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U.S. COURT OF APPEALS

JUN 21 2010

FILED _____
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1 Paul Hupp



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3
4 *In Propria Persona*
Appellant

5 UNITED STATES COURT OF APPEALS
6
7 FOR THE NINTH CIRCUIT

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9 Paul Hupp,) 9th Circuit Case No.: 08-56403
10 Plaintiff/Appellant,) D.C. Case No.: CV-08-0414- (H) [Huff]
11) Southern District of California, San Diego
12 v.) BK Case No.: 06-00198JM7 [Meyers]
13 Educational Credit Management Corporation,) Adv. Pro. No.: 06-90127JM7 [Meyers]
14 Defendant/Appellee,) **PLAINTIFF PAUL HUPP'S PETITION**
15 United States of America,) **FOR REHEARING; REHEARING EN**
16 Intervener/Appellee.) **BANC PURSUANT TO F.R.A.P. 35 & 40**

17 **I.**
Introduction

18 TO THE HONORABLE UNITED STATES COURT OF APPEALS FOR THE 9TH
19 CIRCUIT, EDUCATIONAL CREDIT MANAGEMENT CORPORATION ("ECMC"),
20 UNITED STATES OF AMERICA ("USA") AND COUNSEL OF RECORD:

21 Plaintiff Paul Hupp ("Plaintiff/Mr. Hupp") hereby petitions for rehearing and rehearing
22 *en banc* pursuant to F.R.A.P, 35 and 40.

23 This proceeding involves several issues of great importance, including several
24 Constitutional issues that are of first impression nationwide. Issues so important that the Unites
25 States of America intervened into the case to defend them.

1 Second, let Plaintiff make this very clear hear and now at the beginning of this petition-
2 this Court is **now on notice** that public will no longer tolerate violations of the Constitution, by
3 the Congress or the judges/judiciary that think they can rig the system, violating basic
4 constitutional rights (such as due process of law) and engage in these acts with impunity.

5 Plaintiff has news for these slime ball, piece of shit, ass clown judges (Bowie, Canby,
6 Thomas and Fletcher-this means you) that think they are going to rig the system and railroad the
7 poor and innocent- such as blocking the discovery process so the poor cannot defend themselves,
8 commit perjury in their orders and a host of other constitutional violations, and do it with
9 impunity- that is simply not going to happen in this case. You cock suckers are now on notice.

10 The facts of this case are going to come out, one way or the other. Remember that
11 bitches.

12 The Court failed to address three (3) areas (the first of which is the most important, the
13 Constitutional violations, **questions of first impression nationwide**);

14 1) Constitutional Violations;

15 2) Misconduct And Dirty Hands Of State Licensing Agency-California Commission On
16 Teacher Credentialing; Dirty Hands Of Loan Holder Engaging In Fraud, Loan Holder
17 Forcing Default;

18 3) Judicial Misconduct By Judge Bowie.

19 As stated earlier, the Court will address these issues, or there will be civil unrest. Civil
20 unrest that is going to **start at the doorsteps** of the slime ball, piece of shit judges that thought
21 they were going to violate the constitutional rights of the innocent and poor with impunity.

22 When the Courts don't follow the law, then there is no law. With no law you have
23 nothing but anarchy and chaos, and then it is just a battle for survival. If that is what this Court
24 wants, then that is what is is going to get.

1 This Court better remember that, because it is a fact of history, and nothing is going to
2 change that. The decision of this Court on June 7, 2010 is a disgrace that is simply not going to
3 stand unopposed with impunity for the slime ball judges who wrote that decision.

4
5 **II.**
6 **Argument**

7 **I. Constitutional violations**

8 **1) 20 U.S.C. § 1091a- No Statute Of Limitations (“SOL”) Is**

9 **Unconstitutional-** 20 U.S.C. § 1091a is unconstitutional because it provides
10 for no SOL on student loans. There is no civil statute in the country that does
11 not have a SOL. There is only one criminal statute in the country that has does
12 not have a SOL- murder- but the no SOL for murder is qualified because the
13 action must be brought as soon as possible if there is evidence to support the
14 action, failure to do so violates due process of law.

15 **2) 20 U.S.C. § 1095a- Wage Garnishment Without Due Process Of Law- 20**

16 U.S.C. § 1095a is unconstitutional because it allows wage garnishment
17 without a court order or due process of law. I guess it is OK for this Court to
18 allow such to acts to happen to the public, as long as it is the poor and those
19 least able to fight back. Wrong bitches.

20 **3) 11 U.S.C. § 523(a)(8)- Undue Hardship” Test Is Vague, Ambiguous And**

21 **Overly Board-** 11 U.S.C. § 523(a)(8) the “undue hardship” test is
22 unconstitutional because it is vague, ambiguous and overly broad, and cannot
23 be validly or reliably interpreted. That fact has been well documented by
24 Expert Witnesses in this case. And that ambiguity is exactly what has
25 happened in the present case- nothing but vague and ambiguous bullshit catch

1 phrases. These loser judges didn't even apply the so-called "Nys" application.
2 Hey, no surprise there-this Court has left that ambiguity and vagueness in
3 place on purpose, so they can railroad the innocent. Sorry bitches, this issue
4 will be addressed-one way or the other.

5 4) **34 C.F.R. § 682.410(b)(2) Violates The Contract Clause**- 34 C.F.R. §
6 682.410(b)(2) allows fees and costs to be collected that are NOT part of the
7 contract -fees and costs not undertaken nor incurred. Funny, Plaintiff has
8 pointed this fact out **repeatedly**, that he only borrowed \$6,400, yet the balance
9 is now over \$80K, and this goddamn piece of shit Court did not even address
10 those issues. Sorry, but allowing fraud by a dirty government agency-in
11 concert with this Court- is not going to happen with impunity. This Court is
12 going to find that out, one way or the other. But once again, this Court didn't
13 even MENTION this fraud. Don't worry bitches, fucking people over is a two-
14 way street. Remember that when civil unrest shows up on your doorstep.

15 5) **11 U.S.C. § 523(a)(8) Does Not Pass Even "Rational Basis" Review**- There
16 is NO evidence in the record to support 11 U.S.C. § 523(a)(8) using even
17 "rational basis" review. In fact the evidence that is in the record refutes all the
18 reasons given for passage of 11 U.S.C. § 523(a)(8). There were never any
19 problems with student loan holders filing bankruptcy to discharge their student
20 loans-EVER. 11 U.S.C. § 523(a)(8) was simply passed as a way to defraud the
21 poor and innocent. In addition, since 11 U.S.C. § 523(a)(8) discriminates
22 based on race, a "strict scrutiny" level of review should be used in analyzing
23 the statute.

24
25 **II. Dirty Hands And Misconduct Of State Agencies And The Loan Holder**

