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JUN 21 2010

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6 *In Propria Persona*  
7 Appellant

8 UNITED STATES COURT OF APPEALS  
9 FOR THE NINTH CIRCUIT

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

17 **I.**  
18 **Introduction**

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

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

24 This proceeding involves several issues of great importance, including several  
25 Constitutional issues that are of first impression nationwide. Issues so important that the Unites  
States of America intervned 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 Broad-** 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**

1) **The California Commission On Teacher Credentialing Blocked Plaintiff's Ability To Get His Teaching Credential-Rendering The College Education Financially Worthless** - Plaintiff has repeatedly pointed out the fact that the California Commission On Teacher Credentialing ("CTC") blocked Plaintiff's teaching credential, tortuously interfered with his numerous teaching offers of employment and jobs- rendering his education financially worthless. "But for" the interference by the CTC Plaintiff would have paid off his loan/s within 12 months. The bullshit statement made by this Court that "plaintiff had not maximized his income and not made adequate efforts to obtain fulltime employment despite his educational background" in light of the fact that the CTC rendered the degree financially worthless and Plaintiff had NO OTHER MARKETABLE SKILLS from his TEACHING DEGREE is a fucking joke-nothing more than a bullshit, unsupported catch phrase used in all student loan cases. This is a little catch phrase you bitches use, without any supporting facts to back it up whatsoever. It is just more bullshit, and more constitutional violations. The "Nys" case laid out evaluating facts in applying the value of the education skills-good thing you ass clown judges didn't apply the law from "Nys", it would have destroyed your bullshit argument. You little bitches are not going to make outrageous lies like that when Plaintiff worked his ass off getting hired in a very tough and competitive education field, not once, but numerous times- only to have his employment interfered with by the CTC. If you mother fucking liars don't understand that, then you're not going to understand the civil unrest that will be coming to your doorstep. Fuck you and that ridiculous lie. The notion that ANYONE would resort to filing bankruptcy over a \$6,400 loan is a fucking joke. Since when

1 does “dirty hands” not apply to contract disputes? I guess when the  
2 government is involved and the 9<sup>th</sup> Circuit is adjudicating the case with three  
3 (3) ass clowns acting as judges-that’s when.

4 2) **The Loan Holder Engaged In Fraud-** Plaintiff has proven that the loan  
5 holder was using an inflated interest rate, far above the contracted rate, and  
6 that the loan holder added in tens of thousands of dollar in fraudulent “fees  
7 and costs”. Judge Bowies blocking of Plaintiff’s entire discovery plan is one  
8 of the reasons the Defendant has gotten away with this bullshit. Thank you  
9 Judge Bowie for violating F.R.C.P. Rule 26, as well as every other discovery  
10 rule you cock sucking motherfucker.

11 3) **Loan Holder Forced Student Loan Into Default To Add In Fraudulent**  
12 **Fees And Costs-** Plaintiff has proven, and Defendant has not refuted, the fact  
13 that the loan holder Defendant refused to offer a forbearance when the CTC  
14 interfered with Plaintiff’s teaching job- creating Plaintiff’s unemployment.  
15 This was done knowingly, willfully and intentionally by the loan holder  
16 Defendant to add in the tens of thousands of dollars in fraudulent “fees and  
17 costs”, on a principle loan amount of \$6,400.

18 **III. Judicial Misconduct By Judge Peter Wentworth Bowie**

19 1) **Judge Bowie Engaged In Severe Misconduct By Blocking 100% Of**  
20 **Discovery** – Judge Bowie engaged in multiple acts of judicial misconduct, the  
21 most harmful being the fact that he blocked 100%-EVERYTHING- of  
22 Plaintiff’s discovery. Plaintiff could not even get a copy of his student loan  
23 note, allowing Defendant’s fraud to go unchecked and undetected until July  
24 2009. Never in Plaintiff’s life has he seen such abuse at a trial court. In  
25 addition to not having a copy of the student loan note, the defendant failed to

1 give an accounting of the student loan-and with good reason-they were  
2 engaging in FRAUD. That was clearly documented in the appeal. Plaintiff  
3 wants the three (3) little bitches who are referring to themselves as judges on  
4 this case to be on notice that allowing criminal and civil fraud to take place  
5 with the blessing and straight up support of the Court (which is supposed to  
6 protect people in these situations) is going to result in civil unrest. And that  
7 civil unrest is going to start out on the doorsteps of dirty judges. If they allow  
8 criminal and civil crimes to take place with their knowledge and support, then  
9 maybe they need a dose of their own medicine.

10 **2) Student Loan Holder Engaged In Fraud-** As stated above, the student loan  
11 holder in this case was engaged in straight up fraud, using a highly inflated  
12 interest rate and adding tens of thousands of dollars in fraudulent “fees and  
13 costs” to the student loan-that was well documented, and conveniently ignored  
14 by this Court. The only way the loan holder could have engaged in fraud is  
15 with the support and backing of the Court.

### 17 **Conclusion**

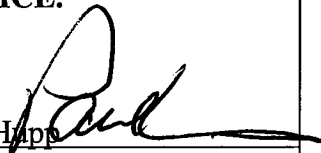
18 The public is no longer going to continue to be railroaded by unconstitutional actions of  
19 the government and their cronies in the private sector and semi-government agencies, or the  
20 judges who allow this nonsense to continue. The days of the government, acting in concert with  
21 the Courts, ripping off the poor and the innocent with impunity are OVER.

22 Civil unrest is the predicted outcome of such criminal and civil misconduct That civil  
23 unrest is going to start at the doorsteps of the slime ball, mother-fucking judges that allowed,  
24 engaged in and perpetuated it. And when that civil unrest comes knocking at your doorstep, just  
25 tell it that it is “unpersuasive”, and let us know how that works out-OK bitches.

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**YOU COCK SUCKING MOTHER FUCKERS ARE ON NOTICE.**

Submitted this 17<sup>th</sup> day of June, 2010

  
/s/ Paul Hupp  
Paul Hupp  
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(951) 769-1268  
Paulhupp@Gmail.com  
*In Propria Persona*  
*Appellant*



**DECLARATION OF SERVICE**

I, Aristeia Hupp, declare the following;

1. I am over 18 years of age,
2. I am not a party to this action,
3. My address is P.O. Box 91 Solana Beach, CA. 92075
4. I served a true and correct copy of THE FOLLOWING;

Plaintiff Paul Hupp's

1. PLAINTIFF PAUL HUPP'S PETITION FOR REHEARING;  
REHEARING EN BANC PURSUANT TO F.R.A.P. 35 & 40

ADDRESSED TO;

The United States Court of Appeals 9<sup>th</sup> Circuit-Clerk  
P.O. Box 193939  
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Washington, D.C. 20530-0001

By placing said document into the United States Postal Service at Beaumont, CA.  
with the postage fully prepaid on;

Wednesday, June 16, 2010

6/17/10 *AM*

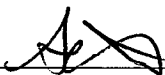
EXECUTED ON:

Wednesday, June 16, 2010

6/17/10 *AM*

I declare under penalty of perjury of the laws of the State of California and the  
United States that the forgoing is true and correct.

Declarant-Aristea Hupp



/s/ Aristeia Hupp