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Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,)	
)	
Plaintiff,)	
vs.)	
)	
)	
JOHN CHESTER STUART,)	NO. CR 2008-006332-001
)	
Defendant.)	STATE'S MOTION TO STRIKE AND
)	REMOVE FROM DOCKET EVERY ONE OF
)	THE DEFENDANT'S MOTIONS AND
)	PLEADINGS WRITTEN BY HIM UNDER
)	THE LETTER HEAD OF DEFENSE
)	COUNSEL JEFF SWIERSKI
)	
)	(Assigned to Judge Glenn Davis)
)	(ORAL ARGUMENT REQUESTED)

The State, by and through undersigned counsel, requests this Court to strike EVERY ONE OF THE DEFENDANT'S MOTIONS AND PLEADINGS WRITTEN BY HIM UNDER THE LETTER HEAD OF DEFENSE COUNSEL JEFFE SWIERSKI. The reason for this request is that the defendant is not IN PROPIA PERSONA, he has an attorney and therefore is not

permitted to file any petitions/ Motions on his own behalf. What the defendant and his defense attorney are doing with these motions and pleadings is considered "hybrid representation". There is no such thing.

A criminal defendant has the right to either represent himself or be represented by an attorney. State v. Stone, 122 Ariz. 304, 307, 594 P.2d 558, 561 (App.1979); see also Faretta v. California, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975). A defendant, however, does not have a right to hybrid representation, in which he concurrently represents himself and is represented by an attorney. Stone, 122 Ariz. at 307, 594 P.2d at 561. "When a defendant concurrently has self-representation and representation by counsel, hybrid representation results." State v. Roscoe, 184 Ariz. 484, 498, 910 P.2d 635, 649 (1996).

This defendant has filed many a pleading on his own when he was being represented by previous counsel. All of those pleadings were stricken and ordered removed from the docket by at least three previous judges. Defense counsel's disavowement of the contents of the pleadings as being his own makes the pleadings solely those of the defendant and the defendant is not allowed to file his own pleadings.

So, if defense counsel believes that the defendant's arguments in the pleadings are meritorious, defense counsel needs to file the pleadings himself, taking full responsibility for their content and

arguing their merit himself. It is doubtful that defense counsel truly believes the rhetoric and venom being spewn by the defendant. But if those beliefs are those of defense counsel, then let defense counsel take credit for them and argue them to the Court.

Since the defendant is being represented by counsel, the State respectfully requests that the Court strike and remove from the docket the following pleadings: MOTION IN LIMINE TO STRIKE AFFIDAVIT, EMERGENCY MOTION TO RECONSIDER, MOTION TO DISMISS WITH PREJUDICE FOR PURPOSEFUL DEPRIVATION, and REQUEST FOR INTERLOCUTORY STAY.

SUBMITTED this ___ day of March, 2011.

WILLIAM G. MONTGOMERY
MARICOPA COUNTY ATTORNEY

By /s/ _____
/s/ Susie Charbel
Deputy County Attorney

Copy of the foregoing
mailed\delivered this
___ day of March, 2011 to:

The Honorable Glenn Davis
Judge of the Superior Court

Jeff Swierski
Swierski Law Office
2828 N. Central Ave, Suite 890
Phoenix, AZ 85004
Attorney for Defendant

BY /s/

/s/ Susie Charbel
Deputy County Attorney