Congress of the United States

The House Judiciary Committee
House of Representatives
Washington D.C. 20515

Petition to Congress for Articles of Impeachment

for Bad Behavior in Office of Named Federal Judges

UNITED STATES CONSTITUTION
Article III, Section 1, Clause 2

Diarmuid F. O'Scannlain, Circuit Judge, Ninth Circuit Court of Appeals;
Pamela A. Rymer, Circuit Judge, Ninth Circuit Court of Appeals;
Barry G. Silverman, Circuit Judge, Ninth Circuit Court of Appeals;
Terry J. Hatter, Jr., Chief Judge, United States District Court, Central District of California.

February 16, 2000

Ronald Branson, Petitioner
(Address Omitted)

Petition to Congress

FOR ARTICLES OF IMPEACHMENT
for Bad Behavior of Named Federal Judges in Office

TO: **Congress of the United States**
The House Judiciary Committee
House of Representatives
c/o Congressman Henry J. Hyde, Chairman
2138 Rayburn HOB
Washington D.C. 20515-6216

The undersigned, Ronald Branson, hereby petitions Congress via the Judiciary Committee of the House of Representatives, for Articles of Impeachment and removal from office of four named federal judges for Bad Behavior pursuant to Article III, Section 1, Clause 2, which judges have abused their judicial power and are guilty of high misdemeanors in office in betrayal of the public trust.

Such misconduct, hereinafter described, involves corrupt, willful, malicious, and gross conduct, consisting of judicial acts, under color of law and office, with evil intent, to the great detriment of the United States, the public confidence, and the integrity of our judicial system.

Judges Involved:

Circuit Judges, Ninth Circuit Court of Appeals:

Diarmuid F. O'Scannlain
Pamela A. Rymer
Barry G. Silverman

Chief Judge, United States District Court, Central District of California:

Terry J. Hatter, Jr.

Impeachable Offenses:

Circuit Judges:

Did willfully, knowingly, maliciously, with evil and corrupt intent, while acting under color of law and office, devise an extortion plot against petitioner in favor of Lockheed Martin IMS Corporation, Edward Avila (an official of said Corporation), and its counsel, without legal justification, by

the following means. The purpose of the exhibits is to show evidence of the Bad Behavior described. *[Further documents will be supplied upon request]*.

(a) Did willfully, knowingly, and maliciously issue a judgment unfounded on fact and unsupported by evidence. **[Exhibit A]**

(b) Did maliciously, and with evil intent, refuse to correct the above omission by denying the Petition for Rehearing which brought the defect to their attention in explicit detail. **[Exhibit B]**

(c) Based on the bald assertions of said judgment, unsupported by evidence, and in pursuance of devising the extortion plot against petitioner, did willfully, knowingly, maliciously, and with evil intent, without legal justification to do so, award to Lockheed Martin IMS Corporation and Edward Avila, and its counsel, attorney's fees and double costs on appeal under the guise of Rule 38 of the Federal Rules of Appellate Procedure. **[Exhibit C]**

(d) Further in pursuance of devising said extortion plot, did willfully, knowingly, maliciously, and with evil intent, refuse ***a second time*** to cite evidence in support of the judgment by denying petitioner's "Special Request For Citation of Evidence From The Record Supporting The Court's Memorandum [judgment] Filed June 17, 1999" in his opposition to the Rule 38 motion. **[Exhibit C]**

(e) And further in pursuance of devising said extortion plot, did willfully, knowingly, maliciously, and with evil intent, refuse ***a second time*** to take judicial notice of petitioner's pertinent documents in the action, by denying his "Request For Mandatory Judicial Notice" of the necessary information from the record (including both the original and amended complaints, petitioner's opening brief on appeal, the petition for rehearing, and other documents), this time entirely supplied by petitioner with his opposition to the Rule 38 motion showing ***conclusively*** by evidence that Rule 38 sanctions are not founded on fact or law. **[Exhibit C]**

Chief Judge, District Court:

1. Did maliciously throw out petitioner's federal action by arbitrarily issuing an order dismissing it with prejudice, without legal justification, failing to state the grounds for such dismissal or to give any explanation therefor. **[Exhibit D]**

2. Did willfully, knowingly, maliciously, and with evil intent, refuse petitioner's request that he (the judge) state the grounds for dismissal and provide some explanation for throwing out petitioner's case, by arbitrarily denying without reason his motion to alter or amend the dismissal order. **[Exhibit E]**

3. Did willfully, knowingly, and maliciously, and with evil intent, impose *sua sponte* a monetary sanction against petitioner without evidence

showing that the action is "frivolous" as arbitrarily asserted by the judge. **[Exhibit E]**

4. In imposing monetary sanctions *sua sponte* against petitioner, did willfully, knowingly, maliciously, and with evil intent, disregard and fail to comply with Rule 11(c)(1)(B), (c)(2)(B), and (c)(3), of the Federal Rules of Civil Procedure.

All four judges:

1. Violated their Oaths of Office.
2. Disregarded federal statutory law.
3. Disregarded case precedent.
4. Disregarded federal rules of court.

Discussion:

It is apparent from the following facts of what has taken place that the federal judges involved were intent on foreclosing this case *(just wiping it out entirely)* as quickly, and in the most summary fashion, as possible.

As can be seen by the evidence, and by an examination of the record as a whole which can be supplied in its entirety if requested, the judges weren't interested in addressing any of the issues, but in evading the issues at any and all cost. This cost, described below, was ultimately the loss of integrity in the judicial system and was incurred by the named judges through implementation of unbridled tyrannical power under color of their judicial office.

That cost consisted of ignoring the subject matter of the federal action as framed by the allegations of the complaints (original and first amended), established by the substantive state law upon which the lack of due process claim was based; the facts material thereto; the "relief sought" allegation; and the prayer-- in other words, ignoring the entire substance of the action.

That cost became higher when the circuit judges lied in writing, while acting under color of law and their office, and violating their Oath of Office, stating in the judgment (entitled "Memorandum") filed June 17, 1999, on page 2, "…Branson's [petitioner] action is an impermissible collateral attack against a prior state court judgment,…". That statement is shown on the face of the judgment to be unsupported factually by evidence from the record. The judges cited no factual evidence from the record throughout the entire judgment of June 17, 1999, which consists of arbitrary bald assertions based on the lie quoted above. No judicial credibility is shown. **[Exhibit A]**

That cost rose higher when the circuit judges, after being fully and completely informed about this lie in the petition for rehearing, and shown by evidence in explicit detail from the record that it is, indeed, a lie,

nevertheless "voted to deny" rehearing on July 22, 1999, without explanation, thereby showing their willful and knowing intent that the lie should stand. **[Exhibit B]**

Also, their willful intent to do evil is shown by obstinately refusing to take judicial notice of the material points of fact alleged, and the material points of law according to those material facts, as specifically requested by petitioner who listed those points precisely by evidence from the record in the petition for rehearing.

That lie not only foreclosed petitioner's right to petition the federal court for redress of his grievances as framed by his complaint, protected by the First Amendment, but also served to arbitrarily and tyrannically approve the taxing of costs (applied by Lockheed Martin IMS Corporation) and the *sua sponte* imposition of sanctions against petitioner by the district court without the showing of legal justification for so doing, all in violation of federal law and court rules. **[Exhibit E]**

The cost of evading the subject matter of the federal action and lying under color of law and office rose even more when the fomenting of the extortion plot in cooperation with Lockheed Martin IMS Corporation ("Lockheed") was made manifest.

In reliance on the lie of the circuit judges that "Branson's action is an impermissible collateral attack against a prior state court judgment" made in the judgment of June 17, 1999 **[Exhibit A]**, and the judges' malicious refusal to correct the lie **[Exhibit B]**, on or about August 3, 1999, Patrick McAdam of the Los Angeles lawfirm Iverson, Yoakum, Papiano & Hatch, counsel of record for Lockheed, filed a motion for attorney's fees and double costs against petitioner pursuant to Rule 38 of the Federal Rules of Appellate Procedure "on the grounds that the appeal… was frivolous."

In opposition to the motion, petitioner made "Special Request For Citation of Evidence From The Record Supporting The Court's Memorandum Filed June 17, 1999" and "Request For Mandatory Judicial Notice [F.R.E. 201(d)] (necessary information supplied herewith under separate cover)". Petitioner supplied *inter alia* a copy of the June 17, 1999 judgment, the petition for rehearing, the denial of rehearing, both the original and the first amended complaints, and his opening appellate brief.

The cost of the loss of integrity of the circuit judges became paramount on November 26, 1999, when, based on their lie of June 17, 1999, they awarded Lockheed attorney's fees, double costs on appeal, and sanctions, and to cover up their lie, stated "Branson's requests for citation of evidence from the record and mandatory judicial notice are denied" demonstrating their malicious evil intent to do an injustice under color of

law and office, in deliberate disregard of the material facts of record, the law applicable thereto, the United States Constitution, applicable federal statutes and court rules, their Oath of Office, and their moral and legal obligation to uphold the public trust. **[Exhibit C]**

The groundwork for this extortion plot was laid by the Chief Judge of the District Court in Los Angeles by first, on May 12, 1998, dismissing the action with prejudice, arbitrarily depriving petitioner of a federal remedy under Title 42 U.S.C. §1983. The judge failed to indicate the type of dismissal imposed or the grounds therefor as he should have done. (See *Baker v. Carr,* (1962) 369 U.S. 186, 195-6). The record shows that at no time did the district judge indicate that petitioner was attacking a prior state court judgment. **[Exhibit D]**

Petitioner timely filed a motion under Rule 59(e) of the Federal Rules of Civil Procedure to alter or amend the order to state the grounds for dismissal as required under *Baker*. The Chief Judge maliciously disregarded the *Baker* precedent and refused to state the grounds by summarily denying the motion on August 5, 1998, and further imposing *sua sponte* a monetary sanction against petitioner for "filing this frivolous action." **[Exhibit E]**

The sanction was not imposed until after petitioner filed the Rule 59(e) motion, indicating logically that the judge was probably referring to the *motion* as "frivolous" rather than the action. However, not only did the district judge fail to show evidence that the action *or the motion* is frivolous, he further disregarded his judicial responsibility under Rule 11 subdivisions (c)(1)(B), (c)(2)(B), and (c)(3) Federal Rules of Civil Procedure requiring him to issue an order to show cause and provide a description of the conduct he attributes to being "frivolous" and explain the basis for the sanction imposed.

All of this misconduct by the district judge was consummated by the circuit judges when, on appeal, they "affirmed" the district court's decision supposedly "on any basis which the record supports" --however failing to follow that theory by willfully, intentionally, maliciously, and tyrannically refusing to cite "any basis which the record supports." **[Exhibit A]** The reason the judges refuse to do so is because such basis does not exist! Nevertheless, Lockheed depends on this dishonorable conduct by the federal judges to unjustly and illegally profit from this corruption, becoming part and parcel of it.

Conclusion:

As shown by the evidence from the record in case numbers USCA 98-56530, 98-56685, and D.C. No. CV-98-00778-TJH, Circuit Judges Diarmuid F. O'Scannlain, Pamela A. Rymer, and Silverman, of the United States Court of Appeals for the Ninth Circuit, and Chief Judge Terry J. Hatter, Jr. of the United States District Court for the Central District of California have willfully, knowingly, and maliciously transgressed the "good behavior" under which these judges are authorized to hold their offices pursuant to Article III, Section 1, of the United States Constitution.

Said federal judges have acted with evil and wicked intent to abuse the trust reposed in them and to subvert the lawful authority of the Constitution and laws of the United States in deliberate and knowing disregard of their judicial duties. While acting as circuit judges and as the Chief District Judge, respectively, they have rendered judgment under false pretenses using their official positions as judges to arbitrarily rule with partiality and prejudice favoring Lockheed Martin IMS Corporation, an international stock corporation in business for profit while at the same time operating in the capacity of a government agency under the name of the City of Los Angeles against petitioner.

By such misconduct in office, said judges herein named are guilty of malicious abuse of judicial power and of high misdemeanors in office to the shame and grave detriment of the honor and integrity of their judicial offices and the United States of America.

For this breach of the public trust, petitioner humbly petitions to Congress for issuance of Articles of Impeachment against these miscreant federal judges for their bad behavior in office.

Dated: February 16, 2000

Respectfully submitted,

/s/
Ronald Branson, Petitioner

Petitioner's Supporting
Affidavit attached.

Proposed "Judicial Accountability
and Integrity Legislation"
accompanies this Petition.

AFFIDAVIT OF RONALD BRANSON IN SUPPORT OF PETITION TO CONGRESS FOR ARTICLES OF IMPEACHMENT

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

Ronald Branson, being duly sworn, deposes and says:

1. That the following is the Truth, the Whole Truth, and nothing but the Truth, as sworn to under oath.

2. That the facts herein stated are personally known by your affiant, the undersigned, and that he will competently testify thereto as a witness before Congress when called to do so.

3. That other matters herein stated of a conclusory nature are based on the information and belief of your affiant, and as to those matters, he believes them to be true.

4. That at all times herein mentioned, your affiant is and has been an inhabitant of the State of California.

5. That on February 2, 1998, your affiant filed in the United States District Court, Central District of California, a Complaint for Prospective Injunctive Relief for Lack of a State Court Remedy pursuant to Title 42 U.S.C. §1983, indicating "*Parratt*" violation under the statute.

6. That the complaint was numbered Case No. CV 98-0778-TJH(AJWx) and assigned to Chief District Judge Terry J. Hatter, Jr.

7. That the purpose of filing the complaint was alleged on page 3 of the complaint as follows:

"***RELIEF SOUGHT***

> 9. Plaintiff seeks prospective injunctive relief in federal court under Title 42 U.S.C. §1983 due to the deprivation of a state court remedy without due process of law in his underlying state tort action, Los Angeles Superior Court case number BC118804, after exhausting all possible state legal remedies through the §1257 appeal sought in the U.S. Supreme Court, No. 97-6658. The state court system (1) failed to adjudicate plaintiff's constitutional challenge of California Vehicle Code sections 40200 through 40230; (2) failed to provide an appeal to which plaintiff was constitutionally entitled according to the subject matter of his notice of appeal filed October 19, 1995; and (3) thus failed to provide constitutional access to state court for redress of

plaintiff's grievances."

8. That original federal jurisdiction of the District Court was invoked under Title 28 U.S.C. §1343(a)(3), as well as §1331 federal-question jurisdiction.

9. That the substantive state law under which your affiant claimed his statutory and constitutionally protected right to due process in state court is California Code of Civil Procedure section 906, alleged on pages 6 and 7 of the original complaint as follows:

" **Count II**

31. On October 19, 1995, plaintiff sought remedy by appeal in state court under California Code of Civil Procedure section 906 which vests in plaintiff a constitutionally protected liberty and property interest in and to a right of appeal from two orders in the same action involving the defendants, all of whom were at all relevant times engaged together and connected by law in the statutory scheme alleged as unconstitutional and the proximate cause of the tort injuries against plaintiff for which an independent state judicial remedy was being sought.

32. That no state court at any level has afforded plaintiff his vested right of appeal under CCP section 906, after notice of appeal was timely filed under Rule 2(a)(2) of the California Rules of Court, depriving plaintiff of a constitutionally protected interest in his statutory right of appeal without due process of law, in violation of CCP section 906, Rule 2(a)(2) CRC, and the Due Process Clause of the Fourteenth Amendment to the United States Constitution."

10. That your affiant alleged the material facts to which the substantive law (CCP §906) applied, as follows, on pages 4, 5, and 6 of the complaint:

" ***BACKGROUND***

11. On December 27, 1994, plaintiff filed a state tort action against the defendants. (Exhibit A - face sheet of state complaint identifying the action).

12. In the underlying state complaint, plaintiff challenged the constitutionality of California Vehicle Code sections 40200 through 40230 on its face and as applied to plaintiff, as well as any laws, codes, rules

and regulations in reliance thereon. A copy of that challenge as presented in the underlying state action is attached hereto as Exhibit B.

13. On October 19, 1995, plaintiff filed a notice of appeal from two orders in said tort action. (Exhibit C showing the subject matter for appeal as ***two orders*** in said action).

14. Under California law, the process due plaintiff for an appeal from the two orders indicated in the notice of appeal is established by California Code of Civil Procedure ("CCP") section 906 which provides that upon invoking an appeal from a final order pursuant to section 904.1, the appellate court will review the interlocutory order included in the notice of appeal as well as the final order. A copy of CCP sections 904.1 and 906 is attached as Exhibit D for reference.

15. The notice of appeal (Exhibit C) indicates that the intermediate (interlocutory) order was filed March 17, 1995, and the final order was filed August 24, 1995.

16. Under the one final judgment rule, universally recognized in every state, including California, the final order of August 24, 1995 is the only appealable order in plaintiff's underlying state tort action, No. BC118804, from which an appeal could be taken under CCP section 904.1.

17. Plaintiff, having noticed the appeal from the final order under CCP section 904.1, is statutorily and constitutionally entitled to appellate review of the intermediate order under CCP section 906 "upon [the] appeal pursuant to section 904.1." (Exhibit D).

18. A notice of entry of judgment was served on August 29, 1995 by a party to the underlying action upon plaintiff. (Exhibit E identifying the document and service).

19. The notice of appeal (Exhibit C) was filed by plaintiff October 19, 1995.

20. The timeliness of the notice of appeal is governed by Rule 2(a) California Rules of Court

which provides 'Except as otherwise provided by Code of Civil Procedure section 870 or other statute or rule 3, a notice of appeal from a judgment shall be filed on or before the earliest of the following dates: (1) 60 days after the date of mailing by the clerk of the court of a document entitled 'notice of entry' of judgment; (2) 60 days after the date of service of a document entitled 'notice of entry' of judgment by any party upon the party filing the notice of appeal; or (3) 180 days after the date of entry of the judgment. …' A copy of Rule 2(a) CRC is attached as Exhibit F for reference.

21. The word 'judgment' used in Rule 2(a) means 'appealable order' as provided by Rule 2(d) CRC, a copy of which is included in Exhibit F for reference.

22. In plaintiff's underlying state action, the word 'judgment' in Rule 2(a) means the order filed August 24, 1995, the only 'appealable order' in case number BC118804.

23. Under the facts of plaintiff's underlying state action, the applicable portion of Rule 2(a), quoted above, determining the timeliness of plaintiff's notice of appeal is sub-part (2), 'on or before 60 days after the date of service of… "notice of entry" of judgment by any party upon the party filing the notice of appeal.' (Exhibit F).

24. The notice of entry of judgment was served by a party upon plaintiff on August 29, 1995 (Exhibit E), and plaintiff filed the notice of appeal on October 19, 1995 (Exhibit C), 'before 60 days (51 days) after the date of service of notice of entry of judgment.'

25. The notice of appeal (Exhibit C) was timely filed under Rule 2(a) sub-part (2) of the California Rules of Court. (Exhibit F).

26. No appeal on the subject matter of the notice of appeal (Exhibit C) under Code of Civil Procedure section 906 (Exhibit D) was ever afforded plaintiff in state court at any time, or at any level.

27. No adjudication of the constitutional

challenge of Vehicle Code sections 40200 through 40230, presented in the complaint at the inception of the state tort action (Exhibit B), was made by state court at any time, or any level.

28. No access to state court for redress of plaintiff's grievances as presented in the underlying independent tort action was given by state court at any time, at any level."

11. That your affiant concluded the complaint with the following "Prayer" on page 8 of the complaint:

" ***PRAYER***

WHEREFORE, plaintiff prays for injunctive relief as follows:

(1) A determination of the constitutionality of California Vehicle Code sections 40200 through 40230 on its face and as applied to plaintiff (Exhibit B), the question not having been determined by state court at any level in the underlying state action.

(2) That plaintiff be afforded the process constitutionally due in the underlying state action, to wit, an appeal from the final appealable order of August 24, 1995, including the intermediate order of March 17, 1995, both listed on the notice of appeal, pursuant to California Code of Civil Procedure section 906.

(3) For costs of suit herein and for such other and further relief as this court deems proper."

12. That although your affiant filed a proposed first amended complaint prior to the filing of a responsive pleading, which in the Ninth Circuit, may be done as a matter of right without leave of court to do so, for purposes of this Petition for Articles of Impeachment, the amended complaint does not appear to be necessary or relevant. The substantive law and material facts alleged remain the same. However, if required by this Committee, it can be supplied as can any other document of record.

13. That through the course of proceedings in district court, your affiant saw that in their motions to dismiss, all defendants failed to address the substantive law alleged as well as the material facts relevant thereto.

14. That accordingly, your affiant expected the district judge to deny the motions to dismiss as irrelevant to the subject matter framed by the complaint; or in the alternative, to convert the motions to dismiss into ones for summary judgment, upon the court accepting matters beyond the scope

of the complaint, as required by Rule 12(b)(6) Federal Rules of Civil Procedure. See *Cohen v. Cahill* (9th Cir. 1960) 281 F.2d 879, 880-81.

15. That instead of doing either of the above, Chief District Judge Terry J. Hatter, Jr. issued the following order on May 7, 1998:

> "The Court has considered the motions of the City of Los Angeles, Los Angeles Department of Transportation, Thomas Connor, Lockheed Martin IMS Corporation, Edward Avila, California Department of Motor Vehicles and Sally Reid to dismiss, together with moving and opposing papers.
>
> **It is Ordered** that the motions to dismiss be, and hereby are, **Granted** with prejudice."

16. That the order does not state that Chief Judge Hatter considered the face of the complaint whatsoever; it states nothing about jurisdiction of the court; nor does it identify the grounds for dismissal.

17. That your affiant filed a timely Motion to Alter or Amend the Order as being legally insufficient pursuant to *Baker v. Carr* (1962) 369 U.S. 186, 195-6, which "demands clear exposition of the grounds upon which the District Court rested in dismissing the case."

18. That instead of respecting the case precedent of *Baker*, on August 5, 1998, Judge Hatter ignored it and summarily denied the motion to alter or amend, and further *sua sponte* ordered a monetary sanction against your affiant "for filing this frivolous action."

19. That no reason was given for the outright denial of the motion.

20. That no evidence was shown for the judge's conclusion that the action was "frivolous."

21. That Judge Hatter did not issue an order to show cause why the sanction should not be imposed as required by Rule 11(c)(1)(B) F.R.Civ.P.

22. That Judge Hatter did not rule, nor imply, that the action was frivolous in his order of dismissal, quoted above.

23. That ruling on appeal, on June 14, 1999, Circuit Judges O'Scannlain, Rymer, and Silverman, stated its conclusion that:

> "Because Branson's [your affiant] action is an impermissible collateral attack against a prior state court judgment, the district court lacked subject matter jurisdiction and properly dismissed his section 1983 action. *See id.* at 291-92."

24. That "*See id.*" refers to *Branson v. Nott*, 62 F.3d 287, an unrelated case decided in 1995 when the court determined there, based on evidence it

cited from the record in that case, that your affiant had attacked a prior state court judgment.

25. That *Branson v. Nott* has no factual bearing on this action.

26. That *Branson v. Nott* does not involve the substantive law alleged in this action.

27. That *Branson v. Nott* does not involve the material facts alleged in this action.

28. That *Branson v. Nott* does not involve the same relief sought as alleged in this action.

29. That *Branson v. Nott* does not involve the same prayer for relief as alleged in this action.

30. That prefacing that conclusion, the circuit judges state:

> "We may affirm the district court's decision on any basis which the record supports. *See Branson v. Nott,* 62 F.3d 287, 291 (9th Cir. 1995)."

31. That despite that statement, the circuit judges did not cite "any basis which the record supports" to justify its conclusion, quoted above.

32. That your affiant filed a Petition for Rehearing, stating on p.5:

> "The court's finding that the action 'is an impermissible collateral attack against a prior state court judgment' shows **no** supporting evidence from the record. Therefore, there is no basis on which the court 'may affirm the district court's decision.' Unlike *Branson v. Nott*, the Memorandum decision here fails to identify from the record (a) the 'prior state court judgment' to which it refers; (b) the issues that were decided thereby; and (c) how it was collaterally attacked by this federal suit. Consequently, the conclusion that 'the district court lacked subject matter jurisdiction and properly dismissed [the] section 1983 action' is unfounded.
>
> Based on that unfounded conclusion, the decision (1) affirmed dismissal of the §1983 action without any discussion of the declaratory relief portion; (2) denied the amendment of the complaint as 'futile'; (3) affirmed the taxing of costs; and (4) affirmed the sua sponte order of sanctions 'because the record indicates **[no references shown]** that Branson's action was a frivolous and impermissible collateral attack against a prior state court

judgment.' There is no showing how Rule 11 F.R.Civ.P. authorizes sanctions against petitioner.

Therefore, those four dispositions have no basis in fact or law according to the record. Besides the denial of redress in federal court caused by this unfounded decision, any attempted exaction of monies from petitioner based thereon would be illegal. Petitioner continues to face the ongoing injury of being unable to register a vehicle in California (a life sentence without hearing), with resolution now being unjustly blocked."

33. That rather than cite any evidence to support its judgment on appeal, after your affiant brought the omission of evidence to the attention of the circuit judges in his petition for Rehearing, they issued an order stating:

"The panel has voted to deny appellant's petition for panel rehearing."

34. That your affiant then submitted a Petition for Writ of Certiorari to the U.S. Supreme Court, stating the following summary on pages 2-3:

"This original jurisdiction in district court [Title 28 U.S.C. §1343(a)(3) as well as §1331] was invoked for prospective injunctive relief under Title 42 U.S.C. §1983 against state judicial officers responsible for depriving petitioner of a state court remedy by the process of law due under California Code of Civil Procedure §906, where, although the state law on the books is adequate, that law was not implemented by the state officials assigned to do so. In such a situation, this Court has ruled that §1983 is to provide a federal remedy where the state remedy, though adequate in theory, was not available in practice. (See *Monroe v. Pape* (1961) 365 U.S. 167, 174; Also *Zinermon v. Burch* (1990) 494 U.S. 113,125).

However, a federal remedy has not been provided. Both lower courts have refused to acknowledge and address the process of law that was due petitioner in state court under California Code of Civil Procedure §906. Without federal court addressing that core issue, its function in providing a federal remedy where the state remedy was not available in practice is not being performed as this Court has ruled is to be done under

federal statute as aforesaid. Not only has the district court violated its responsibility under §1983, the Court of Appeals has affirmed that conduct and itself violated the law, to wit, Rule 201(d) of the Federal Rules of Evidence when, after being informed of the violation, it nevertheless maliciously refused to take mandatory judicial notice of material facts and information from the complaints as required to do under the rule when petitioner requested such notice be taken.

Rule 10(a) of this Court provides that when a United States Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, such conduct calls for an exercise of this Court's supervisory power."

35. That the second issue presented in the Petition for Writ of Certiorari is "Whether the judgment is supported by the record."

36. That your affiant made the following argument on that issue at pages 7-9 of the petition, **none of which was addressed by Lockheed Martin IMS Corporation, the only responding party:**

"A. <u>The face of the judgment is entirely devoid of any showing of support from the record.</u>

After deliberately disregarding the subject matter of this action as framed by the complaint, in ruling on this appeal, the panel, out of thin air, interprets the subject matter before the court as 'an impermissible collateral attack against a prior state court judgment' [A-2] without showing a scintilla of support from the record evidencing the truth of that premise-- even though prefacing it with 'We may affirm the district court's decision on any basis which the record supports.' The record supporting the instant case is **not** '*Branson v. Nott*' which is an unrelated case. If anything, *Branson v. Nott* supports the converse, i.e., 'We may not affirm the district court's decision on any basis which the record does not support.' What the evidence <u>does</u> show is, not the exercise of judicial discretion, but a willful, malicious judicial revolt

against plain law!

B. The face of the complaint shows that the judgment *cannot* be supported by the record.

The information of which the court refused to take the required judicial notice [A-3] establishes the subject matter of this action. Had the judges followed Rule 201(d) of the Federal Rules of Evidence, they could have properly interpreted the subject matter of this action as supported by the record and, based thereon, found that the district court does, as a matter of law, have subject matter jurisdiction in this case.

By refusing to obey Rule 201(d), the judges deliberately disregarded the material points of fact and law set forth in the complaint (both original and amended) [A-65 thru -68] which frame the subject matter before the court.

Furthermore, prior to the judgment, petitioner placed the Court of Appeals on notice as follows [A-48]:

> TO: THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT…
>
> **PLEASE TAKE NOTICE** that as of the time of filing of the City's Brief ("CB") to which this Reply is made, there is not so much as a single argument or mention of the controlling law of this case, namely, the denial of due process to the right of an appeal under California Code of Civil Procedure §906, nary a word throughout the CB or any of the previous appellees' briefs. THAT WITHOUT CONSIDERATION OF CCP §906 AND THE PROCESS DUE THEREUNDER, IT IS IMPOSSIBLE FOR THIS CASE TO BE RESOLVED. This federal suit is based on the controlling Rule of Law.

The Court of Appeals was *legally on notice* that the subject matter of this case is based on section 906 of the California Code of Civil Procedure, the substantive law on which this federal claim is based and clearly stated on the face of the complaint. There is

no evidence on the record showing any prior state court judgment relating to the process due under CCP §906. The record indicates, therefore, that it is an impossibility for petitioner to have attacked a prior state court judgment, as one does not exist relevant to the subject matter of this action."

37. Your affiant concluded that petition as follows, at page 16:

"***CONCLUSION***

The proper disposition of this case depends upon the record. Until the court provides a ruling that is ***supported by the record,*** this case stands undecided as a matter of law; and petitioner cannot be held legally or morally responsible for anything resulting from a whimsical ruling unsupported by the evidence.

Bringing this case to a lawful conclusion is a compelling reason for granting this petition, so that the court does not suffer from public exposure and the disgrace of this racket."

38. That Lockheed, in responding to this petition, never discussed anything about the above issue "Whether the judgment is supported by the record."

39. That during the pendency of the Petition for Writ of Certiorari, Lockheed filed a post-judgment motion in the Ninth Circuit for attorney's fees and double costs on appeal under Rule 38, Federal Rules of Appellate Procedure.

40. That in opposition to the Rule 38 motion, your affiant formally requested (1) Special Request for Citation of Evidence from the Record Supporting the Court's Memorandum Filed June 17, 1999; and (2) Request for Mandatory Judicial Notice under Rule 201(d) Federal Rules of Evidence, supplying the necessary information therewith under separate cover.

41. That on November 26, 1999, Circuit Judges O'Scannlain, Rymer, and Silverman awarded Lockheed and Avila "reasonable attorney's fees, double costs on appeal and sanctions" under Rule 38 FRAP.

42. That furthermore, said circuit judges stated in that order:

"Branson's requests for citation of evidence from the record and mandatory judicial notice are denied. ¶No motions for reconsideration, modification, or clarification of this order shall be filed or entertained."

43. That Circuit Judges O'Scannlain, Rymer, and Silverman, as well as Chief District Judge Hatter, have disregarded all material facts alleged in

the complaints, the substantive law alleged upon which your affiant claimed his right to due process in state court, the specific relief sought, the theory of the action as framed by the complaints, and everything presented by your affiant in pursuance of redress of his grievances in federal court.

44. That on December 21, 1999, your affiant submitted a Supplemental Brief to his Petition for Writ of Certiorari, presenting the question "Whether the post-judgment Order of November 26, 1999, is void on its face."

45. In argument for the above question, your affiant stated on page 6 of the Supplemental Brief:

> "The post-judgment Order of November 26, 1999, is an outgrowth of the judgment of June 17, 1999, and depends upon the integrity of the latter for its own validity. The validity of the June 17th judgment is the threshold question presented in the petition at pages 7-9. All issues rest upon the showing of proof from the record that petitioner did in fact collaterally attack a prior state court judgment. Despite numerous requests that the court of appeals cite such evidence, necessary to support the judgment, it still refuses to do so. 'Branson's requests for citation of evidence from the record and mandatory judicial notice are denied.' [SA-2]"

46. That your affiant cited authority from volumes 49 and 50 under "Judgments" from Corpus Juris Secundum (1997 edition) with the following headings [pages 6-10 Supplemental Brief]:

"A. The judgment must be sustained by the evidence.
B. Petitioner's complaints are necessary to the consideration of evidence supporting the judgment.
C. The material facts and substantive law alleged must be considered in the judgment.
D. The evidence supporting the judgment must be relevant to the basis of the action.
E. Without supporting evidence, the judgment is void on its face and has no effect.
F. The Order cannot be made valid and operative by judicial action."

47. That your affiant concluded the Supplemental Brief on page 11:

"***CONCLUSION***

Because the judgment and the post-judgment

order are both void, not voidable, they carry no legal effect or credence, and will continually be held to be such by petitioner in regards to any further action taken.

What further makes this case an anomaly, is that attorney's fees don't even apply to a city operation, under which authority Lockheed is operating.

Petitioner fully intends to use this case as an example to the public and to Congress as to why the judicial system just doesn't work."

48. That your affiant made the following declaration in the Introduction of the Supplemental Brief, and presents it here in support of this Petition for Articles of Impeachment:

"***INTRODUCTION***

(Declaration of Ronald Branson)

I, Ronald Branson, declare and say:

That I am the petitioner herein, and plaintiff/ appellant in the courts below. That the facts herein stated are based on my personal knowledge and that I could competently testify thereto as a witness if called upon to do so. That other matters herein stated of a conclusory nature are based on my information and belief, and as to those matters, I believe they are true.

PLEASE TAKE NOTICE that I cannot conscientiously participate in what appears to be an extortion plot devised between Circuit Judges O'Scannlain, Rymer, and Silverman, with Lockheed Martin IMS Corporation, Edward Avila, and its counsel Patrick McAdam of the lawfirm Iverson, Yoakum, Papiano & Hatch in Los Angeles.

That I place the above-named officials and entities, as well as Chief Judge of the District Court Terry J. Hatter, Jr., on this notice.

That I have petitioned time and time again, for the Ninth Circuit Judges involved to take mandatory judicial notice of the substantive law, i.e., California Code of Civil Procedure section 906, under which I claim my statutory right to procedural due process, as well as the material facts relevant thereto, alleged in both my original and amended complaints, all

supported by exhibits evidencing the truth of those facts. That I have listed those facts verbatim, citing their location in the record, for judicial notice.

That I have also petitioned time and time again that those judges take mandatory judicial notice of the relief sought, alleged in both complaints, as well as the prayer for relief alleged in both complaints.

That all of those matters are necessary to determine whether I have attacked a prior state court judgment as those judges are falsely contending.

That I have also petitioned those judges to take mandatory judicial notice of my entire opening brief on appeal, necessary to determine whether my arguments on appeal are frivolous and without merit. That I have requested that if they are determined to be so, that they state on what basis they are so determined, citing the evidence supporting that conclusion. That I have specifically requested judicial notice of my argument on subject matter jurisdiction, giving the applicable page numbers.

That I have petitioned those judges to take mandatory judicial notice of my petition for rehearing, especially bringing to their attention that their determination of June 17, 1999, is not supported by the record, explaining this omission in detail.

That I have also petitioned those judges to take mandatory judicial notice of my reply brief to Lockheed's responding brief on appeal, showing by evidence how their arguments are not relevant to the subject matter of my complaint, specifically to the process due under California Code of Civil Procedure section 906.

That I have petitioned time and time again, in my briefs on appeal, that those judges convert the motions to dismiss to the summary judgment procedure as required by the Federal Rules of Civil Procedure, so that all the evidence presented by both sides could be tested thereby.

That after my repeated entreatment that the Ninth Circuit judges pay attention to the subject matter of

both of my complaints, and take notice of the fact that I am petitioning for a state remedy under California Code of Civil Procedure section 906, which the record shows has never been given, they have nevertheless failed and refused to do so, and at the same time, have let stand their false representation that I have impermissibly collaterally attacked a prior state court judgment.

That based on that false representation, those judges affirmed the district court's dismissal of my case besides a monetary sanction, and in addition thereto, have now, since the filing of my Petition for Writ of Certiorari, awarded Lockheed and Avila attorney's fees and double costs on appeal.

That the judges say, 'We may affirm the district court's decision on any basis which the record supports,' yet they refuse to provide that supporting basis, all in an effort to carry out an attempted criminal extortion in conspiracy with Lockheed.

That any attempts to extort funds from me based on this fraudulent scheme will, of course, be resisted. That it is my firm belief that this act of attempted extortion constitutes bad behavior within the meaning of Article III, Section 1 of the U.S. Constitution, of which Congress should be apprised.

I declare under penalty of perjury under the laws of the United States that the foregoing is true to my knowledge, and on my information and belief.

Executed this 21st day of December, 1999, at Los Angeles, California. [signed] Ronald Branson"

49. That Lockheed never responded to the Supplemental Brief, and on January 18, 2000, the U.S. Supreme Court denied my Petition for Writ of Certiorari.

50. That your affiant is convinced, based on the facts recited above, that Lockheed IMS Corporation, through its high-ranking officials and its legal counsel, have exercised undue influence to gain sufficient control over the named judges herein to persuade them to act as they have done.

51. That your affiant firmly believes that by these federal judges allowing themselves to be so manipulated by this Corporation, they have violated the good behavior required to hold their office under Article III,

Section 1, of the United States Constitution, and thus have violated the public trust.

(Subscribed and sworn to before a Notary Public by Ronald Branson on February 16, 2000)

* * *

EXHIBIT A

F I L E D
JUN 17 1999
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RONALD BRANSON,
Plaintiff-Appellant-Cross-Appellee,
v.
CITY OF LOS ANGELES; LOS ANGELES DEPARTMENT OF TRANSPORTATION (LADOT); THOMAS CONNER, General Manager LADOT; CALIFORNIA DEPARTMENT OF MOTOR VEHICLES; SALLY REID, Director DMV,
Defendants-Appellees,
and
LOCKHEED MARTIN IMS CORPORATION, (LIMSC); EDWARD AVILA, Western Region Senior Vice President (LIMSC),
Defendants-Appellees-Cross-Appellants.

Nos. 98-56530, 98-56685
D.C.No. CV-98-00778-TJH

MEMORANDUM[1]

Appeals from the United States District Court
for the Central District of California
Terry J. Hatter, Chief Judge, Presiding

[1] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R.36-3.

----------1----------

Submitted June 14, 1999[2]

Before: O'SCANNLAIN, RYMER, and SILVERMAN, Circuit Judges.

Ronald Branson appeals pro se from the district court's dismissal of his 42 U.S.C. § 1983 action, its denial of his motion to alter or amend the judgment and

for leave to amend, and its imposition of sanctions and costs against him. Lockheed Martin IMS Corporation and Edward Avila cross-appeal from the district court's denial of their request for attorney's fees pursuant to 42 U.S.C. § 1988. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm both the appeal and cross-appeal.

We may affirm the district court's decision on any basis which the record supports. *See Branson v. Nott*, 62 F.3d 287, 291 (9th Cir. 1995). Because Branson's action is an impermissible collateral attack against a prior state court judgment, the district court lacked subject matter jurisdiction and properly dismissed his section 1983 action. *See id.* at 291-92.

Because the record shows no newly-discovered evidence, clear error or manifest injustice, or an intervening change in controlling law, the district court properly denied Branson's Fed.R.Civ.P. 59(e) motion. *See School Dist. No. 1J, Multnomah County v. AcandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993).

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[2] The panel unanimously finds this case suitable for decision without oral argument. *See* Fed.R.App.P. 34(a)(2). Accordingly, Lockheed's and Avila's request for oral argument is denied.

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Moreover, the district court did not err by denying Branson leave to amend his complaint because amendment would be futile given the district court's lack of subject matter jurisdiction. *See Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 339 (9th Cir. 1996).

We further conclude that the district court did not err by taxing costs against Branson because 28 U.S.C. §1919 authorizes payment of just costs in an action dismissed for lack of jurisdiction. *See Branson*, 62 F.3d at 293 n.10. Moreover, because the record indicates that Branson's action was a frivolous and impermissible collateral attack against a prior state court judgment, the district court properly imposed sanctions sua sponte against Branson. *See* Fed.R.Civ.P. 11.

We deny California Department of Motor Vehicles' and Reid's request for attorney's fees and costs without prejudice to their requesting such an award of fees and costs in a separately filed motion. *See Gabor v. Frazier*, 78 F.3d 459, 459-60 (9th Cir. 1996)(order).

We deny Branson's requests for judicial notice, striking of portions of certain briefs, and sanctions.[3] Finally, as to Lockheed's and Avila's cross-appeal, we conclude that the district court properly denied their request for attorney's fees under 42 U.S.C.§

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[3] Branson's remaining contentions lack merit.

----------3----------

1988 because there is no prevailing party in an action dismissed for lack of subject matter jurisdiction. *See Branson*, 62 F.3d at 293.[4]

Branson shall pay costs on his appeal. Lockheed and Avila shall pay costs on their cross-appeal.

No. 98-56530 (Main Appeal) AFFIRMED.

No. 98-56695 (Cross-Appeal) AFFIRMED.

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[4] Lockheed and Avila contend that *Elks Nat'l Found. v. Weber*, 942 F.2d 1480, 1485 (9th Cir. 1991), permits the award of attorney's fees under 42 U.S.C. § 1988 when an action is dismissed for lack of subject matter jurisdiction. This court in *Branson* distinguished *Elks National Foundation* because in the latter case the award of attorney's fees was based alternatively on Fed.R.Civ. P. 11, which permits the award of attorney's fees when an action is dismissed for lack of subject matter jurisdiction. *See Branson*, 62 F.3d at 293. Here, no Fed.R.Civ.P. 11 motion was filed, so the district court had no basis to award Lockheed and Avila attorney's fees.

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EXHIBIT B

F I L E D
JUL 22 1999
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RONALD BRANSON, Plaintiff-Appellant- Cross-Appellee, v. CITY OF LOS ANGELES;	Nos. 98-56530, 98-56685 DC# CV-98-00778-TJH Central California (Los Angeles)
LOS ANGELES DEPARTMENT OF TRANSPORTATION (LADOT); THOMAS CONNOR, General Manager LADOT; CALIFORNIA DEPARTMENT OF MOTOR VEHICLES; SALLY REID, Director DMV, Defendants-Appellees, and LOCKHEED MARTIN IMS CORPORATION, (LIMSC); EDWARD AVILA, Western Region Senior Vice President (LIMSC), Defendants-Appellees- Cross-Appellants.	**ORDER**

Before: O'SCANNLAIN, RYMER and SILVERMAN, Circuit Judges

The panel has voted to deny appellant's petition for panel rehearing.

EXHIBIT C

F I L E D
NOV 26 1999
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RONALD BRANSON,
Plaintiff-Appellant-
Cross-Appellee,
v.
CITY OF LOS ANGELES; LOS ANGELES DEPARTMENT OF TRANSPORTATION (LADOT); THOMAS CONNER, General Manager LADOT; CALIFORNIA DEPARTMENT OF MOTOR VEHICLES; SALLY REID, Director DMV.
Defendants-Appellees,
and
LOCKHEED MARTIN IMS CORPORATION (LIMSC); EDWARD AVILA, Western Region Senior Vice President (LIMSC),
Defendants-Appellees-
Cross-Appellants.

Nos. 98-56530, 98-56685

DC# CV-98-00778-TJH
Central California
(Los Angeles)

ORDER

Before: O'SCANNLAIN, RYMER, AND SILVERMAN, Circuit Judges.

We award Lockheed and Avila reasonable attorney's fees, double costs on
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appeal and sanctions. See Fed.R.App.P. 38; *Gaskell v. Weir*, 10 F.3d 626, 629-30 (9th Cir. 1993). We refer this matter to Appellate Commissioner Peter Shaw to determine a reasonable amount of attorney's fees.

Lockheed's and Avila's request to require Branson to pay sanctions before making any filings in this court is denied.

Lockheed's and Avila's request for a vexatious litigant order to compel Branson to seek authorization before filing any matters in this circuit or in a district court within this circuit is denied. See *De Long v. Hennessey*, 912 F.2d 1144, 1148 (9th Cir. 1990).

Branson's requests for citation of evidence from the record and mandatory judicial notice are denied.

No motions for reconsideration, modification, or clarification of this order shall be filed or entertained.

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EXHIBIT D

THIS CONSTITUTES
NOTICE OF ENTRY
AS REQUIRED BY
FRCP, RULE 77(d).

F I L E D
CLERK, U.S. DIST. CT.
MAY 12 1998
CENTRAL DIST. OF CALIF.
BY DEPUTY

E N T E R E D
CLERK, U.S. DIST. CT.
MAY 14 1998
CENTRAL DIST. OF CALIF.
BY DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

RONALD BRANSON,
Plaintiff,
v.
CITY OF LOS ANGELES, *et al.*,
Defendants.

CV 98-0778 TJH (AJWx)

ORDER

The Court has considered the motions of the City of Los Angeles, Los Angeles Department of Transportation, Thomas Connor, Lockheed Martin IMS Corporation, Edward Avila, California Department of Motor Vehicles, and Sally Reid to dismiss, together with moving and opposing papers.

It is Ordered that the motions to dismiss be, and hereby are, **Granted** with prejudice.

Date: May 7, 1998 /s/_____

Terry J. Hatter, Jr.
Chief United States District Judge

EXHIBIT E

THIS CONSTITUTES NOTICE OF ENTRY AS REQUIRED BY FRCP, RULE 77(d).

F I L E D
CLERK, U.S. DIST. CT.
AUG –6 1998
CENTRAL DIST. OF CALIF.
BY DEPUTY

E N T E R E D
CLERK, U.S. DIST. CT.
AUG 10 1998
CENTRAL DIST. OF CALIF.
BY DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

RONALD BRANSON,
Plaintiff,
v.
CITY OF LOS ANGELES, *et al.*,
Defendants.

CV 98-778 TJH (AJWx)

ORDER

The Court has considered Plaintiff's motion to alter or amend judgment, Plaintiff's request to file a first amended complaint, Defendant Lockheed Martin IMS Corp.'s motion for attorney's fees, and Plaintiff's motion to take Defendant Lockheed Martin IMS Corp.'s motion for attorney's fees off calendar, together with the respective moving and opposing papers.

It is Ordered that Plaintiff's motion to alter or amend judgment be, and hereby is, **Denied.**

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It is further Ordered that Plaintiff's request for leave to file a first amended complaint be, and hereby is, **Denied.**

It is further Ordered that Plaintiff's motion to take Defendant Lockheed Martin IMS Corp.'s motion for attorney's fees off calendar be, and hereby is, **Denied.**

It is further Ordered that Defendant Lockheed Martin IMS Corp.'s motion for attorney's fees be, and hereby is, **Denied.**

It is further Ordered, *sua sponte*, that Plaintiff be sanctioned in the amount of $1,000.00 for filing this frivolous action, and Plaintiff shall pay the sanction to the Clerk of the Court on or before September 21, 1998.

Date: August 5, 1998

/s/_____

Terry J. Hatter, Jr.
Chief United States District Judge

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* * *