

Original for filing in case

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

**In the United States District Court
for the District of Colorado**

DEC 28 2009

GREGORY C. LANGHAM
CLERK

08-MC-0066 DANIEL

David Merrill

v.

State of Colorado Capital Finance
Corporation

**Petition for Writ
of Enforcement**

Comes now David Merrill of the Van Pelt family in his true name requesting the honorable Wiley Young DANIEL please authorize a writ of enforcement for collection of an outstanding lien perfected against the named principal State of Colorado Capital Finance Corporation. The named principal has already been notified of the billing process through agency and the secretary of state.

The foundation of the law here is the 'saving to suitors' clause of 1789, now codified at Title 27 U.S.C. §1333 saving remedy as applied through §16 of the Federal Reserve Act codified at Title 12 U.S.C. §411 allowing the demand of lawful money. Some interpretation is necessary to recognize David Merrill's absolute right to decline position of trustee for the constructive trust DAVID MERRILL VAN PELT in the legal or full name David Merrill VAN PELT or David Merrill Van Pelt.

David Merrill is a man 51 years of age. David Merrill will be referred to in the first person as I am writing this petition. I am David Merrill.

The State of Colorado Capital Finance Corporation is identified through the secretary of state as a "Domestic entity" by ID Number 19881011067. Heidi J. DINEEN apparently e-filed *Articles of Reinstatement* on or around 8/8/08 and that was filed with the Colorado Secretary of State at 2:27 pm as Document Number 20081423878. The Registered Agent street address is 1525 Sherman Street, 7th floor, Denver, Colorado. [80203] (Appropriately one floor above the state attorney general's office.) *The State of Colorado Capital Finance Company* is accepted to be the fiduciary responsible for compensating any torts caused by misconduct of Colorado judicial officers who violate their oaths of office as fungible fidelity bonds – "fidelity bond" or "oath" from here out in this petition.

In accordance with US notes of 1864 and formation of *cestui que* trust indenture IN GOD WE TRUST Kirk Stewart SAMELSON swore and subscribed his oath of office as district court judge of the Fourth Judicial District on January 14th, 2003 as attested to by Gilbert MARTINEZ who was at about that time the chief judge there. It is marked received on January 15th, 2003 by the secretary of state file clerk. It attests to being sworn *in the presence of the ever-living God*.

John William SUTHERS likewise has sworn fidelity bonds on file. In 2005, upon being reminded by somebody requesting a Certificate of Fact SUTHERS had not filed his oath yet (60 days tardy according to the state constitution) he hurried to get his oath filed and it reflects that he indeed swore the oath before Mary J. MULLARKEY chief justice and active attorney #5430 of the state supreme court on January 7th, 2005 but did not subscribe the fidelity bond until May 3rd, 2005. The oath verbiage may be hurried and fails to reflect the same *cestui que* trust in a higher Power to resolve the balances. It may be understandable in that John William was called on running the office of district attorney vacant for eight years and cleaned out his office several weeks before he could have, the next morning. The secretary of state is reported to have told the man inquiring about John William's oath they do not furnish Certificates of Fact on missing oaths anymore because they catch too much flak. The

man informed the secretary he would be back the next day with their mission statement and received a phone call as he was leaving Denver saying John William had already faxed his oath of office and would he please come get a free copy. He declined to go through the trouble to get a free copy by fax and got a certified copy of the fidelity bond the next day.

On January 9th, 2007 John William SUTHERS subscribed an oath in accord with the *cestui que* trust IN GOD WE TRUST, mentioning *SWEAR BY THE EVERLIVING GOD*. It was received on January 10th and filed on January 11th, 2007 at Reception # 20075601884.

In hearings arising from a non-event with no charges on or around late August, 2008 I had already informed chief judge Kirk Stewart SAMELSON that he would not be allowed to practice law and would be bound to honor my rights, citing the state bill of rights and his own oath of office. He seemed insistent on proceeding to try me for an event that had occurred in 2004. In good faith my abatement process indexed JUDGMENT at the county clerk and recorder stipulated SAMELSON or the clerk of court, in fact anyone reading the case file could contact me and I would report to the jail within four hours, costing the state nothing more than the phone call, should there be any arrest warrant arising from failure of the abatement. On 10/6/08 I notified SAMELSON that I would be charging him \$10,000,000.00 for performing at any trial he ordered and even inquired if he would like that notice in writing prior to placing his order. After some discussion about arraignment, he decided I was arraigned after coercing me to plead and placed his order, specifying a trial date and a trial readiness date the week prior. He waived his written notice by insisting to order that day in that hearing.

I billed him against his fidelity bond before the trial readiness hearing on 11/10/08. On the Trial Day I arrived on time and ready for trial only to find that SAMELSON had double-booked the room and that the prosecution had no witnesses to testify against me. Since I had acted in good faith to be ready for the performance I inquired and SAMELSON indeed admitted he had ordered a trial that day and I

was on time and in the correct courtroom. My daughter was in town and arrived a few minutes later, so she did not see me, but she sat down with my former wife, her mother to watch the *more important trial* adjourn for no apparent reason. It would seem it was a sham to avoid becoming obligated to pay me our agreement.

Here is a good time to explain that the main reason for such a steep charge on my part is that the trial was vexatious from the start. I call the violation of my speedy trial right “indefinitely deferred arrest warrant” but found out when the prosecutor had finally given up putting me through the shredder for a plea bargain that this tradition or innovation is called “deferred arrest”. Regardless of what you want to call it, it is a tradition foreign to me and my common law referred to in this fine district court’s 1789 *Judiciary Act*, Chapter 20, Page 77 – ‘*saving to suitors*’, *in all cases the right of a common law remedy, where the common law is competent to give it. And going on, and shall also have exclusive original cognizance of all seizures on land,...*” Based in the latter remedial clause I opened this evidence repository under the header *Habeas Corpus of David Merrill*. I will assure this honorable district court and chief judge Wiley Young DANIEL that at no time was I ever arraigned into the court and would never consent for myself to be subject to any jurisdiction where I might lose any God-given unalienable rights like assured in the original Magna Carta of 1215 and other widely understood mutual understanding of western Judeo-Christian based law; Specifically, the right to a speedy trial.

The violation seems to have manifested primarily in Kirk Stewart SAMELSON possibly in collusion with the district attorney John William SAMELSON (principal) to put the 2004 incident under Review for five years and three days as reflected in a Register of Action purchased in November of 2008. Several weeks later in January of 2009 I noticed the notation had been vacated from the Register of Action and brought this matter to your attention in Document 3 in this evidence repository. It so happens on Trial Day, before I left the courtroom I expressed to SAMELSON that I was concerned



about the lack of witnesses available to the prosecution mainly because of the severely latent trial. I reminded SAMELSON that right there in the case jacket is my promise to report to jail within four hours should there be any warrants, should the abatement for misnomer fail, and that I had provided a phone number to a cell phone 24/7 to contact me in any such event. SAMELSON informed me, and it says so on the record, that the police were allowed to defer arrest and it was entirely up to them when to execute an arrest warrant. Which of course is simply not true in any law system scenario in America. I have even asked police officers if they have ever thought they could identify a man with an arrest warrant and not execute it? Short exigent circumstances the several officers I have asked agree that would violate my right to a speedy trial to defer or delay my arrest.

Here I should mention that I processed a *Past Due Notice* about the \$20M bill through SUTHER's agent the district attorney and through SAMELSON's court on December 1, 2008; I year ago to the day as I write this petition. That past due notice is page 5 of 27 pages of the *Finance Statement* (lien) published at the secretary of state on 1/7/09 at Reception #20092001574.

In conclusion and on the character of the trust involved I should inform the court that Kirk Stewart SAMELSON reneged on our *cestui que* agreement within a week after the Finance Statement was published at the secretary of state's office. I have attached to this petition his new bond subscribed on January 13th, 2009 and received on January 14th, filed at Reception #20095601593 on February 27th, 2009. I speculate some legality in place about restructuring caused the secretary of state to wait so long before publishing the new fidelity bond. But if you look, you will see it is not in alignment with the *cestui que* trust of 1864 – IN GOD WE TRUST.

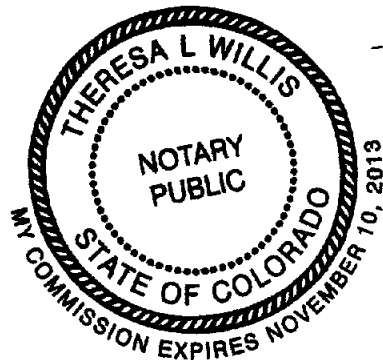
Therefore, I petition this honorable federal district court to please instruct the clerk of court to change the title of this miscellaneous case jacket to *David Merrill v. State of Colorado Capital Finance Corporation* and draft an appropriate writ of enforcement on my \$20M lien and issue an Order for the

State of Colorado Capital Finance Corporation to deposit \$20,000,000.00 in funds to an account at Fidelity Bank with me and/or my sister Martha Jeanne VAN PELT (she having certain power of attorney in my affairs), having access to those funds redeemed in lawful money pursuant to Title 12 U.S.C. §411. Identify me in only my true name David Merrill and by my right thumbprint, which I will provide to them here and at any time for verification I am actually myself.

 
215927A
David Merrill

(STATE OF COLORADO)
() SS
(COUNTY OF EL PASO)

Subscribed and sworn to before me on the 21st day of December, 2009, by the affiant who is personally known to me.




Theresa L Willis
Notary Public

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OATH OFFICE
SECRETARY OF STATE
02/27/2009 09:15:22

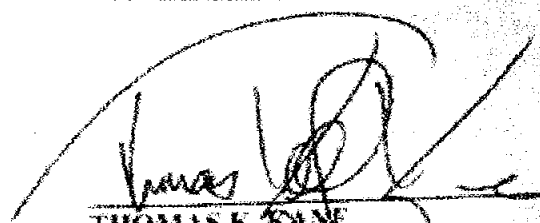
STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

OATH OF OFFICE

I, KIRK S. SAMELSON, do solemnly swear that I will support the Constitution of the United States and of the State of Colorado; that I will faithfully and to the best of my ability perform the duties of the office upon which I am about to enter of District Court Judge of the Fourth Judicial District.



KIRK S. SAMELSON

Subscribed and sworn to before me this 13th day of January, 2009.


THOMAS K. KANE
ACTING CHIEF JUDGE
FOURTH JUDICIAL DISTRICT

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JAN 14 2009
ELECTORAL DIVISION
SECRETARY OF STATE

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NAME TO FURNISH

SECRETARY OF STATE

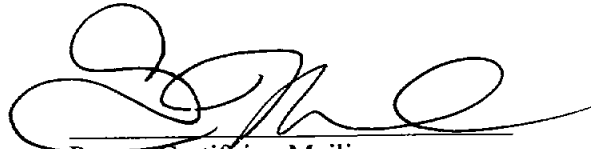
CERTIFICATE OF MAILING

I, Tad C. Howard, the undersigned, hereby certify that I deposited true and correct copies of the following:

Envelope addressed to United States District Court for the District of Colorado, 08-MC-0066 WYD, 901 19th Street - Room A104, Denver, Colorado 80294, containing:

- A pre-addressed postage paid envelope
- Petition for Writ of Enforcement with Oath of Office attachment, original to be filed and two copies to be returned
- Copy of this Certificate of Mailing

in the United States mail, postage prepaid, addressed to the parties shown on the mailing list attached hereto, this 23rd day of December, 2009.



Person Certifying Mailing

Courier Process Service, Inc., job reference
#2009013283