

**IN THE STATE OF MISSOURI
WESTERN DISTRICT COURT OF APPEALS
AT KANSAS CITY, MISSOURI**

SAMUEL K. LIPARI)	
<i>Appellant</i>)	
)	
)	Case No. WD72559
vs.)	(16th Cir. Case No. 0916-CV38273)
)	
)	
CHAPEL RIDGE MULTIFAMILY LLC,)	
et al.,)	
<i>Respondent</i>)	

**MOTION FOR EXTENSION OF TIME IN WHICH TO
SERVE THE LEGAL FILE**

Comes now the appellant Samuel K. Lipari appearing pro se and seeks leave of the court for an extension of time in which to prepare and serve the record on appeal.

The appellant has filed a mandamus action to require the trial court to docket a materially important motion for change of venue which resolves issues regarding the jurisdiction of this court over the appeal. See attached Missouri Supreme Court Mandamus action.

The plaintiff respectfully requests that the Legal File due date be changed to thirty days from the ruling of the Missouri Supreme Court on whether to grant the appellant's Writ of Mandamus.

Respectively submitted,

S/Samuel K. Lipari
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803 S. Lake Drive
Independence, Missouri 64053
saml@medicalsupplychain.com
Pro se

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing instrument was forwarded this 24th day of June 2010 by hand delivery, by first class mail postage prepaid, or by email to:

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Plaintiff, *Pro Se*

In The Supreme Court of the State of Missouri

STATE OF MISSOURI EX REL.,)	
SAMUEL K. LIPARI,)	
<i>Relator,</i>)	
v.)	
)	No. _____
THE HONORABLE)	
JUDGE JOHN M. TORRENCE, CIRCUIT)	
COURT OF JACKSON COUNTY,)	
MISSOURI,)	
<i>Respondent.</i>)	

WRIT SUMMARY

Summary For Original Remedial Writs

Identity of parties and their attorneys in the underlying action, if any:

Samuel K. Lipari, relator appearing pro se
Honorable Judge John M. Torrence, respondent

Nature of underlying action, if any:

Seeking enforcement of Change of Venue

Action of Respondent being challenged, including date thereof:

Refuses to docket plaintiff's Motion for Change of Venue dated Friday May 28th, 2010.

Relief sought by Relator or Petitioner:

Order requiring respondent to perform his ministerial duty of docketing the Motion to Change Venue required by Rule 43.02 Filing Of Pleadings And Other Papers so that the plaintiff's appeal Legal File will be complete or alternatively a Criminal Referral under 18 USC § 2.

Date case set for trial, if set, and date of any other event bearing upon relief sought (e.g., date of deposition or motion hearing):

Legal file due July 1st, 2010

Date, court and disposition of any previous or pending writ proceeding concerning the action or related matter: N/A

ORIGINAL PROCEEDING IN MANDAMUS

Comes now the relator Samuel K. Lipari appearing pro se and makes this application for a writ of mandamus to order respondent The Honorable Judge JOHN M. TORRENCE of the Circuit Court Of Jackson County, Missouri to docket plaintiff's Motion for Change of Venue in the underlying action, *Lipari v. CHAPEL RIDGE MULTIFAMILY LLC, et al*; 16th Cir. Case No. 0916-CV38273 by Rule 43.02 Filing Of Pleadings And Other Papers under Supreme Court rule 94.

I. SUMMARY OF UNDERLYING ACTION

Missouri licensed attorneys have committed felonies on behalf of defendants seeking to obstruct justice and prevent the plaintiff from entering the Missouri and national markets for hospital supplies which are monopolized by the Novation LLC cartel. The defendants are alleged to be part of the Novation LLC cartel as latecomer co-conspirators put up to racketeering acts against the plaintiff by the US Department of Justice US Attorney Office for the Western District of Missouri. The felonies including Mail and Wire Fraud create private causes of action charged by the plaintiff under RICO 18 U. S. C. § 1962 (c) and (d). The plaintiff also merged his state law contract related claims against the Novation LLC cartel members the General Electric defendants.

The Honorable Judge JOHN M. TORRENCE of the Circuit Court Of Jackson County, Missouri is currently refusing to docket plaintiff's Motion for Change of

Venue dated Friday May 28th, 2010 in the underlying action, *Lipari v. CHAPEL RIDGE MULTIFAMILY LLC, et al*; 16th Cir. Case No. 0916-CV38273 by Rule 43.02 Filing Of Pleadings And Other Papers under Supreme Court rule 94.

The relator respectfully seeks to have the respondent Honorable Judge JOHN M. TORRENCE be ordered to perform his ministerial duty of docketing the Motion to Change Venue required by Rule 43.02 Filing Of Pleadings And Other Papers so that the plaintiff's appeal Legal File will be complete.

Alternatively, the relator seeks to have the interference by the respondent Honorable Judge JOHN M. TORRENCE to prevent redress for documented violations of 18 U. S. C. § 1341 Mail Fraud and 18 U. S. C. § 1343 Wire Fraud by the Missouri licensed officers of the court CHRISTOPHER BARHORST, HOLLY L. FISHER, CHRIS M. TROPITO, NICHOLAS L. ACKERMAN, and TONY R. MILLER be referred along with the respondent Honorable Judge JOHN M. TORRENCE to the US Attorney and the Federal Bureau of Investigation Public Corruption Task Force for criminal prosecution.

II. PETITION

The petitioner respectfully requests relief in the form of a Mandamus order for the following reasons:

(A) Statement of Facts

1. Two defendants CHRIS M. TROPITO, and NICHOLAS L. ACKERMAN have not been served according to the appearance docket

and the defendant WELLS FARGO COMPANY has asserted it has not been served, preventing the trial court from dismissing the plaintiff's action with prejudice under controlling Western District precedent in *Habahbeh v. Beruti*, 100 S.W.3d 851 (Mo. App., 2003).

2. The plaintiff filed a timely motion for change of venue, along with a motion for interpleader and a response to WELLS FARGO's Motion for order on Friday May 28th, 2010 and no ruling had been made in the present action. See Exhibit 1 appearance docket at 930 am Friday May 28th, 2010.
3. The ministerial function of the 16th Circuit Clerk's office at the direction of the respondent Honorable Judge JOHN M. TORRENCE interfered with docketing the Motion to Change Venue received and file stamped by clerks of the court in the Independence Annex. See Exhibit 2 appearance docket showing plaintiff's motions docketed *before* the court's purported order.
4. The plaintiff obtained a file stamped copy of his Motion to Change Venue filed with the other motions. See Exhibit 3 file stamped copy of Motion to Change Venue.
5. The contents of the Motion to Change Venue details repeated and continuing ministerial interference by the 16th Circuit Clerk's office and other state agencies in Jackson County requiring change of venue.

6. The timely Motion to Change Venue was automatic in effect and deprived the trial court of the jurisdiction to enter dismissals of parties in this action under *State Lebanon School District III v. Winfrey State ex rel. Lebanon School District R-III, v. The Honorable Larry WINFREY*, Case No. SC 86873 (January 31, 2006).

(B) Relief relator seeks from Supreme Court;

The relator respectfully seeks to have the respondent Honorable Judge JOHN M. TORRENCE be ordered to perform his ministerial duty of docketing the Motion to Change Venue required by Rule 43.02 Filing Of Pleadings And Other Papers so that the plaintiff's appeal Legal File will be complete.

Alternatively, the relator seeks to have the interference by the respondent Honorable Judge JOHN M. TORRENCE to prevent redress for documented violations of 18 U. S. C. § 1341 Mail Fraud and 18 U. S. C. § 1343 Wire Fraud by the Missouri licensed officers of the court CHRISTOPHER BARHORST, HOLLY L. FISHER, CHRIS M. TROPPITO, NICHOLAS L. ACKERMAN, and TONY R. MILLER be referred along with the respondent Honorable Judge JOHN M. TORRENCE to the US Attorney and the Federal Bureau of Investigation Public Corruption Task Force for criminal prosecution.

(C) The legal reasons for the challenge to respondent's action;

Mandamus under Missouri Supreme Court Rule 94 is the relator's appropriate remedy for the trial court's violation of RULE 43.02 FILING OF PLEADINGS AND OTHER PAPERS.

Article V, Section 4 of the Missouri Constitution vests jurisdiction in this court to hear original remedial writs. This court has original jurisdiction because subsection 1 provides that the Supreme Court will have superintending control over all courts and tribunals. This court has a duty mandated by the Constitution of Missouri to ensure that the subordinate courts comply with the Missouri Constitution, Missouri Rules of Court, and Missouri Statutes. This court also has a duty mandated by the 14th Amendment of the United States Constitution to ensure due process of law. This court has direct supervisory control over the administrative procedures of the Missouri 16th Circuit Court.

The petition for mandamus conforms to Missouri Supreme Court Rule 84.22. Granting Original Writs (a) and (b). The Western District of Missouri Appellate Court on the signature of Clerk Terrance Lord denied my motion to order the docketing of the Motion for Change of Venue by the 16th Circuit Court. The trial court case continues against 3 defendants who have not yet been served process and a copy of the petition. See the Petition for Mandamus Statement of Facts.

The trial court has a clear non discretionary duty to comply with Rule 43.02:

RULE 43.02 FILING OF PLEADINGS AND OTHER PAPERS

(a) Filing When Required. All papers after the petition required to be served upon a party and filed with the court shall be filed either before service or within five days thereafter.

(b) Filing With the Court Defined. **The filing of pleadings and other papers with the court as required by Rules 41 through 101 shall be made by filing them with the clerk of the court**, except that a judge may permit the papers to be filed with the judge, who shall note thereon the filing date and forthwith transmit them to the office of the clerk.” [Emphasis added]

Missouri Rule of Civil Procedure RULE 43.02

A mail fraud violation occurs when someone "for the purpose of executing [a] scheme or artifice[to defraud] or attempting . . . to do [so],"places in the mails something to be delivered by a mail carrier. 18 U.S.C. sec. 1341; see *United States v. Keane*, 522 F.2d 534, 551 (7th Cir.1975). 18 U. S. C. § 1343 Wire Fraud has the same requirements for transmitting a document electronically as Mail Fraud. See *United States v. Lothian*, 976 F.2d 1257, 1262 (9th Cir. 1992) (noting that the elements of mail and wire fraud are the same).

The underlying case is an action against defendants including the Missouri licensed attorneys CHRISTOPHER BARHORST, HOLLY L. FISHER, CHRIS M. TROPITO, NICHOLAS L. ACKERMAN, and TONY R. MILLER for civil liability under the Racketeer Influenced and Corrupt Organizations Act of 1970 (RICO) including violations of 18 U. S. C. §§ 1962 (c) and (d) for CHRISTOPHER BARHORST, HOLLY L. FISHER, CHRIS M. TROPITO, NICHOLAS L. ACKERMAN, and TONY R. MILLER’s use of the mails to defraud the relator/petitioner and the 16th Circuit Court.

The crime is punishable by up to twenty years in prison. 18 U.S.C. § 1341.

As such, mail fraud is a felony. See 18 U.S.C § 3559(a). Missouri Rules of Professional Ethics for Attorneys Rule 4- 8.4(b) prohibits "conduct". As such, neither a conviction nor criminal charges are necessary for there to be a violation of Rule 4-8.4(b). See *People v.Odom*, 941 P.2d 919 (Colo. 1997); *In re Hassenstab*, 934 P.2d 1110 (Or.1997).

The continuing violation by the respondent Honorable Judge JOHN M. TORRENCE of the respondent's duty to docket the pleadings filed by the relator/petitioner in the 16th Circuit Court for the purpose of protecting CHRISTOPHER BARHORST, HOLLY L. FISHER, CHRIS M. TROPPITO, NICHOLAS L. ACKERMAN, and TONY R. MILLER's violations of 18 U. S. C. § 1341 Mail Fraud and 18 U. S. C. § 1343 Wire Fraud and therefore defeat the petitioner's lawful entitlement to damages under 18 U. S. C. §§ 1962 (c) and (d) is itself a criminal act under 18 U.S.C. § 2- Aiding and Abetting and contrary to Missouri Judicial Canon 2.03 which also is a "conduct" prohibition in the nature of Rule 4-8.4(b) and states:

"Canon 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities.

A. **A judge shall respect and comply with the law** and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." [Emphasis added]

Missouri Judicial Canon 2.03.

In addition to the continuing violation by the respondent Honorable Judge JOHN M. TORRENCE of the respondent's duty to docket the pleadings filed by the relator/petitioner in the 16th Circuit Court for the purpose of Aiding and Abetting the Mail Fraud and Wire Fraud being itself a federal felony violation of 18 U.S.C. § 2, the failure of the record to include the timely Motion to Change Venue effectively deprives the relator/petitioner of his Due Process right to meaningful appellate review in the Western District of Missouri Court of Appeals.

PRAYER FOR RELIEF

The relator respectfully seeks to have the respondent Honorable Judge JOHN M. TORRENCE be ordered to perform his ministerial duty of docketing the Motion to Change Venue required by Rule 43.02 Filing Of Pleadings And Other Papers. Alternatively, the relator seeks to have the appropriate parties referred along with the respondent Honorable Judge JOHN M. TORRENCE to the US Attorney and the Federal Bureau of Investigation Public Corruption Task Force for criminal prosecution.

Respectfully Submitted,

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Plaintiff, *Pro Se*

Index of Exhibits

Exhibit 1 Docket Report – Motions Not Filed

Exhibit 2 Docket Report – Motions Filed Before Order

Exhibit 3 Motion For Change of Venue

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing instrument was forwarded this 21st day of June 2010 by hand delivery, by first class mail postage prepaid, or by email to:

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1300 Oak Kansas City, Missouri 64106

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Plaintiff, *Pro Se*

05/05/2010 **Docket Entry:** Summons Returned Non-Est
 Text: Document ID - 10-SMCC-3240; Served To - TROPITO, CHRIS M; Server - DANIEL R. TAYLOR; Served Date - 23-APR-10; Served Time - 23:59:00; Service Type - Civil Process Server; Reason Description - Not In When Service Attempted

Docket Entry: Summons Returned Non-Est
 Text: Document ID - 10-SMCC-3241; Served To - ACKERMAN, NICHOLAS L; Server - DANIEL R. TAYLOR; Served Date - 23-APR-10; Served Time - 23:59:00; Service Type - Civil Process Server; Reason Description - Not In When Service Attempted

05/17/2010 **Docket Entry:** Motion to Dismiss
 Text: Plts amended petition
 Filing Party: MILLER , TONY R

Docket Entry: Filing:
 Text: of Mot to dismiss amended petition
 Filing Party: MILLER , TONY R

05/19/2010 **Docket Entry:** Motion Filed
 Text: Mot for order directing Plt to identify party and to quash service
 Filing Party: WELLS FARGO

05/20/2010 **Docket Entry:** Motion to Strike
 Text: Mot to strike defaulting Dft Tony Miller's Mot to dismiss
 Filing Party: LIPARI , SAMUEL K

Docket Entry: Response Filed
 Text: to Dft Tony Miller's Mot to dismiss
 Filing Party: LIPARI , SAMUEL K

Displaying 1 thru 97 of 97 records for all dockets returned for case 0916-CV38273.



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16th Judicial Circuit (Jackson County)

Case Header	Parties & Attorneys	Docket Entries	Charges, Judgments & Sentences	Service Information	Filings Due	Scheduled Hearings & Trials	Civil Judgments	Garnishments/ Execution
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0916-CV38273 - SAMUEL K LIPARI V CHAPEL RIDGE MULTIFAMILY ET AL

This information is provided as a service and is not considered an official court record.

Displaying 97 thru 99 of 99 records for all dockets returned for case 0916-CV38273.

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- 05/20/2010** **Docket Entry:** Response Filed
 Text: to Dft Tony Miller's Mot to dismiss
 Filing Party: LIPARI , SAMUEL K
- 05/28/2010** **Docket Entry:** Dismiss by Ct w/ Prejudice
 Docket Entry: Motion no Longer an Issue
- Associated Docket Entries:** 01/25/2010 - Motion for Extension of Time
 Ip Motion for Extension of Time to Answer Dft Swanson Midley LLC's Motion and Suggestion to Dismiss the Plts Petition
- Associated Docket Entries:** 01/29/2010 - Motion to Dismiss
 LP Mot to dismiss amended petition
- Associated Docket Entries:** 02/03/2010 - Motion to Dismiss
 Ip Motion to Dismiss Plts Amended Petition For Failure to State a Claim
- Associated Docket Entries:** 02/03/2010 - Motion for Extension of Time
 Ip Motion for Extension of Time to Answer Swanson Midgley LLC's Motion and Suggestion to Dismiss the Plts Petition
- Associated Docket Entries:** 02/08/2010 - Motion for Extension of Time
 Ip Motion for Extension of Time to Answer Motion and Suggestion to Dismiss the Plts Amended Petition
- Associated Docket Entries:** 02/04/2010 - Motion for Extension of Time
 Ip Agreed Motion for Enlargement of Time to Respond to Dfts Petition
- Associated Docket Entries:** 02/16/2010 - Motion to Dismiss
 Ip Motion to Dismiss Plts Petition
- Associated Docket Entries:** 02/22/2010 - Motion for Extension of Time
 To File Response to Plt's First Amended Petition
- Associated Docket Entries:** 02/22/2010 - Motion Filed
 Ip Motion to Require Chapel Ridge Multifamily LLC to Make a More Definite Answer under rule 55.27(d) and to Adequately Re-Plead Affirmative Defenses 2 thru 7 or Forfeit Them
- Associated Docket Entries:** 02/22/2010 - Motion for Extension of Time
 Motion for Extension of Time to File Response to Plts First Amended Petition
- Associated Docket Entries:** 02/25/2010 - Motion to Dismiss
 Ip Motion to Dismiss Plts Amended Petition and Incorporated Memorandum in Support
- Associated Docket Entries:** 03/01/2010 - Motion to Dismiss
 Ip Motion to Dismiss Amended Petition

Exhibit 2



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16th Judicial Circuit (Jackson County)

Case Header	Parties & Attorneys	Docket Entries	Charges, Judgments & Sentences	Service Information	Filings Due	Scheduled Hearings & Trials	Civil Judgments	Garnishments/ Execution
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0916-CV38273 - SAMUEL K LIPARI V CHAPEL RIDGE MULTIFAMILY ET AL

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- Associated Docket Entries:** 02/25/2010 - Motion to Dismiss
 Ip Motion to Dismiss Plts Amended Petition and Incorporated Memorandum in Support
- Associated Docket Entries:** 03/01/2010 - Motion to Dismiss
 Ip Motion to Dismiss Amended Petition

IN THE STATE OF MISSOURI
JACKSON COUNTY SIXTEENTH CIRCUIT COURT
AT INDEPENDENCE

SAMUEL K. LIPARI,

Plaintiff,

v.

CHAPEL RIDGE MULTIFAMILY LLC, *et al.*,

Defendants.

Case No. 0916-CV38273
Division 15

FILED-CIRCUIT COURT
JACKSON CO., MO-1
2010 MAY 28 PM 3:57

**PLAINTIFF'S APPLICATION FOR CHANGE OF VENUE
FROM INHABITANTS FOR CAUSE UNDER MISSOURI CIVIL PROCEDURE RULE 51.04**

COMES NOW Plaintiff Samuel K. Lipari appearing *pro se* and makes the following Application For Change of Venue From Inhabitants for Cause under Missouri Civil Procedure Rule 51.04 to remove the present action from the 16th Circuit and the Western District of Missouri Appellate District for cause. The plaintiff respectfully requests the court grant the Motion for change of venue for the following reasons:

INTRODUCTION

The inhabitants of Jackson County, Missouri and the Western District of Missouri have repeatedly demonstrated a strong prejudice against the plaintiff in their exercise of ministerial duties as non judge employees of the 16th Circuit Court and Western District of Missouri Appellate District Court and as public officials with governmental units within Jackson County that are not parties and without a legal interest in this present action. The inhabitants have therefore demonstrated an insurmountable prejudice in the deviation of rules, the lack of observance or enforcement of Missouri Supreme Rules including attorney ethics and in the violation of even Missouri criminal statutes which has not discontinued even with repeated notices to those same officials within Jackson County governmental offices who represent the inhabitants of Jackson County in the implementation of policy and conduct against the plaintiff, threatening injury to his procedural and substantive Due Process rights guaranteed under the Constitution of the State of Missouri. Whereas for the following reasons the plaintiff respectfully requests that this court automatically grant his request for a change of Venue From Inhabitants for Cause under Missouri Civil Procedure Rule 51.04.