intelligently waives his right to counsel. Luthmann makes this decision with eyes wide open because Luthmann wants to bring his full force to bear on Nelson and his masters in the Staten Island Swamp to achieve vindication and exoneration.

94. Accordingly, the Court should permit hybrid representation or, in the alternative, rule that Luthmann may go it alone and self-represent.

II. Luthmann's Physical Appearance on the Return Date of the Motion Should Be Excused Because of Federal Pre-emption and the Operation of the Supremacy Clause of the US Constitution

95. Luthmann would like the Court to let him know if there will be a Zoom Hearing on February 28.

96. As stated in the moving papers, Federal law prohibits Luthmann from appearing in New York. US Probation for the Middle District of Florida will not allow Luthmann to travel outside the district.

97. Nelson doesn't think there should be an appearance in open court. Nelson Aff. at ¶

12 states:

12. There is no need for the defendant's appearance or a zoom hearing. "CPL 440.30 contemplates that a court will in the first instance determine on written submissions whether the motion can be decided without a hearing." The matter can, and should be, determined on the written submissions.

98. Wrong. How can there be a waiver pursuant to *Faretta v California* without the Court going on the record? The Court's record is the place where a criminal defendant can knowingly, voluntarily, and intelligently waive a right. Is Nelson this incompetent?

99. Nelson probably does not want to face the Court because of his clear and unequivocal lies, dishonesty, and perjury in his most recent sworn statements among other things. However, absent directly questioning Mr. Nelson about his perjury on the record, Luthmann cannot see how the Court's proceedings can have any appearance of legitimacy. Does Mr. Nelson want the Court to issue written interrogatories, so Nelson can give the questions to his "Legal Advisor" Perry Reich to answer for him?

100. Luthmann notes his concerns for the appearance of impropriety, fundamental unfairness, and/or *ex parte* communication.

III. The Court Should Disqualify the Special District Attorney at This Juncture: The Appearance of Dishonesty, Misconduct, Felonious Activity, Billing Fraud, Improper Coordination with the District Attorney's Office, and Violations of the Rules of Professional Conduct Will Only Further Discourage Public Confidence in Staten Island, New York Government ("The Swamp") and the System of Law to Which It Is Dedicated Once All the Facts Come to Light.

101. Special Prosecutor Nelson has engaged in perjury, criminality, grave violations of the law, obligations imposed by the Rules of Professional Conduct for Attorneys, and the enhanced obligations applicable to government attorneys, particularly prosecutors, including but not limited

to dishonesty, billing fraud, improper coordination with the District Attorney and his Office, and political/election manipulation.

102. Luthmann will rest on what was said above and in the moving papers. Eric Nelson must be removed as Special District Attorney for Staten Island.

103. Luthmann sent Nelson a certified letter on November 5, 2022, attached to the moving papers as **EXHIBIT “E.”** In the letter, Luthmann asked Nelson to do everyone a favor and resign from this case. The letter said:

This letter is a formal request for you to agree to a stipulated motion to vacate the judgment of conviction and dismiss all charges against me in the above-referenced matters with prejudice. As Special District Attorney, you violated my rights under the Grand Jury Clause, aided and abetted the unauthorized practice of law, conspired with felon and disbarred attorney Perry Reich to circumvent your responsibilities as legal advisor to the Grand Jury, knowingly presented false testimony to the Grand Jury intentionally and with reckless disregard for the truth, and committed numerous other serious and substantial constitutional and legal violations. See the attached.

104. Luthmann would personally like to see Nelson show remorse, admit fault, and resign. It might help him if they decide to prosecute him. Though Nelson tried to kill Luthmann using institutional homicide, Luthmann is working to be forgiving even to his worst enemies. If they should show remorse, Jesus Christ commands forgiveness. Matthew 6: 14-15(“If you forgive others their transgressions, your heavenly Father will forgive you.”). Nelson must show remorse.

105. Luthmann already asked Nelson to do the right thing, and Nelson tried to throw it back in Luthmann’s face. Nelson Aff. at ¶ 15:

15. On the one hand, Luthmann tells the Special Prosecutor he (the Special Prosecutor will "walk away" if he gives up McMahon. Defendant stated in Exhibit E, a letter to your affiant "Give him to me willingly, and you walk away scot free. I am requiring your truthful testimony as to McMahon's misdeeds". Defendant Exhibit E at pp.3. When defendant's attempt to scorch the earth fail, he goes

on the offensive. Again, he resorts to vitriol, to attacks on lawyers and judges when he does not get his way, which were similar to the attacks on the persons who he impersonated, created fake social media accounts on, stalked and photo-shopped lewd and lascivious images on some of their pictures.

106. Luthmann actually said this:

I want you to appear before the Supreme Court, Richmond County (Mundy, J.), and make a joint motion with Mario Romano, Esq. You will stipulate to the withdrawal of the purported plea, vacate the judgment of conviction, and dismiss all charges against me with prejudice. You will also provide, as an Officer of the Court, a truthful affidavit to Mario Romano, Esq., detailing all of McMahon's misdeeds. While you're at it, you can throw in some stuff about Castorina, Gulino, and Janine Materna too. Let's be clear. This is not a bargained-for-exchange. This is you doing the right thing.

107. Luthmann believes Nelson doesn't realize that he's committed crimes and violated Luthmann's rights. Like Marine Colonel Nathan R. Jessup, Eric Nelson believes he is justified.

108. Nelson's activities cross a critical prosecutorial line delineated by Justice Jackson:

In the enforcement of laws that protect our national integrity and existence, we should prosecute any and every act of violation, but only overt acts, not the expression of opinion, or activities such as the holding of meetings, petitioning of [government], or dissemination of news or opinions. Only by extreme care can we protect the spirit as well as the letter of our civil liberties, and to do so is a responsibility of the [] prosecutor. 24 J. Am. Jud. Soc'y 18 (1940), 31 J. Crim. L. 3 (1940) (address at Conference of United States Attorneys, Washington, D.C., April 1, 1940).

109. The Indictment here crossed into criminalizing a category of activities at the heart of political expression in the First Amendment to the United States Constitution. The activities of the Special Prosecutor verged into the false, dishonest, fraudulent, and criminal. The People of the State of New York expect honesty from their Special District Attorney and the Office of the Richmond County District Attorney.

110. Accordingly, the appearance of impropriety is too great for the Court to allow Special Prosecutor Nelson to continue. The Court should act and disqualify the Special District Attorney because the further investigation will only further discourage and decimate public confidence in the officials in the Staten Island, New York government and the system of law to which it is dedicated. The Court must rule and restore public confidence.

111. It's never too late for Eric Nelson to do the right thing.

IV. The Supreme Court Should Vacate the Judgment Under CPL 440 And Dismiss this Case With Prejudice As A Matter of Law

112. Luthmann brings this motion to vacate the Judgment found in Section 440.10 of the New York Criminal Procedure Law. This motion challenges the fairness and/or legality of Luthmann's conviction. This motion attacks Luthmann's conviction by stating that the Supreme Court acted improperly when it found Luthmann guilty.

113. A motion under CPL § 440 is the proper vehicle for these claims because the record does not contain sufficient facts to allow an appeals court to review these errors. Luthmann requests a factual hearing on all contested issues to develop a factual record.

114. Every one of Nelson's arguments for why the Judgment of conviction should stand up is hollow and wrong.

115. First and foremost, Nelson has not proffered a viable transcript of the purported Plea Hearing. The offered transcript is inconsistent with the Court's records that show a purported plea was taken on October 27, 2020. What Mr. Nelson has offered is legally incompetent as a matter of law. The Court cannot consider the four corners of a falsely-sworn document.

116. Next, Nelson incorrectly states the law to the Court in Nelson Memo at 4:

Defendant was convicted upon a plea of guilty. In such an instance, there is no actual innocence claim cognizable under CPL 440.10 (1)

(h). (*People v. Tiger*, 32 N.Y.3d 91, 93 [2018]; (*People v. Clark*, 209 A.D.3d 1063,1066 [3d Dept. 2022].) As *Tiger* explains, a valid guilty plea relinquishes any claim that would contradict the admissions necessarily made upon entry of a voluntary plea of guilty. A guilty plea entered in proceedings where the record demonstrates the conviction was constitutionally obtained will presumptively foreclose an independent actual innocence claim.

117. Wrong. The *Tiger* case is inapplicable here because for that case to apply, the record must demonstrate the conviction was constitutionally obtained. Here, the record shows not only was the conviction unconstitutionally obtained, but the representative of the People of the State of New York engaged in lies, fraud, and criminality in order to obtain a false conviction. The Supreme Court always retains jurisdiction in instances where fundamental matters are at issue. Fundamental. (*People v Taylor*, 65 NY2d 1, 5 [1985]). This rule has applied to situations where there is egregious conduct - i.e., a prosecutor knows the evidence presented in a case is false. (*People v Pelchat*, 62 NY2d 97 [1984]).

118. Nelson's actions are not limited to knowledge of the introduction of false evidence. Nelson is complicit in its fabrication. Moreover, Nelson thumbed his nose at the orders of several courts and engaged a convicted felon disbarred attorney as his "legal advisor." Nelson colluded to abdicate his proper role as advisor to the grand jury and admonished grand jurors when they began asking the "wrong" questions. Nelson shepherded and suborned the perjury in Justice Castorina's demonstrably false statements, which Nelson must have known to be false because he billed the taxpayers for reading all the records.

119. Eric Nelson brought this case to Your Honor's court. Nelson represented himself and this case as genuine and forthright, as a Special Prosecutor on behalf of the People of New York. In actuality, Nelson sold a web of deceit spun with perjury, collusion, lies, and other criminal behavior - and his dishonesty before the Court continues, unashamedly and unabashed.

120. Nelson continues being wrong in his Memo at 4 – 5:

[I]n the absence of a motion to withdraw the plea or to bring a postconviction motion to vacate the plea as involuntary, the plea and the resulting conviction are presumptively voluntary, valid and not otherwise subject to collateral attack.

121. *People v Taylor* says just the opposite.

122. Additionally, the purported Plea Hearing was one YUGE mode of proceeding error, an unwaivable defect that renders everything that occurred a legal nullity. (*People v. Patterson*, 39 N.Y.2d 288, 295, 347 N.E.2d 898, 902, 383 N.Y.S.2d 573, 577 [1976], aff'd, 432 U.S. 197, 97 S. Ct. 2319, 53 L. Ed. 2d 281 [1977] (“A defendant in a criminal case cannot waive, or even consent to, error that would affect the organization of the court or the mode of proceedings proscribed by law.”)).

123. Luthmann was denied his right to be present at fundamental stages of the proceedings, including the plea and the sentencing. *People v. Kelly*, 11 A.D.3d 133, 142–143, 781 N.Y.S.2d 75, 84 (1st Dept. 2004), aff'd, 5 N.Y.3d 116, 832 N.E.2d 1179, 799 N.Y.S.2d 763 (2005) (acknowledging that a violation of the right of a defendant to be present at the material stages of the trial is preserved for appellate review even without an objection); see, e.g., *People v. Antommarchi*, 80 N.Y.2d 247, 249—250, 604 N.E.2d 95, 96–97, 590 N.Y.S.2d 33, 34–35 (1992) (reversing because defendant was not present at bench conferences with jury candidates regarding their ability to weigh evidence objectively and to hear evidence impartially); *People v. Dokes*, 79 N.Y.2d 656, 660–662, 595 N.E.2d 836, 839–840, 584 N.Y.S.2d 761, 764–765 (1992) (reversing because defendant was not present at hearing about impeaching him with prior acts); see *People v. Mehmedi*, 69 N.Y.2d 759, 760, 505 N.E.2d 610, 611, 513 N.Y.S.2d 100, 101 (1987) (affirming reversal of defendant’s conviction on the basis that instructions were given to the jury in

defendant's absence, even though defendant's trial counsel did not object to defendant's being absent).

124. Nelson admits the purported Plea was done by Zoom in Nelson Aff. at 2:

This Court (Mundy, J.) and its staff went through great efforts to secure Mr. Luthmann's appearance with the United States Bureau of Prisons because Mr. Luthmann was in Federal custody at this time. Both of Mr. Luthmann's counsel represented they had his consent to appear virtually as he did.

125. Nelson concedes that he never obtained Luthmann's knowing, voluntary, and intelligent waiver of his right to be present. At best, Nelson obtained counsel's consent, which is worthless under *People v. Patterson*.

126. Nelson concedes Luthmann was a prisoner that was never in the custody of New York State Corrections. Governor Cuomo's Executive Orders related to Covid-19, cited by Nelson, are inapplicable. Luthmann's plea is not covered by New York intra-state law. Instead, the plea is covered by Federal interstate law – the Interstate Agreement on Detainers Act (IADA), a compact to which Governor Cuomo's Executive Orders have no legal effect.

127. Moreover, Nelson whistles past the graveyard on Luthmann's rights under the Interstate Agreement on Detainers Act (IADA), which mandates dismissal of this case as a matter of federal law. Nelson concedes there was no intelligent or voluntary waiver of Luthmann's IADA rights. Nelson was obligated to bring Luthmann to trial by September 7, 2020. See **EXHIBIT "F"**:

The above named subject [Luthmann] applied for final disposition of pending charges pursuant to the Interstate Agreement on Detainers Act (IADA) which application was received in your office on 03-10-2020. As you are aware, under Article III of the IADA, Inmate Luthmann, Richard, is to be brought to trial on these charges within 180 days from the date the forms were received in your office as noted on the-certified mail receipt. It appears that Inmate Luthmann, Richard, has not been brought to trial on the charges specified in your detainer and the 180-day period will lapse on 09-07-2020.

128. The date of the purported Plea is either October 27, 2020, or October 27, 2021. Either way, Nelson blew his time to prosecute Luthmann under federal law. This entire matter should be dismissed. Full stop.

129. Assuming *arguendo* that Nelson can establish Luthmann waived any applicable rights whatsoever (which he did not because he was not present and all proceedings were legal nullity), the plea cannot stand on ineffective assistance of counsel grounds. Nelson says in the Nelson Aff. at ¶ 23:

23. Moreover, the defendant was afforded meaningful representation when he received an advantageous plea and nothing in the record casts doubt on the apparent effectiveness of counsel.

130. Wrong. Nelson says in his own Memo at 5 – 6:

To prevail on a claim that a defendant was deprived of the right to the effective assistance of counsel prior to deciding whether to plead guilty, he or she must meet the two-part standard set forth in Strickland by demonstrating that counsel's representation fell below an objective standard of reasonableness, and that counsel's constitutionally ineffective performance affected the outcome of the plea process. (*People v. Saunders*, 193 A.D.3d 766 [2d Dept. 2021]). Where a defendant is represented by counsel during the plea process and enters a plea upon the advice of counsel, the voluntariness of the plea depends on whether counsel's advice is within the range of competence demanded of attorneys in criminal cases (See *People v. McDonald*, 1 N.Y.3d 109, 113 [2003]).

To satisfy the second, or prejudice, requirement, the defendant must show that there is a reasonable probability that, were it not for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. (*People v. De Jesus*, 34 Misc. 3d 748, 759 [Sup. Ct. 2011], quoting *Hill v. Lockhart*, 474 U.S. 52, 59 [1985]). In the plea context, "the defendant must show that there is a reasonable probability that, but for counsel's errors, he [or she] would not have pleaded guilty and would have insisted on going to trial, or that the outcome of the proceedings would have been different" (*People v. Parson*, 27 N.Y.3d 1107, 1108 [2016]).

131. No reasonable attorney recommends a plea when they don't even need to go to trial to win. All that attorney has to say is: "Judge Mundy, Mr. Nelson's time to bring Mr. Luthmann to trial expired on September 9, 2020. As a matter of federal law, this case must be dismissed."

132. No one wants to throw Artie Aidala or Mario Romano under the bus, except maybe Nelson because he is jealous of attorneys talented enough to make a living someplace other than the shed next to Family Court sucking off the NYC taxpayer's teat. And Luthmann won't, because Your Honor should not even reach a *Strickland* analysis to dispose of this case. Luthmann was denied effective communication and access to counsel, not because of Aidala and Romano's errors, but because of Nelson's errors – his failure to bring Luthmann back to the New York jurisdiction as the law commands. The combination of Federal Custody and Covid-19 measures equaled a situation that fell far below the minimum constitutional standards. Nelson was in the only position to remedy this issue, and he dropped the ball.

133. Accordingly, Luthmann's Judgment of conviction should be vacated, and the Indictment in this matter should be dismissed for the reasons stated above, in the moving papers, and given all the proceedings had before this Court.

134. Although Luthmann does want to go to trial. He could give press conferences on the SI Courthouse steps every day. And he would have a shot at his enemies. Batter up: Smiling Jack! Sadly, Nelson's claim that this case should be restored to its pre-trial status is wrong.

V. The Supreme Court Has the Authority to Preclude the Special District Attorney from Further Billing and Bilking the People of The State of New York for His Dishonest Work.

135. The Supreme Court has the administrative authority to preclude Special Prosecutor Nelson from billing the People of the State of New York and protect the taxpayers and voters that

elected the Justice to act as a Public Official. Luthmann rests on the reasons stated above, in the moving papers, and given all the proceedings had before this Court.

VI. The Court Should Preclude the Special District Attorney from Bilkng Fees and Expenses on This Motion and Otherwise Censure the Special District Attorney For Special Prosecutor Nelson’s Dishonesty and Violations of the Rules of Professional Conduct.

136. As detailed in the Affidavit in Opposition to the Special District Attorney’s pending motion, Special Prosecutor Nelson has engaged in grave, serious, and felonious misconduct and violations of the obligations imposed by the Rules of Professional Conduct (RPCs) for Attorneys, and the enhanced duties applicable to government attorneys, particularly prosecutors.

137. Luthmann rests on the reasons stated above, in the moving papers, and given all the proceedings had before this Court.

VII. The Conduct of Special Prosecutor Nelson in the Grand Jury Should Be Referred to The Attorney Grievance Department for the Appellate Division, Second Department and to Attorney General Letitia James for Investigation and Criminal Prosecution

138. Special Prosecutor Nelson and Justice Castorina’s conduct in this case has been egregious, unethical, and criminal.

139. In addition to the Attorney General’s Office, Justice Castorina been reported to the New York State Commission on Judicial Conduct. See the attached **EXHIBIT “R.”**

CONCLUSION

140. For the reasons stated above, the Court should grant all the relief requested in the Defendant's motion.

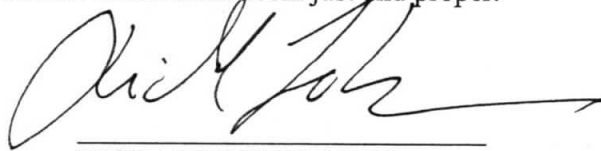
141. I believe in good faith that I am entitled to all the relief I seek.

WHEREFORE, I respectfully ask the Court to grant all the relief requested in the Defendant's motion returnable on February 28, 2023, issuing an Order:

- a. Permitting hybrid representation, or in the alternative permitting the Defendant to proceed *pro se*;
- b. Excusing Defendant's physical appearance on the return date of the motion and either deciding the motion on the papers or allowing for a Zoom/videoconferencing appearance based on Federal pre-emption and the Supremacy Clause of the United States Constitution;
- c. Disqualifying the Special District Attorney;
- d. Vacating the Judgment of the Court pursuant to CPL § 440.10;
- e. Dismissing this matter with prejudice; and
- f. Precluding the Special District Attorney from taking any fees or expenses on this motion;
- g. Precluding the Special District Attorney from billing the City or State of New York or any political, governmental, or administrative subdivision thereof, for the Special District Attorney's fees or expenses on this motion;
- h. Reprimanding and publicly censuring the Special District Attorney; or in the alternative

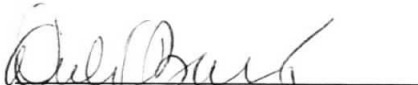
- i. Referring this matter for attorney discipline to the Attorney Grievance Department of the Appellate Division, Second Department;
- j. Referring this matter for investigation and criminal prosecution by New York State Attorney General Letitia James; and

For such other and further relief as the Court shall deem just and proper.



RICHARD LUTHMANN
Defendant

Sworn to before me
this 22nd day of February 2023


Notary Public

DULCE I. BENACIN
Notary Public
State of Florida
Comm# HH257119
Expires 4/25/2026

EXHIBIT A



ANDREA E. BONINA, ESQ.
Chair

State of New York
Grievance Committee for the
Second, Eleventh and
Thirteenth Judicial Districts

Renaissance Plaza
335 Adams Street – Suite 2400
Brooklyn, New York 11201-3745
(718) 923-6300

DIANA MAXFIELD KEARSE
Chief Counsel

MARK F. DEWAN
Deputy Chief Counsel

SUSAN KORENBERG
SUSAN B. MASTER
DAVID W. CHANDLER
SARA MUSTAFA
PAUL RYNESKI
Staff Counsel

February 9, 2023

PERSONAL AND CONFIDENTIAL

Richard Luthmann
338 Sugar Pine Lane
Naples, Florida 34108

Re: File No.: R-68-23

Dear Mr. Luthmann:

This office recently received your complaint dated January 25, 2023, against a Richmond County attorney and a New York State judge, against whom the Grievance Committee has no jurisdiction.

A careful review of your complaint regarding the Richmond County attorney (and its enclosures) reveals that the allegations you raise concerning that attorney's conduct as a Special District Attorney are similar to the claims you are making in the pending motion before the Supreme Court, Richmond County, in People v. Richard Luthmann, seeking vacatur of your conviction in that matter. It is the practice of the Committee to refrain from investigating complaints under such circumstances.

Therefore, the Committee is unable to assist you. However, at the conclusion of all legal proceedings, you may renew your complaint for further consideration.

Very truly yours,

Mark F. DeWan
Deputy Chief Counsel

MFD/ss

EXHIBIT B

Judge Castorina Distinguishes 'Not Good Speech,' Kitchen Speech and Perjury

© February 16, 2023



Judge Castorina’s Testimony vs Facebook Messages

New York State Supreme Court Justice Ronald Castorina Jr is potentially on the hot seat.

His challenge is the stark contrast between his 2018 grand jury testimony as a witness in the People of NYS v Richard Luthmann and the Facebook Messenger message he exchanged with Luthmann two to three years earlier.

Does It Rise to the Level of Perjury?



His calling his female opponent, Janine Materna, a “rotten cunt” or a “phony bitch” in Facebook Messenger messages to Luthmann is not the issue.



Attorney Janine Materna ran against Ronald Castorina in a 2016 N.Y.S. Assembly primary election.

What is an issue is that in the grand jury, Judge Castorina said Luthmann was the vulgar one, he found it offensive and certainly would not talk like Luthmann – at least not at the kitchen table.

Luthmann asked Judge Marina Cora Mundy to refer Castorina and attorney Eric Nelson, who acted as special prosecutor in the Luthmann case, to NYS Attorney General Letitia James for potential prosecution.

FR’s purpose here is to compare Castorina as he speaks in Facebook Messenger conversations, and how he speaks in the grand jury, to make it easy for Judge Mundy, Letitia James and possibly federal prosecutors considering conspiracy charges to evaluate the matter.

The Facebook Messenger conversations are not newly discovered evidence. Nelson subpoenaed them in 2018, and it appears also suppressed them to enjoy what might be the subornation of perjury to get an indictment.

Smiling Jack

Castorina on Facebook September 11-12 2015:

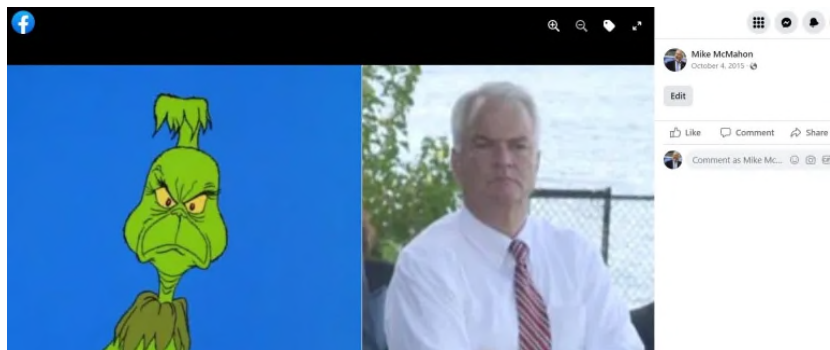
In 2015, Luthmann created a fake Facebook page for Democratic District Attorney Candidate Michael McMahon.

Luthmann referred to McMahon as "Smiling Jack" and McMahon's advisor, former Judge Carmen Cognetta, as "Girl Get On Your Back."



COURT BENCH IN 1995.

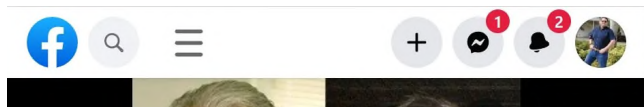
Luthmann sent Castorina this image, which appeared on a fake Mike McMahon Facebook page.



Castorina: Lmfao- fucking hysterical ha ha ha. Your the best rich. I just got home and saw this and cracked up. It's spot on. Lol



Luthmann sent another image from the fake Facebook page:



Castorina: Wow- Imfao girl get on your back— holy shit – I’m fucking pissing my pants Imfao- wow ha ha ha



Luthmann: 😊

Fuck him.

Smiling Jack ain't too happy with me.



Castorina: what happened



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Luthmann: I am responsible for all his problems apparently.



Castorina: i love the smiling jack reference and "girl get on your back" fuckin amazing

Castorina's Grand Jury Testimony

In extraordinary testimony, Judge Castorina in somber tones was shown and asked to describe the Grinch and McMahon photos.

Castorina neglected to state his first reaction was "Lmfao- fucking hysterical."



CASTORINA [shown the Grinch and McMahon photos]: He [Luthmann] compared D.A. McMahon to a Dr. Seuss character in a photograph. He put two photographs side by side. It shows D.A. McMahon looked like he was in a frowning — has a frowning face on, and then the Dr. Seuss character has a similar frowning face.



NELSON: Now does that fairly and accurately represent what you observed around the time period of September of 2015, which would be several months before the District Attorney's general election?

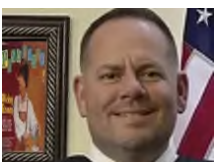
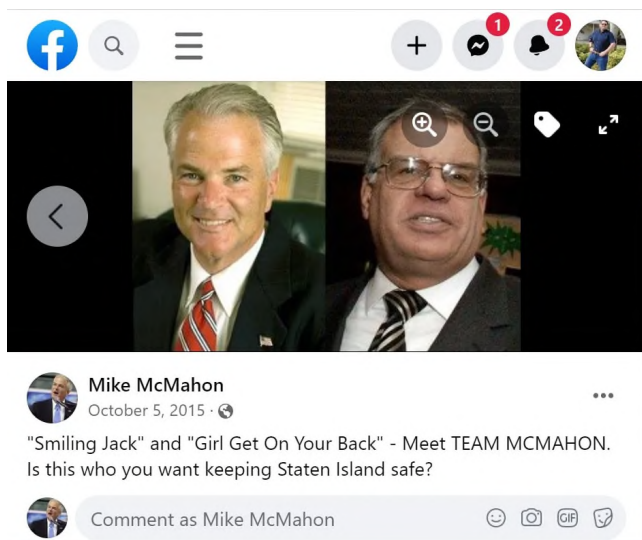


CASTORINA: And at least seven months before my first election, yes. It does accurately represent a — a message — I mean a message, if you will, because it's two photographs that was transmitted to me by Mr. Luthmann.



NELSON: And how about the next photograph, sir?

Castorina was shown the following photo and in an utterly astonishing statement, he claims he was not sure what Luthmann was referring to. Yet in 2015, Castorina messaged Luthmann, "I love the smiling jack reference and "girl get on your back" fuckin amazing."



CASTORINA: The next one had — it says, Smiling Jack and Girl Get On Your Back. Meet Team McMahon. Is this who you want keeping Staten Island safe?

I don't know who he's referring to as well. I guess he's referring to D.A. McMahon as Smiling Jack, I guess. I don't know. I would be speculating to say.



LOOKS LIKE FORMER JUDGE COGNETTA.

[It "looks like" Judge Cagnetta? He's not sure? But in 2015, Castorina was sure. He messaged Luthmann, "I love the smiling jack reference and "girl get on your back" fuckin amazing.]

Fake Janine Page

Castorina Messenger October 11, 2015:

Eleven months before the election, Castorina learned Janine Materna would run against him in a primary for the New York State Assembly.

Castorina reached out by Facebook Messenger to tell Luthmann and get his help.



Castorina: Janine Materna filed a committee – shes going to primary me for sure

she was roming around richmond town with that guy ron lauria yesterday too



Luthmann: Fuck them. Time for a fake Janine Materna site.



Castorina: that bitch has had a URL for assembly congress and senate for 5 years – she’s fucking nuts



Luthmann: Facebook...



Castorina: "Yes."

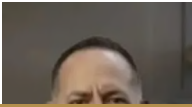
{Note that Castorina assented when Luthmann said Facebook after revealing that it would be a fake Facebook page. Castorina tells Luthmann he needs his help.}



Castorina: I need to talk to you about that race, and I’m going to need your expertise."



Luthmann *[advising him how to win in this heavily Republican district of Staten Island:]* Then turn it into RINO *[Republican In Name Only campaign]* Janine Materna. FLIP FLOP FLIPPITY FLOPPITY FLOOP



Castorina: shes a republican, but she took the working fam parties endorsement and worked for hillary [Clinton]



Luthmann: Republican today...Dem yesterday. Is there a picture of her with Hillary?



Castorina: yes, so much bullshit- shes a first year law student- its like legally blond im looking for one [of Materna with Hillary Clinton], but theres a few with chucky schumer

Castorina’s Grand Jury Testimony

As their Facebook messages show, Castorina and Luthmann collaborated on a search for a picture of Materna with Hillary Clinton to be used on Facebook. Castorina called her a “bitch” and “legally blond.” He knew Luthmann’s intent was to smear Materna and he wanted to help him with a fake Facebook page.

Let’s see what Judge Castorina said in the grand jury three years later, on August 1, 2018.



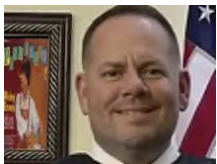
SPECIAL PROSECUTOR NELSON: At one point, if you recall, did he [Luthmann] say that it's time for a Janine Materna page?



CASTORINA: Yes. Yes, he did.



NELSON: And — and in your opinion, when you received that [message], did you form any opinion in your mind as to what he meant from his words as to a Janine Materna page?



CASTORINA: Well, you know, you never know what to believe when this individual, Mr. Luthmann, says something.

So, frankly, I would assume at that point that he may have been talking about either a fake page or a page where he would — a satirical page where he would clearly be making fun of her to people and not in a way that was subterfuge, you know, either/or, or probably what he was talking about in that type of message.

Castorina did not know what to believe? Then how come he did not testify that he sought Luthmann's expertise?

'Not Good Speech'

Castorina's Messages on October 11, 2015:



Luthmann: shared a link entitled "Poop Shoot Princess"



Castorina: Ha ha ha

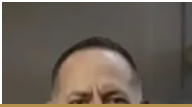


Luthmann: We'll get her about 500 likes...

Luthmann sent a link to this image



Castorina approved the link: SeeYouNextTuesdaySI. – which is also spelled C U N[ext] T [Tuesday]



Castorina: I want to crush her – such a phony bitch
She’s such a phony self serving bitch. Can’t stand her

Castorina’s Statements August 30, 2016:

On August 30, 2016, two weeks before the Primary Election, Luthmann sent a message to Castorina.



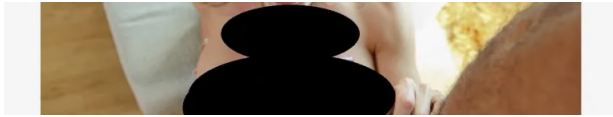
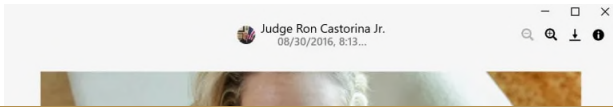
Luthmann: I think we have to do a new video.
Janine Materna is not a democrat. Janine Materna is a cunt.



Castorina: She’s a rotten one at that.



Luthmann: Janine Materna XXX?



Castorina Materna XXX Pearl Necklace

Luthmann sends lewd photoshopped picture to Castorina

She will jump in front of a bus.



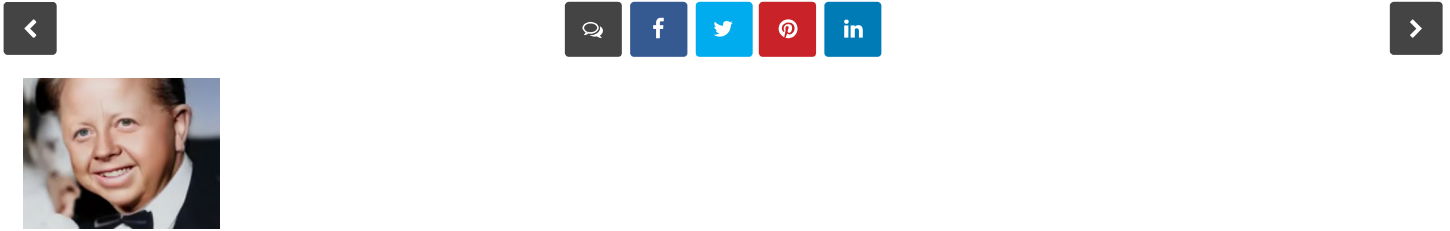
Castorina: Lmfaooo omg. Her and wiener there's her pearl necklace she always wears...



Luthmann: "Carlos Danger and me."



Castorina: That's just terrible OMG lol



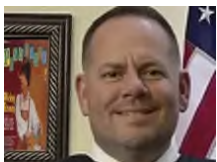
NELSON: And you're also aware of the fact that there's constitutional protections for free speech?



CASTORINA: That's correct.



NELSON: I'm not going to ask you to characterize this, but would it be accurate to say that the line political speech, free political speech and other actions in this case that there certainly could be a difference?



Castorina: Well, certainly I — I don't believe that I can characterize the speech as either political or —or anything other than what it is. It's lewd. It's lascivious. It's outrageous at times.

It's not the type of conversation that I'd want to have at my kitchen table clearly.

So it's — it's not good speech. It's not the type of speech that I welcome or that I wish to participate in in any way, and certainly I would characterize it generally as unwelcome.



Nelson only showed Luthmann’s vulgarity and scrupulously avoided showing the grand jury Castorina’s vulgarity.

Castorina and Nelson may be subject to felony indictment and prosecution. Luthmann filed an official complaint with New York State Attorney General Letitia James’ Public Integrity Unit.

If ethical violations are found, Castorina and Nelson, both licensed attorneys, may be disbarred.

As a sitting New York State Supreme Court Justice, Castorina also faces sanctions from the New York State Commission on Judicial Conduct. A formal complaint was filed.

FR called Judge Castorina on his cell phone for a comment for this story. A man answered the phone, and when this writer identified himself, the call suddenly “dropped.”

A immediate follow up went to voicemail. A message was left.

Calls to Eric Nelson, Perry Reich, Thomas Tormey, and Lucien Chalfen from the New York State Office of Court Administration were not returned.

A phone call to Janine Materna was answered by a man who identified himself as her fiance. He stated she was not inclined to comment on the matter.



Frank Parlato

About the author



Frank Parlato

Please leave a comment: Your opinion is important to us! (Email & username are optional)

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Enter your comment here...



Castorina is a Bad Dude

February 18, 2023 at 8:35 am

Luthmann's no angel, and he went to jail. Castorina was right there with him, and now he's a Judge?

All you have to prove for perjury is a knowing and intentional lie. There are at least 10 counts of Ronald Castorina's perjury from what I have seen so far.

The sad part is about how disloyal Castorina is to Luthmann, who was his friend. Luthmann wrote all about this on his [Substack page](#):

Ronald Castorina - Disloyal

If you want the back story on my dealings with Ron Castorina, it is out there. [Read Frank Parlato's ongoing exposé.](#)

I let Ron have it in [a letter I wrote him dated October 27, 2022](#). The proof there is damning.

There are only three animals that actively hunt mankind. Polar bears, lions, and other men. And all three need to be triggered.

What triggered Ron as my prey (in the legal arena) is reading the transcript from the August 1, 2018, grand jury in the Kangaroo Court Case that was People v. Luthmann. The real story that no one knows is that Ron and I were colleagues and friends. Ron has even admitted this to political people saying, "You know politics as well as I do, I had to distance myself from Rich."

I had no problem with Ron doing that. In fact, [the August 25, 2017, Facebook post that "cleared" Ron politically](#) was something I did for my friend.

I closed that post like this:

From Plato to Machiavelli to Hannah Arendt, the practice of politics has never been tied to truth. It is tied to distributive justice whereby there are



<http://time.com/.../on-your-mark-get-set-lie-supreme.../>

And finally, Ron Castorina has no knowledge of the contents of this email. Nor does any other elected official. This is all me – setting the record straight for my friend. If you're with me, I'm with you to the Gates of Hell.

"We few, we happy few, we band of brothers;

For he to-day that sheds his blood with me

Shall be my brother"

-Henry V, Act IV

In one paragraph, I said politics has nothing to do with truth, and quote a Time Magazine article: [On Your Mark, Get Set, Lie: Supreme Court Weighs Truth in Politics.](#)

In the next paragraph, I lied. Vintage Luthmann.

"Ron Castorina has no knowledge of the contents of this email." This statement is false, and demonstrably so.

I made the Facebook post from Lake Placid, New York. I was at the NYS Kiwanis Convention. I was sitting on the hockey arena floor where they played the Miracle on Ice. Ron was on the phone with me crying about how they were calling for him to resign the Republican Party Chairmanship and that he needed "cover." I drafted the Facebook post on my smartphone. Attorney Sean O'Sullivan was sitting next to me helping. O'Sullivan – Castorina – Luthmann. Where have we seen those three together before?

In fact, Sean O'Sullivan is the lynchpin to much of what is going to happen. Sean has been around Republican Party politics for a long time. He's seen a lot of people come and go. He's lasted because he generally tells the truth. And in the case my lawyers are filing this week, Sean has already received a spoliation notice. Sean is Ron's "cut-out." Sean and Ron are business partners. And lawyers know, in many situations, the actions and knowledge of one partner can be imputed to the other.

I don't think Sean is going to lie for Ron. Sean isn't going to get his ticket pulled. In fact, I'm pretty sure Sean and Ron have already had a conversation about just how screwed Ron really is. Sean is getting subpoenaed right away – and you watch the legal

maneuvering that will go on to try to block and/or delay his testimony. Once Sean goes on the record, Ron will lose his black robe, if he hasn't already.



Eric Nelson, goes through the entire August 25, 2017, Facebook post as authored by Luthmann, Castorina, and O'Sullivan on the record. Ron's sworn testimony is a lie. He denies involvement with the post, including its authorship or collaboration.

The problem is that Eric Nelson, **an incompetent-by-design special prosecutor**, had subpoenaed all of my Facebook and Verizon Phone records. We know this because Nelson billed and bilked NYC taxpayers out of hundreds of thousands of dollars claiming he read them.

If anyone looks at the phone records from August 25, 2017, they see numerous calls between Luthmann and Castorina that day. Castorina initiated the calls. Luthmann was at a convention. He wasn't calling Ron from Lake Placid because he was a "crazy person" that needed to talk to an Assemblyman. Anyone who knew me then knows I felt a greater need to talk to the bartender than an elected official, particularly on the weekend.

Ron wasn't "placating Luthmann" on the call Ron initiated. Ron was in tears they were calling for his resignation as Party Leader. For example, Ron had choice words about Letitia Remauro telling him it must have been a "dark time" for him to have consulted with Luthmann. I told Ron not to worry. I was a warrior. I would take the blows for my friend and my client. I grabbed Sean O'Sullivan, and we got to work.

But don't take Luthmann's word for it. Look at the phone records. They don't lie. The FBI gets warrant applications, arrests, and indictments on less "coordination." Nelson had the phone records. They contradicted Castorina's sworn testimony. Both sets of evidence were offered to the grand jury. One set is necessarily false.

And therein lies why I have to destroy Ronald Castorina legally and politically. Loyalty. Not to me, but to THE TRUTH.

If Ronald Castorina testified truthfully on August 1, 2018, there would have been no indictment. The sitting Assemblyman and Judicial Candidate would have defended Luthmann's actions as within the purview of the First Amendment because Luthmann's actions were also Castorina's.

Instead, the lawmaker and his accomplice, the incompetent-by-design Special Prosecutor, proceeded to bastardize the facts and the law.

Staten Island, New York. Where the Judges, the Lawmakers, and the Prosecutors tell you what speech is "not good speech." There are other places where they do that too.

Beijing, Tehran, and Pyongyang.

But wait, there's more. What about grand jurors that might have questions about the



was to ultimately advise the grand jury, squarely told them he wasn't going to give a lecture about Free Speech."

NYS Supreme Court Justice Ronald Castorina, Jr.: Disloyal to the Facts; Disloyal to the Law; Disloyal to his Friends; Disloyal to the End.

This is your Supreme Court Justice, Staten Island, New York. Don't worry. I intend to take out the trash. **Maybe Tish James will get there first.**

But because of the Castorina-Nelson-Smiling Jack "Fake Facebook" felony, I am a multiple felon. With a single felony, I could get a mortgage broker, real estate, insurance, or a multitude of other licenses to have a craft and/or a trade to focus on day in and day out. Because of the pile-on felony, the fake felony, the felony based on felonies and perjury, I can't even get a license to pilot a shrimp boat like Forrest Gump.

I have plenty of time and plenty of patience. I am a monster, and I am in control.

REPLY



Joseph Pulitzer

February 18, 2023 at 8:31 am

Frank Parlato will win a Pulitzer Prize if he can take down a New York State Judge. Classic muckraking.

REPLY



WTF

February 17, 2023 at 3:57 pm

Yeah...it does seem like downplaying and distancing, but not lying. Unless I am missing something, it seems to me like there is nothing there regarding this judge.

REPLY



ModernThomasNast

February 18, 2023 at 8:31 am

Downplaying????

It is flat out lying. Castorina lied about knowing about the fake facebook pages. Luthman told him



in the impact for the fake facebook pages. He not only went looking for a photo with Hillary, but he sent Luthman the photo with Eric Holder.

Finally, Nelson as the Special Prosecutor had a duty to present "Truthful" evidence to the Grand Jurors. By very purposefully leaving out the Castorina end of the Facebook Messages, he is surborning Castorina's Lying. Nelson had an obligation to confront Castorina about those lies in front of the Garand Jury.

Furthermore, One of the jobs of the Prosecutor presenting to a grand jury is to explain the law and how it applies to the case. When one of the Grand Jurors asked him about the 2nd Amendment, instead of answering the question Neson replied "I'm not going to give a class on the 2nd Amendment." Where the hell did he go to law school "Whatsamatter U."

REPLY



Anonymous

February 17, 2023 at 2:04 pm

What's the definition of perjury and does this really qualify ? He's just kind of Downplaying but not really lying

REPLY



ModernThomasNast

February 17, 2023 at 4:36 pm



inorder to allow Castorina to lie!!

Last tike I checked the Prosecutor is duty bound to present true facts to the Grand Jury. Nelson knew Castorina was lying through his teeth, and he did nothing to present the truth or expose those lies.

I can't believe that Judge Mundy hasn't dragged both of them in to her courtroom and and held both I contempt.

[REPLY](#)



Peaches

February 17, 2023 at 10:30 am

I'm sorry, this is ridiculous, imo of course. I'll try to read the next article. I can't get past the boring shmuck shit.

[REPLY](#)



Woodward and Bernstein

February 18, 2023 at 9:08 am

Boring Shmuck Shit is what broke Watergate.

[REPLY](#)



Patriot God

February 16, 2023 at 11:24 pm

Dear stupid Ginzo!

It seems that your genetically inferior low IQ has finally gotten then best of you and the shadow wells have finally run dry on interesting articles!

You milked NXIVM and beat that dead horse until it disintegrated into the ground bones and all and now all you got is this bullshit!

EXHIBIT C



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News

Will 'trial-by-combat' lawyer be convicted in fake-Facebook-page case?

Published: Apr. 22, 2020, 12:42 p.m.



Attorney Richard Luthmann is accused of creating fake Facebook pages in candidates' names to try to influence political races on Staten Island in 2016 and 2017. In 2015, Luthmann, a "Game of Thrones" aficionado, challenged a courtroom adversary to a trial by combat.

NEW!

STATEN ISLAND, N.Y. – Controversial “trial-by-combat” lawyer Richard Luthmann is currently serving a four-year federal prison term for his role in a scrap-metal fraud scheme.

Whether Luthmann will also be convicted on unrelated state charges accusing him of creating fake Facebook pages in candidates’ names to try to influence political races remains to be seen.

Luthmann’s criminal case in state Supreme Court, St. George, has been adjourned to June 8.

A conference had been scheduled for Monday.

Courts have been rescheduling their dockets since mid-March in a bid to limit the spread of the coronavirus (COVID-19). Most cases have been pushed back to May, June and beyond.

In November 2018, Luthmann was arraigned on a 17-count indictment accusing him of multiple felony charges of falsifying business records and identity theft. The charges stemmed from his alleged activities on Facebook.

It was believed to be the first case of its kind in New York.

He was also charged with criminal impersonation, election law violations, stalking and falsely reporting an incident to the NYPD.

Special prosecutor Eric Nelson alleges Luthmann, 40, set up Facebook pages impersonating former Republican Assembly candidate Janine Materna and Councilwoman Debi Rose (D-North Shore).

Luthmann also created a bogus Facebook page impersonating John Gulino, the Staten Island Democratic Party chairman at the time, Nelson said.

The election law violation charges stem from alleged attempts to affect the results of two primaries - Materna’s race against Ronald Castorina for the Republican candidacy for the South Shore Assembly seat in September of 2016 and Rose’s race against Kamillah Hanks in September of 2017 for the Democratic candidacy for the North Shore City Council seat.

Castorina and Rose won those contests and went on to win the general election.

The stalking charge pertains to the Materna page, which allegedly prompted threats against her from other individuals on social media, said Nelson.

Luthmann was also accused of falsifying e-mails pertaining to District Attorney Michael E. McMahon's campaign in 2015.

Nelson said the charge of falsely reporting an incident to police stems from a report Luthmann allegedly filed claiming his computers were "trespassed."

However, it was determined that was not the case and Luthmann had made false statement to a detective, said Nelson.

Luthmann, who was based in Castleton Corners, has denied the charges.

If convicted at trial of any of the felony counts, he could be sentenced to up to four years in state prison.

Plea negotiations have been underway between Nelson and Luthmann's attorneys, Arthur Aidala and Mario Romano, for some time.

Should Luthmann admit guilt, his state sentence could run either concurrently or consecutively to his federal sentence.

Luthmann was sentenced in the federal case last September.

He had previously pleaded guilty in March 2019 to one count each of wire fraud conspiracy and extortion conspiracy.

In admitting guilt, Luthmann said he was "representing a company that was ripping off Chinese people and companies in the scrap-metal business."

He arranged for junk material to be shipped to overseas clients who had actually contracted to receive valuable scrap metals.

He also was involved in an extortion plot.

Luthmann had already spent 28 months behind bars pending the disposition of the federal case when he was sentenced in September.

Besides prison time, Luthmann was ordered to pay \$500,000 in restitution and forfeit \$130,000.

Known for his penchant for bowties, round eyeglasses and battling with local Democratic party leaders, Luthmann earned notoriety in the summer of 2015 by challenging foes in two lawsuits to a trial by combat.

No blood was spilled, fortunately, as [the cases were settled the next year.](#)

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EXHIBIT D

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND: CRIMINAL TERM

-----X

THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

-against-

RICHARD LUTHMANN,

Defendant.

-----X

**SUPPLEMENTAL
AFFIDAVIT OF ACTUAL
ENGAGEMENT, ETC.**

Indictment No.: 379/2018

STATE OF FLORIDA)
)
COUNTY OF COLLIER)

SS:

RICHARD LUTHMANN, being duly sworn, deposes and says:

1. I (“Luthmann”) am the Defendant in the above-captioned case.
2. Luthmann makes this Supplemental Affidavit as an Affidavit of Actual Engagement, in further opposition to the Special District Attorney’s motion to amend a Final Order of Protection purportedly issued October 27, 2020, based on a record dated October 27, 2021, and in further support of Luthmann’s cross-motion originally returnable on April 7, 2022.
3. Luthmann respectfully requests that this Honorable Court issues an order:
 - A. Precluding the Special District Attorney from taking any fees or expenses on this motion;
 - B. Precluding the Special District Attorney from billing the City or State of New York or any political, governmental, or administrative subdivision thereof for the Special District Attorney’s fees or expenses on this motion;
 - C. Reprimanding and publicly censuring the Special District Attorney;

- D. Disqualifying the Special District Attorney
- E. Staying the proceedings before the Supreme Court; and
- F. For such other and further relief as the Court shall deem just and proper.

AFFIDAVIT OF ACTUAL ENGAGEMENT
(GALLBLADDER SURGERY)

4. Luthmann retrieved the Court's Docket Sheet in this case from the New York State Courts WebCrimis website. See the attached **EXHIBIT "A."**

5. The next appearance in this case is scheduled for 9:30 a.m. on Wednesday, June 8, 2022.

6. Luthmann cannot appear at the Richmond County courthouse that day because Luthmann is legally incompetent to leave the Middle District of Florida under Federal Law, which is the supreme law of the land under the U.S. Constitution.

7. Luthmann cannot make a virtual appearance at the Richmond County courthouse that day in person because Luthmann is scheduled for gall bladder removal surgery on the previous day. Luthmann will have his gall bladder removed on Tuesday, June 7, 2022, by Dr. Yarita Perez-Soto, M.D., in Naples, Florida. Thereafter, Dr. Perez-Soto has ordered Luthmann on one (1) week of strict bed rest followed by four (4) to six (6) weeks of avoidance of any strenuous activity. It may be amusing to have Luthmann appear via video conference on June 8, 2022, while he is hopped up on the good drugs they give post-surgery, as Luthmann will have even fewer inhibitions than he already has typically. But the Court cannot conduct its business with Luthmann in such a state. Though, it would be fun.

8. Accordingly, Luthmann asks that the next appearance in this case shall be adjourned for a date mutually convenient for the Court and the parties.

9. Just as a note: If the Special District Attorney's application is granted (which it cannot procedurally for several reasons; Luthmann views Special Prosecutor Nelson's entire request as a Fake Modification/Enhancement of his already Fake Sentence that cannot be done while Luthmann is not present in the courtroom (*People v Reyes*, 72 Misc 3d 1133, 1136 [Sup Ct, NY County 2021])), Luthmann can never appear at the Richmond County courthouse in person so long as District Attorney and Elected Official Michael E. McMahon's wife, New York State Supreme Court Justice and Elected Official Judith McMahon still works in the building. Judith McMahon believes that she owns and/or controls the entire Richmond County courthouse building. "IT'S MY BUILDING." - JNM.¹

**PROCEDURAL DUE PROCESS, EQUAL PROTECTION,
AND AN OPPORTUNITY TO BE HEARD**

10. Luthmann has asked for hybrid representation in Luthmann's March 29, 2022, letter to the Court. The Court of Appeals has been clear that "[b]ecause a defendant has no constitutional right to hybrid representation, the decision to allow such representation lies within the sound discretion of the trial court" (*People v Rodriguez*, 95 NY2d 497, 502, 741 NE2d 882, 719 NYS2d 208 [2000] [internal quotation marks, brackets, and citation omitted]).

11. Luthmann does not give any consent to anyone but Luthmann to make decisions in Luthmann's case, particularly on how to argue points of law. Luthmann views the "assistance of counsel" as fundamentally detrimental. Luthmann wishes to

¹ Maybe the NYS Dormitory Authority can build a "Fake Courthouse" for Luthmann that can double as a "Shooting Gallery" for all the heroin addicts roaming the Staten Island streets like zombies since the current District Attorney took office in 2016. And maybe the DA should think about spending the hundreds of thousands that have been poured into (and will be further poured into) this matter on something other than a "vanity case" for him and his political allies.

proceed *Pro Se*. Luthmann intends to have the Fake Plea and Fake Sentencing imposed in violation of New York law thrown out on appeal (unless the Court *sua sponte* would like to correct its own mode of proceedings error). Then Luthmann will bring motions to dismiss the pending charges against him based on Special Prosecutor Nelson's violations of the Interstate Agreement on Detainers, Special Prosecutor Nelson's failure to meet the burden of production of the necessary elements of the crimes charged at the Grand Jury, and other reasons. Then, if charges still remain, Luthmann will go to trial in Staten Island, representing himself, making this case a "flash-point" First Amendment case, putting Mike McMahon and his wife "on trial" during his re-election year, and calling these people as witnesses (among others):

- District Attorney Michael E. McMahon
- N.Y.S. Supreme Court Justice Judith N. McMahon
- N.Y.S. Supreme Court Justice Ronald Castorina
- N.Y. City Council Minority Leader Joe Borelli
- N.Y. City Council Member Kamillah Hanks
- Attorney and Prosecutor Joan Illuzzi
- Attorney and Former Assembly Candidate Janine Materna
- Attorney and Former Democrat Party Chair John Gulino
- Former Democrat Party Vice-Chair John Sollazzo
- Former Democrat Party District Leader Bob Castro
- Former Democrat Party District Leader Paul Cinquemani
- Helen Vitaliano, Rivercrest Realty
- Former N.Y.S. Reform Pty. Dist. Leader Lawrence "Larry Love" Gilder

- Former Union Chief Dennis Quirk
- Former Union Chief's Lawyer Bruce Baron
- McMahon Attorney John Connors
- Democrat Party Operative Stuart Brenker
- S.I Advance Reporter Frank Donnelly
- Reporter Amanda Farinacci
- The Ghost of Charlie Balducci (Amanda Farinacci's source)
- Attorney Manuel Ortega (Democrat Party and Balducci's lawyer)

12. Luthmann is presently entertaining the idea of keeping his attorneys as “hybrid counsel” only because the presence of hybrid counsel allows for a resolution of this case short of legal decisions and a jury verdict. Luthmann cannot pay his lawyers. Luthmann will not deal with Special Prosecutor Nelson, whom he believes is complicit in attempted “institutional homicide” and the McMahon’s *de facto* Staten Island “Ministry of Truth.” Luthmann seeks to have Nelson disqualified and removed. Luthmann does not trust any deals. Luthmann will not make any deals. The Special District Attorney will continue to have two choices: A) litigate this case at a cost to N.Y.C. Taxpayers that will be in the millions by the time Luthmann is finished, or B) walk into the court and make a motion to dismiss all charges with prejudice. Luthmann prefers to litigate.

13. Luthmann does not wish to be silenced or dismissed “because Luthmann has counsel.” This has happened already. When Luthmann called the court for basic scheduling information, the clerk directed Luthmann to chambers. When Luthmann calls chambers for basic scheduling information, chambers take messages and never call Luthmann back. Then, chambers admonish Luthmann’s lawyers and tell them to tell Luthmann to stop calling chambers. If the Court and the litigants can “get away” with

treating Luthmann poorly because Luthmann has an attorney, Luthmann will be compelled to proceed *Pro Se* so that Luthmann may have a real opportunity to be heard.

14. Additionally, Luthmann does not wish to leave the legal arguments on the issues Luthmann has raised to anyone but Luthmann, including other counsel. Luthmann knows these issues inside and out, and Luthmann has been preparing himself for some time.

LUTHMANN DOES NOT CONSENT TO ANY ALTERATION OF ANY PURPORTED/FAKE SENTENCING AND/OR ADDITIONAL RESTRICTIONS ISSUED BY VIRTUAL MEANS, AS DOING SO IS A MODE OF PROCEEDING ERROR THAT VIOLATES THE CRIMINAL PROCEDURE LAW

15. The Special District Attorney seeks to enhance the Fake Restrictions placed upon Luthmann from those issued at his Fake Sentencings on October 27, 2020, and February 18, 2021.

16. Luthmann does not consent to any enhancements or alterations to the Fake Restrictions - the fruit of the poisonous and defective Fake Plea and Sentencing (*People v Reyes*, 72 Misc 3d 1133, 1136 [Sup Ct, NY County 2021]). On this point, Luthmann rests on what was said in Luthmann's previously-submitted papers.

THE SUPREME COURT SHOULD ADDRESS RECUSAL ON THE RECORD

17. Though Special Prosecutor Nelson does not want to address the apparent issues of political hackery that swirl around and encompass this entire First Amendment Flashpoint case, and that is the Special District Attorney's right, the McMahons are Political Hacks. The fact that the McMahons both hold Public Office changes nothing, as Political Hacks are Political Hacks, and neither a cheesy suit nor lipstick changes

that. Even when standing on its hind legs, a pig is a pig, as George Orwell taught us in *Animal Farm*. And a Hack is a Hack even when dressed in a cheesy suit, as Dean Wormer taught us in *Animal House* (“That’s it, Mister...You’re on Double Secret Probation!).

18. For example, Judy McMahon is known to “silence” civil servants and Staten Island Courts personnel: “THIS IS THE GUY WHO WAS FUNNELING INFORMATION TO THE ADVANCE. WE HAD TO SHUT HIM UP AT 18 RICHMOND TERRACE.” Available for public consumption at: <https://bit.ly/3PrPek8> [last visited May 18, 2022]. These are Judy McMahon’s own words.

19. Because the McMahons wield power with the Office of Court Administration (whether perceived or actual), Luthmann is concerned that the Court might get “cornered” in a hallway somewhere and threatened to be moved by OCA, for example, to Bronx County to do traffic cases. OCA is also notoriously filled with Political Hacks, and Luthmann would like to opportune the Court to state unequivocally on the record that there is no fear of McMahon manipulation in this case, whether actual or perceived.

**THE COURT SHOULD SO-ORDER THE ENCLOSED
SUBPOENAS FOR DISTRICT ATTORNEY MICHAEL E.
MCMAHON AND SUPREME COURT JUDITH N.
MCMAHON FOR THE RETURN DATE OF THIS MOTION**

20. Since Judy McMahon’s relationship with Michael E. McMahon is central to the Special District Attorney’s pending application, Luthmann would like an opportunity to subpoena both Michael E. McMahon and Judy McMahon to a hearing on the return date of this application. Please see the enclosed petitions for subpoenas pursuant to

CPL § 640.10 that Luthmann requests that the Court So Order, attached herewith as **EXHIBIT “B.”**

21. Judy McMahon has previously engaged in dishonest and improper activity in pre-selecting prosecution-friendly judges and avoiding “defense-oriented” judges by ensuring that certain judges didn’t get warrants presented to them for fear of being denied: “IT DOESN’T GO TO THE CRIMINAL TERM OFFICE. OKAY. IT DOES NOT. IT DOES NOT. AND IT DOESN’T GO TO HIM EITHER.” Available for public consumption at: <https://bit.ly/3Lxcelv> [last visited May 18, 2022]. These are Judy McMahon’s own words.

22. The McMahons have always been a team, and it is clear that Judy McMahon was setting them up while Mike McMahon was knocking them down. The problem is that there is a U.S. Constitution and other “pesky” laws that get in the way of the McMahons’ pure political hackery. The McMahons have destroyed Luthmann for trying to bring their misdeeds to light. But there is no statute of limitations for ethical violations, and Luthmann wants to burn the whole Goddamn thing down.

23. Luthmann was put upon by the McMahons’ “attack dogs” after the 2015 District Attorney Campaign for having the temerity to express First Amendment-protected political speech harmful to the McMahons’ interests.

- At an event for Mikey DiCataldo’s granddaughter (Rosebank Boys) at the Staaten in January of 2016, Luthmann tried to be classy and went over and shook Mike McMahon’s hand and wished him good luck as the newly-elected DA. Luthmann had come to the event with John Sollazzo.² Later in the night, McMahon pulled

² This was the same night that Sollazzo was “visited” by mobsters in the bathroom at the Staaten about Luthmann.

Sollazzo to the side and said: “John, I’ll never hurt you. But don’t try to fix this thing with Luthmann. It can never be fixed.”

- Additionally, in late 2016, the McMahons engaged in concerted action with Dennis Quirk, Quirk’s long-time lawyer Bruce Baron, and former Luthmann client Guy Cardinale to sell a bill of goods to the U.S. Attorney for the Eastern District of New York, with the blessing and consent of Killary Clinton and Chuckie Cheese Schumer.³ The official FBI Investigation of Luthmann by the corrupt FBI/Democrat Party KGB began in December 2016, days before President Trump, the Greatest United States President of our lifetimes, took office. Luthmann will reveal full details in due course. Of all the gin joints. Really, of all the lawyers in the world, a five-time felon New Jersey resident (Guy Cardinale) “walked in” to the Brooklyn lawyer’s office of a long-time McMahon ally Union Chief,⁴ and the lawyer took the case to go bring precise information to the Feds when that lawyer doesn’t practice criminal law? In the words of our current President: **C’MON MAN!**
- Since the allegations of the known fraudster and five-time felon Guy Cardinale (Google him for INSURANCE FRAUD and CATFISHING) alone were not enough to get the Feds to move on Luthmann, the McMahons further coordinated with

³ Luthmann’s troubles with the Feds in New York are direct retaliation for filing the case MARK GALLAGHER - v. - NBC UNIVERSAL, INC. et al, [159221/2016](#) (New York County). On November 2, 20216, Luthmann filed a case against NBC Universal, Inc. security and others on behalf of a client who was tackled and manhandled for wearing a shirt that had the truthful political statement: **“BILL CLINTON IS A RAPIST.”** Much longer than Judy McMahon’s Enemies List, Killary Clinton’s Enemies List includes everyone that denied her coronation in 2016 including Paul Manafort, Roger Stone, and others. The filed case caused the Clintons significant bad press the week before Election Day on November 8, 2016. If Luthmann had to spend four (4) years in Federal Prison to help make sure that that bitch never saw the Oval, Luthmann considers it a badge of honor. It is a wonder Luthmann hasn’t “suicided” himself by now.

⁴ Dennis Quirk said: “I’M THE ONLY PERSON WHO KNOWS HOW TO TALK TO HER [Judy McMahon]. EVEN MIKE [McMahon] DOESN’T KNOW HOW TO TALK TO HER.”

Democrat Party Attorney Manuel Ortega and his client Charlie Balducci, for Balducci to enter Luthmann's Facebook page illegally and without permission, providing the materials to Reporter Amanda Farinacci.⁵ With Luthmann then an "outed" Roger Stone-style "Dirty Trickster" in the Democrat Party-filled New York churn of the state and federal courts, the Acting U.S. Attorney for the Eastern District of New York revisited the decision to prosecute Luthmann because Luthmann was now politically vulnerable. Who knows what she procured from the McMahons and other Democrat Party operators like Chuckie Cheese Schumer and Killary Clinton to secure her soft landing into private practice?

- The McMahons and Ortega arranged for Balducci to get an "immunity deal" with McMahon's office and with the Feds to falsely disparage Luthmann and avoid paying owed legal fees. The Feds further used Balducci to make false allegations in the Detention Memo that they submitted in Luthmann's Federal Case. The Feds even admitted this in their court filings. See United States v. Luthmann, 17-CR-664, ECF # 78 (E.D.N.Y.).
- Luthmann states and confirms his outright actual innocence of all charges. But innocent people plead guilty every day, and judges know it. See the attached **EXHIBIT "C."**

⁵ Luthmann was charged with falsely reporting Balducci's illegal computer access of Luthmann's Facebook account to the NYPD. Luthmann awaits his day in court when Luthmann can question Amanda Farinacci (hopefully catching her in a perjury trap), and then channel the Ghost of Charlie Balducci through recordings of his own statements. If Special Prosecutor Nelson is still around, this charge will make the NYPD look like the Keystone Cops (or worse - corrupt and indifferent), and will further cement Nelson's utterly super-sloppy course of prosecution. If another prosecutor is on the case (who would willingly paint a bulls-eye on their back and be set up for failure?), Luthmann doesn't think that this charge has any chance of surviving to trial - along with several other "throw-ins."

- After Luthmann was arrested, the McMahons held a Press Conference in order to refer to Luthmann’s criticism/sunlight on their public activities and the resultant bad press as a “reign of terror.”⁶ See the attached **EXHIBIT “D.”** Who does something like this other than a Political Hack? Luthmann knew the McMahons would try to make him the bad guy but never thought the McMahons would be ballsy enough to start a vendetta that will carry for generations. At least the Sicilians and the Clintons are smart enough to make corpses out of their enemies.
- Also, after Luthmann was arrested, the McMahons’ paid part-time hatchet-man and full-time “ethical” hypocrite John Connors engaged in questionable and unethical activity, pumping the bullshit allegations that Luthmann “tried” to pay an exotic dancer \$10,000 to say McMahon raped her.⁷ See the attached **EXHIBIT “E.”** This was a lie when McMahon had former Democratic Party District Leader Bob Castro feed it to the FBI, along with allegations that Luthmann was going to hurt Kevin Elkins and kill John Gulino. No one believes the ramblings of a wet-brain alcoholic, especially one sent by the McMahons and with an ax to grind. Luthmann would love the chance to call Helen Vitaliano, U.S. District Court Judge Eric Vitaliano’s wife, to corroborate these facts about Castro. The Vitalianos are the McMahons’ allies, but they will not perjure themselves and lie as Bob Castro did to Federal Agents.

⁶ Notice how the McMahons use the First Amendment as both a sword and a shield - promoting speech that suits them and criminalizing speech that does not. Moreover, it appears that Brian Laline at the Staten Island Advance has been running interference for the McMahons for years. If this is true, Laline should come clean immediately and then resign.

⁷ On top of all of Balducci’s bullshit allegations.

- Like Hitler, Stalin, and Chairman Mao before them, the McMahons have established their own *de facto* “**Ministry of Truth**” for Staten Island political discourse, with useful idiot Brian Laline as its *de facto* “Minister.” Hopefully, there are no Tik-Tok videos.
- Special Prosecutor Nelson brought this case in bad faith as a politically-motivated prosecution. The original Special Prosecutor was the Kings County DA’s Office, who moved to be relieved. Thereafter, Attorney Thomas Tormey was appointed, investigated this case, declined to charge because he saw no crimes, and asked to be relieved as Special Prosecutor. See the attached **EXHIBIT “F.”**
- After that, the McMahons pulled the strings so that Special Prosecutor Nelson got the case. Eric Nelson spends his legal career sucking off the public tit. See the attached **EXHIBIT “G.”** Every 18-B appointment that Eric Nelson touched turns into the O.J. Simpson trial, and Eric Nelson bills the N.Y.C. taxpayers like the drunken ghost of Johnny Cochran. The attached records show that except for in 2018-2019, when he was under investigation for dishonest and billing fraud, Eric Nelson regularly makes between @\$250,000 to @\$350,000 from the N.Y.C. taxpayers.
- Also, Special Prosecutor Nelson threatened to bring additional charges of larceny against Luthmann for failing to return \$50,000 to a client from a real estate transaction. Pursuant to the real estate contract terms, Luthmann could not release the environmental escrow money to the client before February 2018. Luthmann was arrested on December 15, 2017, months earlier, and was thereafter in jail and/or precluded from touching the attorney escrow account. Performance by Luthmann was impossible. There was no criminality. However, the client saw this as an opportunity to go after Luthmann for money and met with Special Prosecutor Nelson, who lapped it up. The money has since been returned to the former client - where

the money should be. But Special Prosecutor Nelson spun this pure bullshit for all it was worth. It is over three (3) years later, and Luthmann hasn't been sued for malpractice because the client knows he still owes Luthmann money. Maybe the Federal Government will go collect Luthmann's former client deadbeats, including Guy Cardinale (owes over \$250,000)⁸ and NYC Councilmember Kamillah Hanks and her *de facto* access agent Kevin Barry Love (who, together with their personal piggy-bank the Hanks Campaign,⁹ owe over \$50,000).

- Moreover, once COVID-19 hit, the McMahons and Special Prosecutor Nelson wanted to use the health crisis in the prisons to see if they could get lucky and kill Luthmann using "institutional homicide." They knew of Luthmann's co-morbidities and health problems but knowingly used this case to preclude Luthmann from petitioning the Federal Court for compassionate relief. Because of the pending "detainer," Luthmann's security level was raised from a "Club Fed" prison camp to LSCI-Allenwood, an institution chock full of violent criminals, CHOMOs, baby rapists, pedophiles, and other scum of the earth.

24. Luthmann should have an opportunity to be heard and explore these issues. It may come out that Luthmann is the one who is really in need of an Order of Protection against the McMahons.

⁸ See, e.g., *United Metal Exports Inc. - v. - Reliance Global Trade Inc. et al*, [152352/2014](#) (N.Y. Cty. Sup. Ct.); *JUTALIA RECYCLING, INC, et al - v. - HANA TRANDING CORP. et al*, [151273/2017](#) (Rich. Cty. Sup. Ct.).

⁹ The Hanks Campaign is like a bad slot machine. It never pays out. In 2017, the Hanks Campaign failed to report or pay attorneys and consultants over \$35,000 in fees earned for tangible work performed - that Luthmann knows about. It's a wonder the NYC Campaign Finance Board hasn't investigated and fined these self-enriching grifters.

25. This request is not irregular or unduly burdensome. Michael E. McMahon has previously given sworn testimony in this case before the Grand Jury. Moreover, Special Prosecutor Nelson has opened the door to calling the McMahons to the stand to establish a factual basis for modifying the existing Order of Protection. Special Prosecutor Nelson has failed to make a *prima facie* case for the relief requested and has failed to submit any affidavits in support of his position from the McMahons. Since an Affidavit cannot be cross-examined, and the McMahons are already in the courthouse, the Court should So Order the attached subpoenas so the Court can get to the bottom of all of this.

26. What would be highly irregular is if the subpoenas are not So Ordered. In any other case where the McMahons were not involved, these subpoenas would be So Ordered. Not allowing Luthmann an opportunity to be heard, establish facts, give evidence, and/or make arguments smacks of an appearance of impropriety that threatens to undermine the Rule of Law in the Staten Island Courts. And there is already the appearance of irregularity because the pending motion papers have not been filed, entered, or uploaded to WebCrims.

27. Additionally, because this year is Judy McMahon's re-election year and next year is Mike McMahon's election year, and they both want to be cross-endorsed and run unopposed, wouldn't they revel and embrace this opportunity to explain to everyone that the apparent allegations of corruption made by Luthmann are simply untrue? And to rebut: **LIBERAL DEMOCRAT MIKE MCMAHON IS SOFT ON CRIME,** and **TAX-HIKE MIKE MCMAHON RAISED MY TAXES** and other concerning allegations of *quid pro quo* in securing the Conservative Party line. See <https://bit.ly/3Lo5ejN> [last visited May 18, 2022].

28. After Luthmann's surgery, Luthmann may even be well enough to travel to New York for the hearing and perform the cross-examination of the McMahons himself if Luthmann can get permission from a Federal Judge to do so. A lot of money could be raised to fight heroin and help crime victims if the Court could sell ring-side seats.¹⁰

SPECIAL PROSECUTOR NELSON SHOULD BE SANCTIONED BECAUSE HE HAS BEEN NOTICED ABOUT HIS DISHONEST STATEMENTS AND ACTIVITY, AND NELSON'S FAILURE TO OPPOSE OR ACT CONFIRMS HIS ATTORNEY DISHONESTY

29. As detailed in the Affidavit in Opposition to the Special District Attorney's motion and the Affidavit in Support of the Cross-Motion (which are relied upon here and incorporated by reference), Special Prosecutor Nelson's motion for an order amending a "Final Order of Protection issued on October 27, 2021, to Michael E. McMahon" is irregular, defective, and dishonest. In addition to what was said in the Opposition paper, Luthmann raises these points:

30. First off, Special Prosecutor Nelson was given notice that the purported Fake Plea and Fake Sentencing took place on October 27, 2020. The docket sheet on WebCrimis attached as **EXHIBIT "A"** even says it. Special Prosecutor Nelson keeps representing the date to the Court as October 27, 2021. Special Prosecutor submitted a sworn Transcript of proceedings on "October 27, 2021," a date that he knows to be false and untrue, making the sworn statement false. Special Prosecutor Nelson should be sanctioned for failing to withdraw his false Affirmations and supporting false Affidavits. This willful and knowing failure to correct falsehoods violates many provisions of the Lawyer's Rules of Professional Conduct:

¹⁰ The Staten Island Advance won't cover this because it is widely whispered that Brian Laline was bought off by the McMahons many years ago. If this is true, he is a disgrace to real newspaper men.

- RPC Rule 3.3 by knowingly making false statements of fact before the Court and/or failing to correct false statements of material fact and law made to the tribunal;
- RPC Rule 3.4 by knowingly using false evidence; and/or participating in the creation of evidence that is obviously false; and/or RPC Rule 3.4 by engaging in conduct contrary to the Rules of Professional Conduct;

31. Special Prosecutor Nelson is either willfully dishonest or utterly sloppy. Both are concerning because he is a Special Prosecutor who has offered evidence to the Grand Jury in this case. How much of that evidence is false? Here, Special Prosecutor Nelson fails to correct false evidence that he created when everyone knows it's false. What did he do inside the SECRET Grand Jury? We know what he did here. He violated:

- RPC Rule 8.4 by engaging in conduct that adversely reflects on the lawyer's honesty, trustworthiness, and/or fitness as a lawyer; and/or by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and/or prejudicial to the administration of justice; and/or engaging in conduct that adversely reflects on the lawyer's fitness as a lawyer;
- RPC Rule 3.8 by engaging in conduct that ignores the special responsibilities and duties of a prosecutor;

32. The Prosecutor's role is special. Dishonest and/or utterly sloppy prosecutors threaten the rule of law and the integrity of the criminal justice system. This Special Prosecutor should be removed.

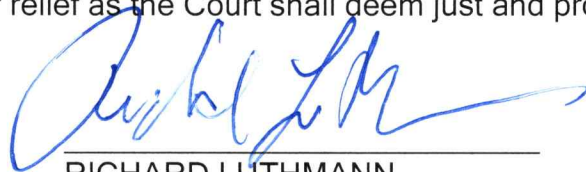
CONCLUSION

33. For the reasons stated above, the Court should grant the relief requested in the Defendant's cross-motion and deny the Special District Attorney's motion.

34. I believe in good faith that I am entitled to the relief that I am seeking.

WHEREFORE, I respectfully ask the Court to dismiss the Special District Attorney's pending motion originally returnable on April 7, 2022, to grant the relief requested in the Defendant's originally cross-motion returnable on April 7, 2022, issuing an Order:

- A. Precluding the Special District Attorney from taking any fees or expenses on this motion;
- B. Precluding the Special District Attorney from billing the City or State of New York or any political, governmental, or administrative subdivision thereof, for the Special District Attorney's fees or expenses on this motion;
- C. Reprimanding and publicly censuring the Special District Attorney;
- D. Disqualifying the Special District Attorney;
- E. Staying the proceedings before the Supreme Court; and
- F. For such other and further relief as the Court shall deem just and proper.



RICHARD LUTHMANN
Defendant

Sworn to before me
this 18th day of May 2022



Notary Public

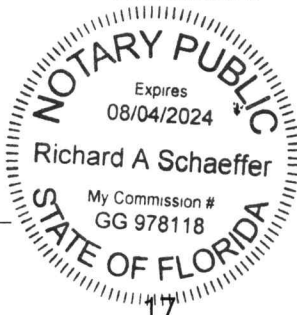


EXHIBIT E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

1:17-CR-00664-RJD-RER

v.

RICHARD LUTHMANN,

Defendant.

-----X

**NOTICE AND DECLARATION IN RESERVATION OF
RIGHTS OF RICHARD LUTHMANN WITH RESPECT TO
EVIDENCE OF UNPRECEDENTED GOVERNMENTAL
AND PROSECUTORIAL MISCONDUCT**

RICHARD LUTHMANN, of sound mind and full age, declares the truth of the following under the penalties of perjury:

1. I am the *Pro Se* Defendant in the above-captioned matter.
2. I am currently under the supervision of the US Probation Office for the Middle District of Florida. Jurisdiction over my *supervision* was transferred to the US District Court for the Middle District of Florida. See United States of America v. Luthmann, 2:22-cr-00021-SPC-NPM-1 (M.D.FL).
3. This Court retains jurisdiction over the Judgment in my case dated October 23, 2019, passed down by the late Judge Weinstein. See ECF # 219.
4. This NOTICE AND DECLARATION is a reservation of my constitutional and statutory rights based on several essential facts showing extraordinary and unprecedented misconduct, the destruction of evidence, and a cover-up by FBI Special Agent Paul Tambrino, Lead Prosecutrix Moria Kim Penza, and others working on behalf of the Government of the United States.

5. These facts include the litigation currently pending in the US District Court for the Eastern District of New York related to the matter of United States v. Raniere, 18-CR-204 (NGG) (VMS), (E.D.N.Y.), and in the US Court of Appeals for the Second Circuit in the matter of United States v. Raniere, No. 20-3520 (2d Cir. 2022). I incorporate those proceedings, particularly the Rule 33 arguments and evidence of shocking Governmental, FBI, and Prosecutorial misconduct by reference:

- a. Dr. J. Richard Kiper: “In my 20 years experience with the FBI, I have never seen data manipulation, evidence tampering anything like this on this scale.
- b. Stacey Eldrich: “I worked in the FBI for about 10 years. It is clear that the photos in this case were planted there.”
- c. Steve Abrams Esq, cyber lawyer: “This is the most serious tampering of evidence that I’ve ever seen.”
- d. Wayne B. Norris expert witness for digital forensics: “It’s inescapable that the FBI proactively created fake evidence.”
- e. Stephen Bunting: Computer Forensics expert. “It was changed while in FBI custody, it was changed, it was modified and was altered.”
- f. William Odom: “In 25 years of digital forensic investigations, five of which was with the FBI, the amount of technical ability and premeditation to perform this fraud in the case against Mr. Raniere – I’ve never seen anything like that.”
- g. Former US Attorney for the Eastern District of Arkansas, Harry Bud Cummins: “This is more than enough to deem this a matter of high priority...

The FBI should immediately get to the bottom of this. The government should not circle the wagons.”

- h. Attorney and Harvard University Law School Professor Alan Dershowitz: “Multiple experts have concluded that government tampering of digital photos is, at the very least, a highly likely conclusion. If true, this represents a level of corruption that is so unprecedented, so high, by whoever may be responsible. The current situation is simply untenable. There must be immediate action. There should swiftly be an evidentiary hearing that will determine the truth. Appropriate relief may include...dismissal of the indictment on the basis of outrageous government misconduct.

6. I was politically railroaded in this case and will get into that more fully in the future. I believe Hillary Clinton, Former Rep. Joe Crowley, Chuck Schumer, Former Rep Michael E. McMahon¹, and others pushed a political contract through the EDNY to “get Luthmann.” At the time, I was the Law Chair of the New York State Reform Party, the

¹ McMahon became Richmond County, New York (Staten Island) District Attorney on January 1, 2016. Luthmann and his co-defendants Padula and Beck, were all legal objectors and/or political operatives working against McMahon’s candidacy, calling attention to a “Lazarus moment,” where dead Democrats apparently “arose” to sign his ballot access petition. I guess voting Democrat is one way to ensure “life after death”:

“What is to be noted is that the signatures of seven dead people appeared on [McMahon’s] petitions. At least five living people have signed sworn affidavits that their signatures appeared on petitions that they didn’t sign.

Rachel Shapiro, STATEN ISLAND ADVANCE (Aug. 06, 2015), available at: https://www.silive.com/opinion/strictly-political/2015/08/call_it_political_fraud_is_a_s.html

now-defunct “Fifth” ballot access line under New York Election Law. I was a driving force in that party, and if I were not “taken out” by the NYS Democrats with an axe to grind, we would have run a celebrity for Governor on the gubernatorial line in 2018 and kept ballot access. My indictment crippled that party, as was intended. I was canceled.

7. I was screwing with the money and patronage of the NYS Democrat and Conservative Parties. I wasn’t a Republican, so the RINOs didn’t protect me. But everyone in NYS politics knew about the Federal Grand Jury, which was supposed to be secret, including NYS Conservative Party Chairman, the very pompous Jerry Kassar. See the attached **EXHIBIT “A.”** It is concerning that Federal Grand Jury chambers have such “leaky deals.” Maybe the Republican Congress can get to the bottom of this.

8. I got taken out, in part, for filing a dirty trick of a “Pre-Election Surprise” case against Hillary Clinton. A week before the November 8, 2016, election, I claimed (truthfully) “Bill Clinton is a rapist” because I defended my client’s right to free speech. See the attached **EXHIBIT “B.”** Bill and Hillary didn’t like it. But if my activities swayed even a few meaningful votes to keep those killers out of the Oval, I consider the four years I spent in the deep state gulag well worth it. Given a choice and knowing the consequences, I would do it again. I will not shy away from the front lines in defense of liberty.

9. I was referred that case by Roger Stone, a Great American and an expert on Government Fuckery himself. No less prestigious an outlet than New York Magazine reported all about it. See the attached **EXHIBIT “C.”**

10. I was prosecuted for felony “First Amendment Crimes” and “Election Law Violations” involving satire and free speech. Proceedings are also pending in New York

State Supreme Court *People v. Luthmann*, 2022 N.Y. Slip Op. 67767, (N.Y. App. Div. 2022); *People v. Luthmann*, Index No. 379/2018, (N.Y. Sup. Ct. Rich. Cty.).²

11. Left-wing outlet VICE Magazine covered my Indictment. Upon information and belief, the story was fed to them by the Prosecutrix, which is part of her *modus operandi*. **See EXHIBIT “D.”** The report contained all of her bogus talking points, including “Better Call Saul” and allegations of “mafia involvement,” an “Abbot and Costello routine,” which was eventually laughed out of Court by the late Judge Jack B. Weinstein. See the attached **EXHIBIT “E.”**

12. Innocent defendants plead guilty all the time. I am one of them. I had a ravenous, career-advancement-hungry Prosecutrix, whom I believe cheated and violated the US Constitution to secure my conviction. She held all the cards and was looking to put me away for life when I always knew I did nothing wrong. See USDJ Jed S. Rakoff, *Why the Innocent Plead Guilty and the Guilty Go Free: And Other Paradoxes of Our Broken Legal System* (February 16, 2021).

13. Another basis is reviewing the partial file returned by my attorneys, Arthur Aidala and Mario Romano. I am still waiting for the remainder of my file. I first asked in

² In that case, at an August 1, 2018, grand jury proceeding, sitting New York State Supreme Court Justice Ronald Castorina, Jr. committed perjury, suborned by Special Richmond County District Attorney Eric Nelson. Nelson also committed the felony of Unauthorized Practice of Law by knowingly engaging disbarred attorney and federal felon Perry Reich to help illegally circumvent Nelson’s duties as legal advisor to the grand jury. A complaint has been filed with the Public Integrity Unit of New York Attorney General Letitia James’ Office Submission # 1-419121442. The political nature of this criminal misconduct is unprecedented. The perjury of an NYS Supreme Court Justice and the commission of multiple felonies by a Special Prosecutor to secure a felony conviction could only have been the result of massive political pressure. I also reserve my rights to allow these proceedings to run their course because they may also produce evidence of misconduct, improper coordination with Federal Authorities, political contracts, or other issues that may be squarely relevant here.

mid-2021. Romano had a stroke. I just received a partial copy a few days ago, but some vital items are missing and still need to be transmitted. See the attached **EXHIBIT “F.”**

14. My partial review shows what I believe to be FBI Misconduct by Special Agent Paul Tambrino and others. Tambrino filed an FBI CHS Reporting Document on February 7, 2018. The report concerned a meeting with the Government’s Star Witness, Guy G. Cardinale, a five-time felony and alleged pedophile. See the attached **EXHIBIT “G.”**

15. Every other time I met with Cardinale in 2017, the Government had him “wired up” to obtain evidence on their behalf. This time, the Government’s pretext for not having Cardinale “wired up” was that there was a court proceeding that day. I never even made it into the courtroom or the court building. I met with Cardinale in the parking lot, conversed, and got into his car. Once I got into the car, my conversation with Cardinale made the case that the Government was politically contracted to devise against my co-defendants and me nearly impossible to prosecute. I confronted Cardinale about being a pedophile. We discussed an instance where he asked for my help to fix a situation involving an underage child. I refused to help him with his sick and criminal endeavors there. Why would I help him with other illegal activity? I also confirmed that my co-defendant, George Padula, III, was not a “mobster.” I believe I said Padula was “connected to a fork.”

16. These facts didn’t stop the Prosecutrix. Her express train to career advancement would not be derailed. These false facts and others were knowingly included in the Indictment until they were laughed out of this Court by the late Judge Weinstein, as described above.

17. I believe that Cardinale was wired up by the FBI that day, but they destroyed the evidence when they heard how devastating the 7-31-2017 conversation was. I think the Prosecutrix knew all about it. I believe the Prosecutrix knowingly presented false evidence to the Grand Jury to obtain the Indictment in this matter. The Prosecutrix further proffered false evidence to the Court in my Pretrial Detention Memorandum and throughout these proceedings. Thankfully, for the US Constitution, that woman is no longer employed as a prosecutor. All you need to know is that in one of her first cases in private practice at a Democrat Party Law Firm, the Prosecutrix sued Donald Trump. See the attached **EXHIBIT “H.”**

18. But the Prosecutrix and FBI Special Agent Paul Tambrino submitted the bogus 2-7-2018 FBI Report once they “legally” eavesdropped on my attorney-client communications and emails while I was warehoused in the Brooklyn Metropolitan Detention Center from December 15, 2017, onward.

19. In December 2017 and January 2018, I implored Attorneys Aidala and Romano that there was FBI misconduct. At the very least, the FBI was missing the recording from 7-31-2017 when I knew I had met Cardinale.³ Where was it?

20. I believe that the FBI, in conjunction with the Prosecutrix, engaged in the destruction of evidence. And further, the bad actors were alerted to the existence of the 7-31-2017 Luthmann recording through the collection of evidence violating the Sixth Amendment right to counsel.

³ Cardinale has never testified under oath in this case and has never been questioned about whether he made a recording on 7-31-2017, or the circumstances around why Special Agent Paul Tambrino magically instructed him not to make a recording on that day when every other meeting in 2017 was “wired up.”

21. My ability to meaningfully confer with my attorneys while in the Federal Bureau of Prisons (BOP) custody was nil. I could not speak freely with Romano or Aidala at the Brooklyn Metropolitan Detention Center (MDC-Brooklyn). The BOP monitors and saves all telephonic and e-mail conversations and provides copies to the US Attorneys. I was effectively denied any meaningful ability to confer with and understand counsel because no attorney-client privilege exists. Plus, I believe the Feds bug the attorney meeting rooms.

22. I was hamstrung from freely expressing myself and intelligently questioning and understanding my legal rights and their ramifications. See the attached **EXHIBIT "I."**

23. BOP TRULINCS e-mails do not qualify for the protection of attorney-client privilege. United States v. Mejia, 655 F.3d 126, 133-35 (2d Cir. 2011) (finding that inmate waived attorney-client privilege because the BOP recorded his phone conversation).

24. In the ten-plus (10+) years since Mejia, the BOP has not improved - all phone calls and electronic communication to attorneys are still not privileged and are recorded and monitored by law enforcement. United States v Asaro, 2014 US Dist LEXIS 97396, at *4 [EDNY July 15, 2014, No. 14-Cr-26 (ARR) ("Certainly, it would be a welcome development for BOP to improve TRULINCS so that attorney-client communications could be easily separated from other e-mails and subject to protection.")

25. There is also a Due Process concern because the communication intercepts tipped off the Government and the Prosecutrix that there was a gaping gap surrounding the 7-31-2017 conversation that Luthmann was prepared to drive through to an acquittal. These intercepts were obtained in violation of the Fifth, Sixth, and Ninth Amendments to the United States Constitution. The attorney-client privilege is a common

law right originally reserved to the people at the time of the ratification of the 1791 Amendments in the Bill of Rights. The attorney-client privilege is not merely an evidentiary rule for what the Government may offer before the tribunal. The Court severely punished me for mouthing this constitutional challenge (and invoking then-President Trump) in April 2018. My bail was revoked, and I was remanded, never to see the light of day for several years. See the attached **EXHIBIT “J.”**⁴ (The Government has recently demonstrated that it has little respect for the Attorney-Client Privilege...These are “dangerous” days for lawyer-client relations, according to no less of an authority than Alan Dershowitz, Professor *Emeritus* of Harvard Law School. (<https://bit.ly/2HWY6OH>). And according to President Donald Trump, the United States Chief Law Enforcement Officer: “Attorney-client privilege is dead!” (<https://bit.ly/2KkUIRE>)).

26. If the crime was destroying Cardinale’s copy of the 7-31-2017 conversation, the cover-up and further crime are the bogus 2-7-2018 FBI Report.

27. My attorneys, Aidala and Romano, have copies of the 7-31-2017 conversation in their possession. I am still waiting for these copies. I am patient because Attorney Romano recently suffered a stroke. I also have to wait for other legal proceedings to resolve before I can properly make a presentation before this Court.

28. I also fear that, because of my statements here in the reservation of my rights, the Stasi/Deep State/FBI will retaliate against me for the temerity of even speaking of an appeal to the US Constitution for the rights assured to me by the constitutional republic.

⁴ In retrospect, the letter wasn’t the greatest idea. But I’m right.

**PLEA AGREEMENTS BASED UPON UNPRECEDENTED
AND SERIOUS GOVERNMENTAL AND
PROSECUTORIAL MISCONDUCT**

29. A guilty plea is constitutionally valid only to the extent that it is "voluntary" and "intelligent." Brady v. United States, 397 U.S. 742, 748, 25 L. Ed. 2d 747, 90 S. Ct. 1463 (1970). We have long held that a plea does not qualify as intelligent unless a criminal defendant first receives "real notice of the true nature of the charge against him, the first and most universally recognized requirement of due process." Smith v. O'Grady, 312 U.S. 329, 334, 85 L. Ed. 859, 61 S. Ct. 572 (1941).

30. A plea of guilty entered by one fully aware of the direct consequences of the plea is voluntary in a constitutional sense "unless induced by threats (or promises to discontinue improper harassment), misrepresentation (including unfulfilled or unfulfillable promises), or perhaps by promises that are by their nature improper as having no proper relationship to the prosecutor's business (e. g. bribes)." Brady at 755.

31. The Brady rule reinforces the distinct legal and ethical obligations of the Government:

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

Berger v. United States, 295 U.S. 78, 88, 55 S. Ct. 629, 79 L. Ed. 1314 (1935); see also Strickler v. Greene, 527 U.S. 263, 281, 119 S. Ct. 1936, 1948 (1999) (discussing how Brady illustrates "special role played by the American prosecutor"); United States v. Rodriguez, 496 F.3d 221, 225 (2d Cir. 2007)(same). These obligations prevent the Government from exploiting its position to obtain an unfair advantage. United States v. Mahaffy, 693 F.3d 113, 134 (2d Cir. 2012) ("Brady violations obscure a trial's truth-seeking function and, in so doing, place criminal defendants at an unfair disadvantage. When the Government impermissibly withholds Brady material, 'its case is much stronger, and the defense case much weaker, than the full facts would suggest.'") (quoting Kyles v. Whitley, 514 U.S. 419, 429, 115 S. Ct. 1555, 131 L. Ed. 2d 490 (1995)) (internal alterations omitted).

32. The instant circumstances are apparent exceptions to the general rule that a guilty plea generally extinguishes claims of any "antecedent constitutional violation." United States v. Bruce, 488 U.S. 563, 569, 109 S.Ct. 757, 102 L.Ed.2d 927 (1989); Tollett v. Henderson, 411 U.S. 258, 93 S.Ct 1602, 36 L.Ed.2d 235 (1973).

33. Recent applications of this principle include United States v. Fisher, 711 F.3d 460 (4th Cir. 2013), and Ferrara v. United States, 456 F.3d 278 (1st Cir. 2006). Both Fisher and Ferrera involved egregious governmental conduct.

34. In Fisher, a DEA Agent lied about the source of information used to obtain a warrant as part of a larger pattern of self-enriching criminal activity. 711 F.3d at 463.

35. In Ferrera, members of the prosecution knowingly withheld and then manipulated evidence that the defendant had not ordered a murder he pled guilty to committing. 456 F.3d at 281-86.

36. If the Raniere claims are correct and the lead Prosecutrix was aware of FBI creation, fabrication, tampering, and destruction of evidence, the Government would bear the burden of proof as to why the Plea Agreement and the Indictment should not be subject to complete and total *vacatur* with prejudice. The presumption of regularity that attaches to each and every one of her prosecutions (including mine) is lost.

37. Did the FBI engage in misconduct in my case? I believe so. And the Prosecutrix knew all about it and encouraged it for her personal career advancement motives.

38. In the Second Circuit, the Prosecutrix's constructive knowledge extends to those individuals who are "an arm of the prosecutor" or part of the "prosecution team." United States v. Gil, 297 F.3d 93, 106 (2d Cir. 2002); United States v. Morell, 524 F.2d 550, 555 (2d Cir. 1975); United States v. Bin Laden, 397 F. Supp. 2d 465, 481 (S.D.N.Y. 2005). Whether someone is part of the prosecution team depends on the level of interaction between the prosecutor and the agency or individual. See United States v. Locascio, 6 F.3d 924, 949 (2d Cir. 1993); Pina v Henderson, 752 F.2d 47, 49 (2d Cir. 1985) (holding that a prosecutor's constructive knowledge did not extend to a parole officer who "did not work in conjunction with either the police or the prosecutor" but did extend to a police officer who was the investigating officer on the case); Morell, 524 F.2d 550, 555 (2d Cir. 1975); Bin Laden, 397 F. Supp. 2d at 481. Thus, investigating case agents are part of the prosecution team. Bin Laden, 397 F. Supp. 2d at 481.

39. FBI Special Agent Paul Tambrino was clearly part of the Prosecutrix's team.

40. I also wish the Court to take notice of ECF # 239. My co-defendant, George Padula, III, has previously brought to the Court's attention allegations of the Prosecutrix's misconduct before the Grand jury that rise to the level of violations of the Fifth Amendment's Grand Jury Clause. I believe that the Indictment against me is fatally flawed by the Government and the Prosecutrix's misconduct, which activity may be criminal and is subject to *vacatur* with prejudice.

ACTUAL INNOCENCE

41. I am actually innocent of all the charges against me. The entire indictment was a political contract and "hit-job," instituted by a bent Acting US Attorney seeking to curry political favor for her soft landing into private practice and pressed forward by career-advancement-hungry Prosecutrix, whom I believe cheated and violated the US Constitution to secure my conviction.

42. The Plea Colloquy also establishes my actual innocence of the Government's charges. Once the *Raniero* proceedings have run their course, I intend to file a comprehensive motion. But in short, at the Plea Colloquy and again at Sentencing, the Court accepted an insufficient factual allocution to justify the crimes pleaded to. Concerning the wire fraud, I stated that I *represented clients who had committed fraud*. I never said I was part of the fraud or made any criminal agreement.

43. Moreover, the Plea Colloquy does contain a sufficient allocution to the extortionate credit conspiracy. The Magistrate Judge was even unsure from his statements from the bench.

44. I reserve the right to address all the issues raised herein upon the resolution of critical issues by the courts.

Conclusion

45. For the reasons stated *supra.*, the Court should respect this NOTICE AND DECLARATION, reserving my rights. The Court should consider this pleading when an appropriate motion is filed for the Court's consideration once the outstanding matters described above have been resolved.

Dated: Naples, Florida
January 18, 2023

Respectfully submitted,


Richard Luthmann*

*Signed under penalties of perjury contained in Title 18 of the United States Code.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

1:17-CR-00664-RJD-RER

v.

RICHARD LUTHMANN,

Defendant.

-----X

CERTIFICATION OF SERVICE

RICHARD LUTHMANN, of full age and sound mind, declares as follows under the penalties of perjury contained in the US Code:

1. I am the Defendant in the above-captioned matter.
2. I served the following parties with a copy of the enclosed NOTICE AND DECLARATION IN RESERVATION OF RIGHTS OF RICHARD LUTHMANN WITH RESPECT TO EVIDENCE OF UNPRECEDENTED GOVERNMENTAL AND PROSECUTORIAL MISCONDUCT, by mailing the papers to the person at the address designated by them for that purpose by depositing the same in a first-class, postpaid, properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States Postal Service, the addressees as indicated below:

United States Attorney for the
Eastern District of New York
271 Cadman Plaza East
Brooklyn NY 11201

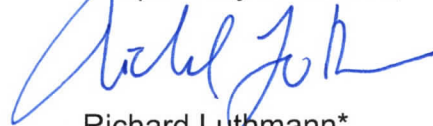
Mario Romano, Esq.
8118 13th Avenue
Brooklyn, NY 11228

Arthur Aidala, Esq.
546 5th Avenue, 6th Floor
New York, NY 10036

Honorable General Letitia James
Attorney General of the State of New York
Office of the Attorney General
The Capitol
Albany, NY 12224-0341
RE: NYAG Submission #1-419121442

Dated: Naples, Florida
January 18, 2023

Respectfully submitted,



Richard Luthmann*

*Signed under penalties of perjury contained in Title 18 of the United States Code.

EXHIBIT F

RICHARD A. LUTHMANN
REG. NO.: 90564-053
LOW SECURITY CORRECTIONAL INSTITUTION - ALLENWOOD
P.O. BOX 1000
WHITE DEER, PA 17887

JULY 20, 2020

FRANK DONNELLY, REPORTER
STATEN ISLAND ADVANCE
950 FINGERBOARD ROAD
STATEN ISLAND, NY 10305

RE: Attempted Institutional Homicide
Michael McMahon and Eric Nelson

Dear Frank:

I know that I am not well-liked, but that is no excuse to give me the death penalty.

District Attorney Michael McMahon and Special Prosecutor Eric Nelson have seen fit to have the pending New York State case languish for months since the COVID-19 virus hit the country. One result of the pending and open state charges against me is the filing of a "detainer". Such detainer precludes me from any meaningful chance of petitioning the Federal District Court in the Eastern District of New York for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A), as recently amended by the First Step Act.

①

Section 3582(c)(1)(A) compassionate release has been a vehicle by which the federal courts have been granting compassionate release to individuals who are highly susceptible to health complications and/or death if they were to contract the COVID-19 virus. In United States v. Asaro, the court in the Eastern District of New York (Brooklyn Federal Court) recently released Bonanno Family associate, Vincent Asaro, a life-long mafia member who caused a car to be fire-bombed in Howard Beach, because of his susceptibility to complications from COVID-19. I also have serious medical conditions including diabetes, severe obesity (BMI above 40), sleep apnea, and other health problems. However, due to the lodged detainer, I am effectively unable to petition the Brooklyn Federal Court for relief.

I believe that Special Prosecutor Eric Nelson has sat on his hands for months in the hopes that the COVID-19 hits my current facility and that I contract the disease and die - at the behest of sitting District Attorney Michael McMahon. McMahon wants me to pay for what he has termed a "reign of terror" that I unleashed upon him and his wife. But I shouldn't pay with my life. This an abuse of his office and is criminal. It is attempted institutional homicide and Special Prosecutor Eric Nelson is his accomplice.

Now, in a Faustian twist, Special Prosecutor Nelson has attempted to thwart my attempt to get the detainer lifted by filing under the Interstate Agreement on Detaining Act. (IADA). The IADA is federal law that would cause the pending state case against me to be dismissed unless I am brought to trial on Staten Island by September 7, 2020. (2)

That date is 180 days after the Richmond County District Attorney's Office receive the notice that I filed in March under the IADA. See the attached letter from my current facility - LSCI-Allenwood - giving McMahon notice of the IADA and the dismissal of the charges against me if I do not get brought to trial by September 7, 2020.

The faustian twist is that now, the Special Prosecutor, Eric Nelson, has threatened that if I do not sign a waiver relinquishing my IADA rights, he will cause me to be moved to Rikers Island, where I will almost definitely contract the COVID-19 and where I am at certainly high risk of death. Nelson has drafted a plea agreement that I could take by way of SKYPE without leaving my current facility, a plea that magically materialized once the possibility that the pending charges could be dismissed by the IADA was realized. But I cannot take that plea, according to Special Prosecutor Nelson, unless I first waive my rights under the IADA, thus removing any check on Nelson, and ultimately McMahon's ability to hold me until I catch the COVID-19, languish and ultimately die.

McMahon and Nelson think they are above the law and can commit institutional homicide against me. And if things don't go the right way for me with the COVID-19, they may just get away with it.

Regards
Richard A. Luthmann

RICHARD A. LUTHMANN

(3)



U.S. Department of Justice

Federal Bureau of Prisons

Federal Correctional Complex, Allenwood

*Low Security Correctional Institution
P.O. Box 1500
White Deer, PA 17887*

June 09, 2020

Richmond County
Attn: Michael E. McMahon
District Attorney
130 Stuyvesant Place
Staten Island, NY 10301

RE: Luthmann, Richard
Federal Register No.: 90564-053
Your: Docket # 379/2018

Dear Mr. McMahon,

The above named subject applied for final disposition of pending charges pursuant to the Interstate Agreement on Detainers Act (IADA) which application was received in your office on 03-10-2020. As you are aware, under Article III of the IADA, Inmate Luthmann, Richard, is to be brought to trial on these charges within 180 days from the date the forms were received in your office as noted on the certified mail receipt. It appears that Inmate Luthmann, Richard, has not been brought to trial on the charges specified in your detainer and the 180-day period will lapse on 09-07-2020.

I would appreciate hearing from you at your earliest convenience as to your state's intentions in this case. Further arrangements may be made by contacting me at 570-547-1990, ext. 4350.

Sincerely,

/S/

Don Wasilko

Correctional Systems Supervisor

EXHIBIT G

Appointment of Incompetent Special Prosecutor for Luthmann By Design

© February 2, 2023



Frank Report is investigating the prosecution of Richard Luthmann in New York State in 2018 for criminal impersonation.

His crime, it appears, was that he took to Facebook and created pages in several politicians' names, then lampooned them.

One of the targets of his lampooning was a candidate for District Attorney of Richmond County, Michael McMahon.

He happened to get elected, and his memory was good. Once he was elected, he wanted Luthmann, but could not go after the man who ridiculed him directly. He needed a special prosecutor.

Usually, when a special prosecutor is appointed, it is another DA, an elected prosecutor from a nearby county. But not in Luthmann's case. They needed someone especially dumb, dumber than the dumbest



The special prosecutor had to be a man completely without morals, a total sycophant, entirely without honor, willing to sell out anybody, or anything, including the US Constitution and its First Amendment, a man entirely on the teat of government.

Someone no one would elect to anything.

The man they chose was Eric Nelson, a family law and defense attorney who hung around the fringes. He is so obscure that you might hunt the internet for one photograph of this attorney who has practiced for years, and there is no photo of Eric Nelson.

If anyone has one, please send one. Thank you.



Eric Nelson has a three-page website. Well, actually, two pages. The [home page is blank](#).

Although there is an obscure reference to Sarah + Mitch, whoever they are.

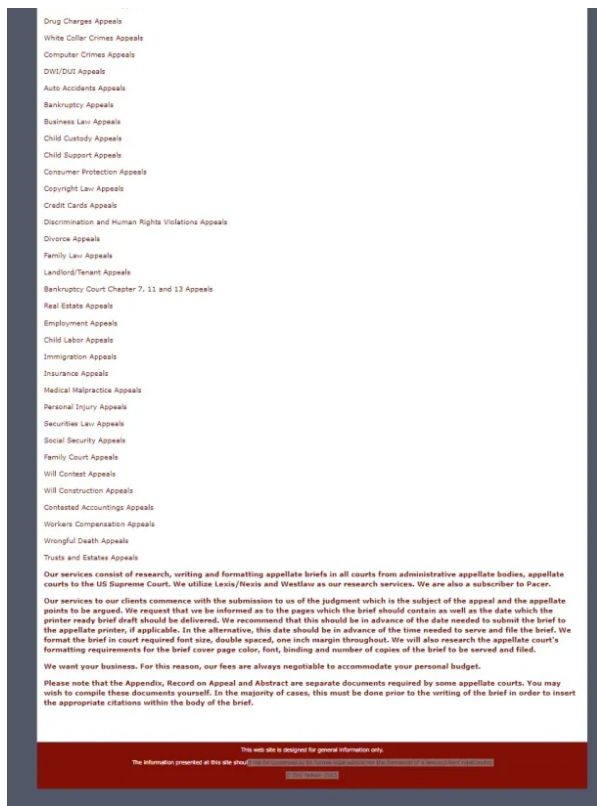


The website seems to have been designed when the internet was new. No photos. No quotes from satisfied clients. No cases he handled successfully and won.

The second page is a [link to "The Firm."](#) No pictures. No bios listing experiences. No names even.

It does list all the types of legal work "The Firm" does, which consists solely of writing briefs for all kinds of "appeals."

Our services consist of research, writing and formatting appellate briefs in all courts from administrative appellate bodies, appellate courts to the US Supreme Court.



At the bottom, it says how eager and needy the “Firm” is.

We want your business. For this reason, our fees are always negotiable to accommodate your personal budget.

I do not think I have ever seen an attorney advertise to clients upfront that they will take a discount on their fees.

The Firm’s value is whatever the budget of the client says it is.

He even wrote, “We utilize Lexis/Nexis and Westlaw as our research services. We are also a subscriber to Pacer.”

He has to tell prospective clients he has a Pacer account, which anyone in the world can have.

The contact page



This guy, Nelson, needed work.

And DA McMahon needed a useful idiot.

And so this was the man appointed to prosecute Luthmann. The Special District Attorney for Richmond County.

[First, they tried a real attorney, Thomas Tormey, but he turned it down. There is a First Amendment.]

Then they went to the lowest level attorney they could find.

Nelson.

And they put him in charge of prosecuting a case that was just plain McMahon's vendetta. Prosecuting a man for "bad speech," but protected speech, but bad, bad-to-Mike McMahon-speech.

A crime in Richmond County.



District Attorney Michael McMahon and his wife, State Supreme Court Justice Judith McMahon.

They took a ne'er-do-well, hapless attorney who had to tell clients he had a subscription to Pacer and was for sale at any discount price, a man not known to have ever prosecuted anyone at any time, a man entirely unqualified and made him Special District Attorney for Richmond County,

But don't worry, good people of Richmond, they gave him only one case – Luthmann.

It worked out well. Nelson indicted Luthmann, which we will get into later.



negotiate the truth. But his money troubles were over.

I submit that the selection of Eric Nelson as Special Prosecutor tells us as much about the corrupt nature of this false and possibly criminal conspiracy called the People of the State of New York versus Richard Luthmann as anything.

But Nelson is one of many actors whose conduct we will explore.

FR called Eric Nelson for comment. As of press time, he has not responded.

Stay tuned. We've only just begun.



Frank Parlato

About the author



Frank Parlato

Please leave a comment: Your opinion is important to us! (Email & username are optional)

Enter your comment here...

Luthmann Files Motion to Have Fake Facebook Page Conviction Vacated, Have Castorina and Nelson Referred for Disbarment/Indicted for Perjury - Frank Report

EDIT



Eric Nelson as special prosecutor, to lead a grand jury into issuing an indictment against Luthmann. The [...]

REPLY

NY1 - Castorina - Frank Report

EDIT

February 7, 2023 at 3:13 pm

[...] Special Prosecutor Nelson, who had the Facebook messages, allowed this false testimony. Nelson was incompetent by design. [...]

REPLY



Cannonball Run!

EDIT

February 6, 2023 at 1:31 pm

Powerful Controversial! Pivotal!

The evidence is irrefutable!

The website screen shots are solid evidence. It's incredible the important and incriminating intel which can be mined, from a webpage. The prosecutor is corrupt his wife looks like Nancy Pelosi!

Only a scholarly, QAnon analyst is capable of such a feat or an attorney running around in medieval cosplay demanding a tankard of mead and trial by combat.

<https://images.app.goo.gl/FeZiuR1sa66GHuuq6>

REPLY



Anonymous

EDIT

February 6, 2023 at 1:16 pm

Prosecutor misconduct!

Who coated worthless scrap with copper, was it done by the elves, aliens, Jews or CIA black ops?

Own what you did boy!

REPLY



Didn't do it. My clients did it and I didn't know. Read the plea transcripts. This was a psy-op from the beginning.

[REPLY](#)



Anonymous

February 3, 2023 at 9:08 pm

[EDIT](#)

Luthmann deserved the very best prosecutor. It's an insult that they gave him this clown.

[REPLY](#)



Clifton Parker

February 3, 2023 at 6:06 pm

[EDIT](#)

I don't understand why you are seeking information under 18-B — isn't that for the assigned counsel program? Isn't the ACP for criminal cases? And isn't the ACP used for people would can't afford an attorney (indigent) and the judge assigns a lawyer from a panel of attorneys to represent that indigent person? If Nelson was appointed as a special prosecutor, wouldn't the County be responsible for any payment to him? I am just trying to understand the FOIL request.

Also, that website has not been updated since 2015 (see seen at the very bottom).

[REPLY](#)



Touchdown

February 3, 2023 at 5:36 pm

[EDIT](#)

If he got the Da's enemy it was worth \$700k besides the Da doesn't pay that directly you dummies

[REPLY](#)



Touchdown

February 3, 2023 at 5:35 pm

[EDIT](#)

I have an appeal on my credit card and other attorneys are super expensive. I think Nelson offers a service that is good and I can afford it it is good.



Touch down

EDIT

February 3, 2023 at 5:15 pm

You don't need a good prosecutor to indict. The grand jury is in charge of indictment. They are an independent body that decided the indictment

REPLY



Contact Page

EDIT

February 3, 2023 at 11:01 am

Who the fuck uses a Fax machine these days? They went out with the Arc..

REPLY



Jennifer T

EDIT

February 3, 2023 at 1:07 am

Looking forward to more on this story – great post.

REPLY



Nutjob

EDIT

February 3, 2023 at 12:03 pm

Agree. This is fucked up.

REPLY



Stevenj

EDIT

February 3, 2023 at 1:00 am

“His crime, it appears, was that he took to Facebook and created pages in several politicians’ names, then lampooned them.”

That's identity fraud, isn't it? Especially troubling in this case because it involves an election. Elections are important. Democracy is important. Richard got what he deserved. This whining about



Richard Luthmann

EDIT

February 3, 2023 at 11:14 am

Public personas of political people belong to the public. They can't be stolen, as a matter of fact and law. My charges were akin to "stealing" water from a public drinking fountain.

What I did was satire, and First Amendment protected political expression. The Manhattan DA doesn't take people away off the stage at 30 Rock when they do a political skit on SNL. The Staten Island DA evidently does when it's about him and his cronies. And they will commit felonies to get an indictment.

Additionally, I didn't do anything the US Government didn't do first and hasn't stopped doing.

[Revealed: US spy operation that manipulates social mediaMilitary's 'sock puppet' software creates fake online identities to spread pro-American propaganda](#)

REPLY



Skeptic

EDIT

February 3, 2023 at 12:12 pm

"The Manhattan DA doesn't take people away off the stage at 30 Rock when they do a political skit on SNL."

Oh okay, so I can go out and impersonate a law officer and just claim it was satire since a comedian once dressed as a cop on SNL?

IMO, you screwed up by impersonating a public servant. And are you denying that you did it to manipulate the results of an election? Sorry, but that is shady and unethical as hell.

REPLY



Stevenj

EDIT

February 3, 2023 at 4:45 pm

Exactly!

REPLY



Anonymous

February 3, 2023 at 4:58 pm

Correct. Doing an impression is different than impersonating.

Especially on a TV show that has a decades old track record as a sketch comedy show and is transparent.

SNL is not a good comparison here

REPLY



Anonymous

February 8, 2023 at 9:50 am

EDIT

Winner winner chicken dinner!!🔔🔔🔔

REPLY



Richard Luthmann

February 13, 2023 at 4:16 am

EDIT

“Sorry, but that is shady and unethical as hell.” – But not illegal. The law protects plenty of “shady” and “unethical” shit. Look at a billionaire’s tax returns.

If the case stands, New York State has declared me the greatest election manipulator in the history of elections and manipulation. I might not want to give that one up.

REPLY

EXHIBIT R



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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STAFF ATTORNEYS
ALAN W. FRIEDBERG
SPECIAL COUNSEL

CONFIDENTIAL

February 16, 2023

Via Email: luthmannrichard@gmail.com

Richard Luthmann
338 Sugar Pine Lane
Naples, Florida 34108

Re: File Nos. 2023/N-0063

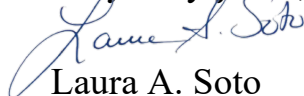
Dear Mr. Luthman:

This is to acknowledge receipt by the State Commission on Judicial Conduct of your complaint dated January 25, 2023.

Your complaint will be presented to the Commission, which will decide whether or not to inquire into it. We will contact you after the Commission has reviewed the matter.

For your information, we have enclosed some background material about the Commission, its jurisdiction and its limitations.

Very truly yours,


Laura A. Soto

Executive Assistant to the Deputy Administrator

Encl.

State of New York



Commission

on

Judicial Conduct

www.cjc.ny.gov
cjc@cjc.ny.gov

The Commission's Authority and Jurisdiction

The New York State Commission on Judicial Conduct receives and reviews written complaints of misconduct against judges of the state unified court system, which includes State, County, Municipal, Town and Village Courts.

Upon review of a complaint, the Commission decides whether to investigate or dismiss it.

The types of complaints that may be investigated by the Commission include improper demeanor, conflicts of interest, intoxication, bias, prejudice, favoritism, corruption, prohibited business or political activity, serious financial and records mismanagement and other misconduct on or off the bench. Physical or mental disability may also be investigated.

The Commission is a disciplinary agency, not an appellate court. It has no authority to reverse a lower court ruling or decision, order a new trial, raise or reduce the amount of bail or change the sentence imposed upon a defendant. The Commission does not issue advisory opinions, give legal advice to complainants or represent litigants.

Disciplinary Action

Investigation of a complaint may entail such measures as interviewing witnesses, analyzing documents and getting the judge's response to the allegations. If a complaint is investigated and the allegations are not substantiated, the Commission will dismiss the complaint. If the allegations appear to have merit, the Commission may direct that formal charges be served against the judge and a formal hearing be held.

After a formal hearing, the Commission may dismiss the complaint or caution the judge

privately about the matter. The Commission may also determine that the judge should be publicly admonished or censured, removed from office or, in a case of disability, retired. Determinations to admonish, censure, remove or retire a judge are subject to review by the Court of Appeals, New York State's highest court.

Confidentiality

Commission proceedings are, by law, confidential. A matter becomes public only if the Commission has determined that the judge should be admonished, censured, removed or retired, or if the judge has waived confidentiality.

In the course of an investigation, the judge may be given a copy of the complaint and be asked questions about it. If the Commission directs that the matter proceed to a hearing, both the judge and the complainant, as well as other witnesses, may be required to testify.

The Commission is required to notify the complainant of the disposition of the complaint.

Jurisdiction

The Commission's jurisdiction is limited to judges. Complaints against other court personnel or lawyers are not investigated. Among others, the Commission **does not** have jurisdiction over the following:

- New York City Housing Court Judges
- Support Magistrates
- Attorneys or District Attorneys
- Administrative Law Judges (ALJ)
- Federal Judges
- Court Attorney/Referees
- Judicial Hearing Officers (JHO)
- Former or retired judges

Additional Resources

When appropriate, the Commission refers complaints to other agencies. Please see the following columns for referral information for judges and others over whom the Commission lacks jurisdiction.

NYC Housing Court Judges

Deputy Chief Administrative Judge
New York City Civil Court
111 Centre Street
New York, New York 10013

Support Magistrates

NYC (New York, Kings, Bronx, Queens and Richmond Counties)
Administrative Judge
New York City Family Court
60 Lafayette Street
New York, New York 10013

Outside of NYC

Deputy Chief Administrative Judge
Office of Court Administration
4 Empire State Plaza, Suite 2001
Albany, New York 12223

Attorneys/District Attorneys

Complaints against attorneys may be made to the appropriate Attorney Disciplinary/Grievance Committee. The office you need to contact depends upon the location of your lawyer's office. For more information please visit:
<http://www.nycourts.gov/attorneys/grievance/complaints.shtml>.

Administrative Law Judges (ALJ)

ALJs preside over administrative hearings and work for individual agencies which have oversight procedures. Please contact the agency in which your case took place for referral information.

Federal Judges

Each judicial circuit provides rules explaining how and where to file a complaint. For more information please visit

<http://www.uscourts.gov/judges-judgeships/judicial-conduct-disability>

Judges in Other States:

<http://cjc.ny.gov/Related.Groups/other-states.htm>

Court Attorney/Referees

NYC – Family Courts

Deputy Chief Administrative Judge
New York City Family Court
60 Lafayette Street
New York, New York 10013

NYC – All other courts

Deputy Chief Administrative Judge
New York City Civil Court
111 Centre Street
Room 1240
New York, New York 10013

Outside of NYC

Deputy Chief Administrative Judge
Office of Court Administration
4 Empire State Plaza, Suite 2001
Albany, New York 12223

Judicial Hearing Officers (JHO)

NYC

Deputy Chief Administrative Judge for
New York City Courts
111 Centre Street
New York, New York 10013

Outside of NYC

Deputy Chief Administrative Judge
Office of Court Administration
4 Empire State Plaza, Suite 2001
Albany, New York 12223

Commission of Corrections

Facilities within NYC

Executive Director
51 Chambers Street, Room 923
New York, New York 10007

Facilities outside of NYC

Complaint Officer
A.E. Smith State Office Building
80 South Swan Street, 12th Floor
Albany, New York 12210

Traffic and Parking Violations Bureau

Information about Traffic Violations Bureau convictions: <https://dmv.ny.gov/tickets/appeal-tvb-ticket-conviction>

FAQs

Q. Does the Commission have a complaint form that I must use?

A. A signed letter, email, or fax detailing the allegations of misconduct and naming the judge is sufficient. However, we do have a complaint form, which is available on our website.

Q. Will the judge know that I submitted a complaint?

A. Perhaps. If the Commission decides to investigate your complaint, the judge is likely to be asked to respond to the allegations you made.

Q. Must the judge disqualify himself or herself from my case if I make a complaint?

A. No.

Q. Can the Commission direct that a judge be disqualified, or that a new trial be held, or that any other relief be granted?

A. No. The Commission is not a court and has no authority to grant relief to litigants.

Q. Will I hear further from the Commission?

A. Yes. The Commission is required to inform complainants of the disposition of their complaints.

For More Info:



www.cjc.ny.gov

About the Commission Members

There are 11 Commission members, each serving a four-year term. The Governor appoints four members, the Chief Judge of the Court of Appeals appoints three, and each of the four leaders of the State Legislature appoints one. The members serve part-time without compensation. Four of the Commission members are judges, at least one must be a lawyer, and at least two must be non-lawyers. The Commission elects one of its members to serve as chair, and it has a clerk. The Commission appoints an Administrator and Counsel, who serves full-time and hires and directs the staff.

Commission Offices

Principal Office

61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800
Fax: (646) 458-0037

Corning Tower, Suite 2301
Empire State Plaza
Albany, New York 12223
(518) 453-4600
Fax: (518) 486-1850

400 Andrews Street, Suite 700
Rochester, New York 14604
(585) 784-4141
Fax: (585) 232-7834

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND: CRIMINAL TERM

-----X

THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

-against-

RICHARD LUTHMANN,

Defendant.

-----X

STATE OF FLORIDA)
)
COUNTY OF LEE)

SS:

I, HELEN AUGUST being duly sworn says:

1) I am not a party to the action, am over 18 years of age, and reside in Lee County, Florida.

2) On February 22, 2023, I served a true copy of the following papers: Affidavit in Reply with Exhibits; in the following manner: By mailing the papers to the person at the address designated by him or her for that purpose by depositing the same in a first-class, postpaid, properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States Postal Service, the addressees as indicated below.

3) The name(s) and address(es) of person(s) served are indicated below:

Name(s) and address(es) of Person(s) served:

Clerk
Supreme Court: Criminal Term
26 Central Avenue
Staten Island, NY 10301

**AFFIDAVIT OF
SERVICE**

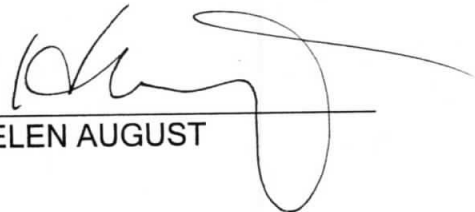
Indictment No.: 379/2018

Eric Nelson, Esq.
Special District Attorney
Richmond County
54 Florence Street
Staten Island, NY 10308

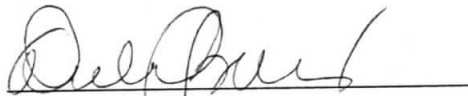
Mario Romano, Esq.
8118 13th Avenue
Brooklyn, NY 11228

Arthur Aidala, Esq.
546 5th Avenue, 6th Floor
New York, NY 10036

Honorable General Letitia James
Attorney General of the State of New York
Office of the Attorney General
The Capitol
Albany, NY 12224-0341
RE: NYAG Submission #1-419121442


HELEN AUGUST

Sworn to before me
this 22nd day of February 2023.


Notary Public



DULCE I. BENACIN
Notary Public
State of Florida
Comm# HH257119
Expires 4/25/2026