IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

RELIANT BANK	)	
	)	Court of Appeals Docket No.
Plaintiff / Appellant	)	M2018-00510-COA-R3-CV
	)	
v.	)	Williamson County Chancery Court
	)	Case No. #41461
KELLY D. BUSH and	)	Judge Deanna B. Johnson
BYRON V. BUSH, D.D.S. a/k/a	)	originally heard by
BYRON V. BUSH,	)	Judge James G. Martin 2014
Defendants / Appellees	)	

APPELLEEEE'S / DEFENDANT'S RULE 11 APPLICATION FOR WRIT OF CERTIORARI TO THE TENNESSEE SUPREME COURT

ORAL ARGUMENT REQUESTED

Respectfully submitted,

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RULE 11 APPLICATION FOR WRIT OF CERTIORARI

RULE 11 of the Tennessee Rules of Appellate Procedure provides the reasons for consideration and review by the Supreme Court: (1) The need to secure *uniformity of decision*, (2) The need to secure settlement of *important questions of law*, (3) The need to secure settlement of *questions of public interest*, and (4) The need for the exercise of the *Supreme Court's supervisory authority*.

Defendants seek review of the Court of Appeals opinion filed December 28, 2018 [Attached herein/No petition for rehearing was filed] to settle important questions of law and public interest; most importantly the necessity of this Supreme Court's supervisory authority concerning judicial bias and abuse.

This is the third-time that matters revealed but omitted concerning Reliant v Bush have been brought before this Tennessee Supreme Court. Previously, the Court has declined to hear.

QUESTIONS OF LAW AND PUBLIC INTEREST

1. Is it legal for a sitting judge to *OMIT* key provisions within a contract, thereby making it "*ambiguous*"; and then for that judge to *RE-INTERPRET* or *CHANGE* the meaning to be the EXACT OPPOSITE of the clear language and *INTENT* of the original contract; and upon which a party relied to their detriment?
   a. Does this omission, coupled with numerous other omissions of "*material facts*" which are supported by clear *incriminating testimony* of Sr. bank officers, raise suspicion of mis-conduct by an Officer of the court, that is "*directed to the judicial machinery itself, and that is intentionally false, willfully blind to the truth, or is in reckless disregard for the truth, that is concealment when one is under duty to disclose, that deceives the court*"?
   b. Does this not constitute "*fraud upon the court*"?
2. Does this omission of a defining and key provision within a contract also invalidate T.C.A. 47-50-112 which states that "*All contracts, including notes and security agreements... are prima facie evidence that the contract contains the true intention of the parties and shall be enforced as written*?"

3. Can a contract in Tennessee, prepared by a Plaintiff, be invalidated 7-years later because the Plaintiff ONLY claims it is "*ambiguous*" and a "*mistake*" on their part?
    a. Did the Tennessee Legislature intend for a Creditor/ Plaintiff to be authorized to *unilaterally change* or *nullify* a "*remedy for default*" of a Loan without informing the Customer/Defendant; or that the discovery of an *alleged-mistake* on the part of a Plaintiff does not require disclosure to the Defendant, and that ambiguities or mistakes on the part of a Plaintiff are now to be charged against the Defendant?
    b. Isn't this contrary to T.C.A. 45-2-1706 for Banks and Financial Institutions, T.C.A. 45-2-1716, T.C.A. 47-3-406, T.C.A. 47-3-407, T.C.A. 39-14-117, T.C.A. 39-14-130 or RULE 9.02, RULE 36 or RULE 60.02? [Attached herein in Appellee Brief]

Considering the conclusion to be reached by this Court of the first three Questions of Law;

4. WHEN is a ruling a "*FINAL RULING*" and doesn't the Appellate Court's Opinion of "*untimely filing*" of RULE 60.02 excuse and nullify the **1.** Admitted unlawful conduct on the part of Sr. bank officers, and **2.** Repeated prejudicial omission of multiple "*material facts*" by certain officers of the court; without first fully adjudicating the facts that supported the filing and ruling of the lower court concerning the RULE 60 MOTION? Stated another way... Shouldn't the facts be *adjudicated* BEFORE an "*untimely*" dismissal is made?
    a. IF Defendants have *repeatedly* given conclusive evidence of the Plaintiff's *allegations* of "*mistake*" and "*fraud*" on the part of the Plaintiff before, during and since Trial for 7-years, backed by the sworn incriminating testimony of Plaintiff's Sr. bank officers who incorrectly but *none-the-less* "allege" that the contract dispute in question is a "*mistake... the bank's mistake... no fault of the Defendants... which Sr. bank officers "discovered" 4-years before Trial but NEVER told the Defendants... and wouldn't have told the Defendants even if they had asked... and made it a point to ensure that a "remedy for default" security agreement to satisfy the Borrower's debt... was not renewed on the next renewal*" by Plaintiff's concealment and alteration of loan documents while fully knowing that Defendants would suffer tremendous financial loss as a result of

this unauthorized unilateral "*material change*" in the contract; *NONE-of-which* has *EVER* been fully or correctly repeated or openly adjudicated within any court's opinion; HAVE these Defendants lost their right or opportunity under RULE 60.02 MISTAKE / FRAUD or *independent action* or "*fraud upon the court*" to seek relief for damages?

b. Has the "*power of a court*" now been abolished or limited as "*untimely... to entertain an independent action to relieve a party from a judgment, order or proceeding, or to set aside a judgment for fraud upon the court*" [RULE 60.02] in light of the revelations within these Questions of Law?

5. Given the *OMISSIONS* by an Officer of the court of **1.)** Key contractual provisions resulting in "*ambiguity*" where no ambiguity exists and which has resulted in distortion of contractual "*true intention*" thereby prolonging litigation for 5-years; and combined with unilateral *OMISSIONS* of **2.)** Incriminating "M*aterial Facts*" by this same Officer of the Court; WAS the Appellate Court under any obligation to "*independently consider and find all material facts in the record; and either party, whether appellant or not, may assign error on the failure of the chancellor to find any material fact, without regard to whether such fact was found or requested in the lower court*"; as specified by T.C.A. 27-1-113?
6. Are the Constitutional Rights of Defendants' "*FREEDOM OF SPEECH*" as citizens of Tennessee and the United States of America being infringed upon by attorneys representing a bank; who have aggressively in a "Bully" effort to *Squelch-the-Truth*, the *WHOLE TRUTH*... and who have sent multiple "*Letters of Cease and Desist*" to magazines and persons who are simply repeating *only* what has clearly been alleged or admitted to during testimony by Sr. bank officers preserved in Court Transcripts, and are clearly and legally defined as *FRAUD*; and have been "*stated with particularity*"?

The Answers to most of these questions should be self-evident, ethically, morally and per Tennessee Statute. The bigger question is HOW and WHY is this *cover-up* occurring within the courtrooms of Tennessee?

INTRODUCTION / OVERVIEW

It is becoming increasingly clear that the Courts of Tennessee, or at the very least, certain Officers of these courts [Judges] have no intention of ever openly addressing within their Opinions, ANY of the incriminating testimony of Reliant Bank's Sr. Officers that reveal Reliant's "*alleged-mistake*" and "*fraud*" including unauthorized unilateral "*alteration of loan documents*" and Reliant's "*concealment*" of the same. What began as a scheme by Reliant Bank to defraud the Bushes, has now evolved into a concerted effort by the Officers of these courts to cover-up Reliant's testimony. The result is "*fraud upon the courts*" of Tennessee.

Is it any wonder that numerous articles abound shedding light on this public travesty, including an article written by Senator Brian Kelsey in 2014 titled, "**TN is a corrupt state needing judicial reform**" in which "*Fortune Magazine recently ranked Tennessee third among U.S. states for public corruption*". [http://knoxblogs.com/humphreyhill/2014/06/30/sen-brian-kelsy-tn-corrupt-state-needing-judicial-reform/] 2014 was the precise year of the Trial for Reliant v Bush. Senator Kelsey's article was later cited by Tom Humphrey, a Former News Sentinel Nashville bureau chief, who writes about Tennessee politics, state government and Legislature news. More will be forthcoming and exposed in the coming months.

* ***Fraud*** is a *"false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of what should have been disclosed; that deceives and is intended to deceive another, so that the individual will act upon it to her or his legal injury".* The Bushes have cited to the Record the testimony by Reliant Bank Sr. Officers which clearly reveals *in their own words* and have "*stated with particularity*" Reliant's "*mistake*" and Reliant's "*fraud*" and "*concealment*" as required by RULE 9.02 on numerous occasions immediately following Trial in 2014 without ANY open acknowledgment by the courts. Now, the Appellate Court has again skirted the real issue because of "*untimely filing*" without first adjudicating the illegal statutory violations by Plaintiff AND the obvious one-sided and biased omissions by Judge Martin which have resulted in "*fraud upon the courts*". This perverts the events of Reliant v Bush for future case law review. Otherwise to mention the above within their Opinion would require that the Ruling be reversed. It is laughable and sad!

Fraud must be proved [and has been proved by irrefutable evidence given since 2014 Trial repeatedly; but was ignored and omitted by Judge James G. Martin and later by Appellate Court Officers] *by showing that Reliant Bank's actions involved five separate elements:*

1. *A false statement of a material fact*
2. *Knowledge on the part of Reliant that the statement is untrue*
3. *Intent on the part of Reliant to deceive the Bushes*
4. *Justifiable reliance by the Bushes on the statement, and*
5. *Injury to the Bushes as a result."*

TRUE STATEMENT vs. FALSE STATEMENT:

Briefly, Reliant prepared a Multi-Purpose NOTE and Security Agreement for the Bushes in 2007 upon which they defaulted in 2012.

In determining the NOTE to be "*ambiguous*", Judge Martin, in his ORDER of October 14, 2014 Page 4, Paragraph 12, states, "*The Court characterizes the Original Note as ambiguous at best in terms of the interplay between the language of the document establishing the names of the borrowers and the obligations contained in the Note* [referencing ITEM 3. MY OBLIGATION as Borrower ONLY /No real estate] and *the language of the Third Party Agreement paragraph.*"

Judge Martin later cited both ITEM #3 and ITEM #20 to justify the "*ambiguity*" but conveniently omitted ITEM #19 of the original NOTE which specifically states the obvious;

> "19. SECURED BY REAL ESTATE OR RESIDENCE: *If this Loan is secured by real estate or a residence that is personal property, a default and your remedies for default will be determined by the terms of any separate document creating the security interest, applicable federal or state law, and, to the extent permitted by law and not contrary to the terms of the separate security document, by this Loan.*"

The NOTE "SECURED BY REAL ESTATE" is followed by a prepared "*separate security*" THIRD PARTY AGREEMENT with Dr. Byron V. Bush's name typed in for him only to sign. This security agreement in 2007 reinforced the risk-limiting discussions by Dr. Bush with DeVan Ard, Reliant's President who upon receipt of Reliant's appraisal of $2,400,000 notified Dr. Bush that they were now comfortable to make the loan as non-recourse, fully secured by the Property which was $400,000 more than needed for the 75% LTV requirement. It reads as follows:

THIRD PARTY AGREEMENT

I own the Property described in the Security section of this Note and Security Agreement and I agree to give you a security interest in that Property, I am not personally liable for payment of this debt. *If the borrower defaults*, my interest in the secured Property may be used to *satisfy the Borrower's debt*. By signing, I agree to the terms of this Note and Security Agreement and acknowledge receipt of a complete copy of this Loan.

Nov, 30, 2007

BYRON V. BUSH, DDS DATE

This is important on two fronts. **FIRST**, it establishes the *STATEMENT of a MATERIAL FACT* prepared by Reliant Bank for the original agreement which is either a TRUE STATEMENT or a FALSE STATEMENT. IF it is TRUE, and it is... then it should be honored and upon "*default... satisfy the Borrower's debt*". IF it is FALSE, then WHO authorized its falsity, and WHEN did they do so, and HOW did they react or inform the customer, and WHY did it become FALSE... and WAS there any "*intent to deceive*" the Defendants/Bushes? If it is FALSE, was anyone damaged or *defrauded* by this *FALSE STATEMENT of a MATERIAL FACT*?

YES...! Defendants have suffered extensive damage for the past seven-years.

SECOND, it is the basis upon which Judge Martin's omission and failure to include any mention of ITEM #19 for a Loan "SECURED BY REAL ESTATE" defining the "*remedy for default*" for a *LOAN SECURED BY REAL ESTATE* within his 2014 Memorandum has prolonged litigation by *CREATING the ambiguity*, instead of "*ENFORCING" the contract*, thereby "*deceiving the court*".

Every court action since the 2014 Trial has been deceived by this *abuse of discretion* by Judge Martin who omitted ITEM #19 which clearly declares that the "*remedy for default will be determined by the separate security document*" and the THIRD PARTY AGREEMENT which clearly fulfills that remedy. There is no ambiguity and it was NEVER a mistake!

Only Reliant argued that it was "*ambiguous*". Only Reliant argued that it was a "*mistake*". ONLY the Defendants have been held responsible!

The most recent action which "*deceived the court*" concerns this RULE 60.02 MOTION in which Judge Deanna Johnson *in error* found no fraud on the part of Reliant *BECAUSE* of her reliance upon the prior court [Martin] who had already determined that the original NOTE was fully recourse [by omitting ITEM #19]. She therefore determined that even if Reliant's officers intended to "*sneak out*" the Third Party Agreement, it was to no avail, because it didn't change anything. But without Judge Martin's deception and his "*fraud upon the court*", the original NOTE is FULLY NON-RECOURSE; therefore Reliant's FRAUD... to "*sneak out*" *changes everything*!

Judge Martin's 2014 Memorandum omissions were not only limited to this key contractual provision of NOTE ITEM #19, but instead he omitted entirely ANY mention of Reliant's allegation of "*mistake*", or WHEN it was found [*in 2010 four-years before Trial*], or WHO found it [*Sr. VP Rick Belote*] and WHAT he did NOT DO upon discovery [*NEVER told the Defendants*] or the incriminating testimony that he "*wouldn't have told the Bushes, even if they had asked*" and finally HOW he "*made it a point to ensure that the Third Party Agreement was not renewed on the 2011 renewal*" by his concealment and alteration of loan documents. These are serious testimonial admissions that have far reaching consequences. So WHY were they left out, not only by Judge Martin, but recently by Appellate Officers of the Court who had a statutory obligation to "*independently consider and find all material facts in the record...*" T.C.A. 27-1-113? These *one-sided-omissions* of *material facts* and *contractual truths* from the Finding of Facts seem to expose an "*intent to deceive*" and not merely an "*error*". If they are never openly acknowledged and addressed, as required by law, whether to cover up for Reliant Bank, the firm Neal & Harwell, or Aubry Harwell who each engage in persuasive perks and positions of prestige and power, and whose influence extends beyond the comprehension of the average citizen of Tennessee, then *Good-Ole-Boy* politics rules the bench. It's wrong!

It becomes ever more evident with each court appearance by what is heard... but never repeated, as though it never happened. But it did! The *SILENCE* of *COURT OFFICERS* who have taken an Oath to uphold the laws of this nation and state, and who sit behind the bench is deafening; and is more criminally devious, divisive and subversive in nature to our civil society than the common thief. The longer it remains hidden, the greater will be the embarrassment when it is revealed; and it will be revealed.

"***Fraud upon the courts*** consists of conduct: (1) On the part of the officer(s) of the court, (2) That is directed to the judicial machinery itself, (3) That is intentionally false, willfully blind to the truth, or is in reckless disregard for the truth, that is positive averment or is *concealment when one is under duty to disclose, that deceives the court*." (*Demjanjuk v. Petrovsky*, 10 F.3d 338]

In the presence of "*fraud upon the courts*" there is NEVER a final ruling; hence there is NEVER an "*untimely filing*". The Appellate Court did not rule or contemplate that portion of the RULE 60.02 which allows for an "*independent action*" or an extension of time in the presence of "*fraud upon the courts*".

The Tennessee Legislature NEVER intended for Judges to remove from contracts whatever they want, then re-interpret to mean the *EXACT OPPOSITE* or they would have written so in T.C.A. 47-50-112. Likewise Judges have an obligation after hearing the WHOLE TRUTH... to impartially and without bias "*find and consider all material facts in the record*" T.C.A. 27-1-113.

CANON 1 — A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1 Compliance with the Law

A judge shall comply with the law, including the Code of Judicial Conduct.

RULE 1.2 Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

CANON 2 — A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.2 Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Comment

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

> [3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.
>
> [4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure ***self-represented litigants the opportunity to have their matters fairly heard***.

Instead of Defendants, as *Pro Se* litigants having "*matters fairly heard*", Defendants have on multiple occasions been taken advantage of simply *BECAUSE* they are *pro se*. Rest assured Neal & Harwell attorneys have not been treated in this manner considering they were granted the right to oral arguments even though *late-filing* their Brief, received legal advice from the bench denied to Defendants and ex parte communication via letter [more?] to Judge Martin.

UNTIMELY FILING:

Contrary to the Appellate Court's OPINION which again simply copies and pastes the arguments from Neal & Harwell representing Plaintiff, this **RULE 60.02 MOTION** was timely filed on **May 25th, 2017** and was *well-within* the *one-year* limitation of a Final Ruling.

If the **January 30, 2015** date of the Chancery Court Opinion {Martin} is used as the Final Ruling (?), then it would negate the importance of any process of appeal which was not received until AFTER one year. It would ask the *Fox-of-the-Hen-House-Officer* who made no mention of any of Plaintiff/Reliant's fraudulent activity, to now police himself for his multiple and flagrantly one-sided and biased omissions of incriminating "*material facts*" from the Finding of Facts; and to now rule himself guilty of "*fraud upon the court*". It would require the Defendant as *pro se* to *know-in-advance* that the Appellate Court would not overturn the lower court's ruling. It is an absurd expectation.

It should also be noted that Defendants filed a countersuit in Bush v Reliant #44489 as Plaintiffs in that case following denial of jury trial and dismissal, AGAIN by Judge Martin. Plaintiffs were appealing the dismissal. In June of 2016, Plaintiff/Bushes filed a RULE 60.02 MOTION in that case. Reliant/Defendant's attorneys argued "*Alternatively, this Court may not consider the Rule 60.02 Motion because the order from which [Bushes} seek relief is not a final order*". Again, alternatively Judge Martin in true form echoed Reliant's argument by stating that Plaintiffs motion was "*improvident* [irresponsible, careless, reckless, negligent]

in that there is no final order as such term is defined in Rule 60.02..." BECAUSE it had been appealed to the TN Appellate Court and was awaiting a "*final order*". This clearly affected the *timing* of the filing of this Rule 60.02 in this current case which had to wait for a "*final order*" from the Appellate Court. If it was incorrect then it would be another "*error*" or "*intentional misleading*" of a *pro se party*, by Judge James G. Martin, III serving as an *officer-of-the-court* AND would also involve the attorneys of Neal & Harwell who may have attempted to "*deceive the court*". What was argued for THEN... is argued against NOW!

Defendants filed with the Court of Appeals and on **Wed. June 29th, 2016** Defendants received by email and attachment from Christy.Peoples@tncourts.gov for the Court of Appeals **OPINION Filed June 29, 2016** for the February 16, 2016 Session. [A copy of the email and front page of the 24-page OPINION follows as an attachment to this APPLICATION.]

Defendant's **May 25th, 2017** filing of this RULE 60.02 MOTION was less than eleven-months later and well within the one-year filing deadline of the Appellate Court's OPINION.

On **July 9th, 2016** Bushes filed a PETITION FOR REHEARING PER RULE 39 AND MOTION TO ACKNOWLEDGE AND ADDRESS IN RULINGS "MISTAKE AND FRAUD" BY RELIANT BANK AS "FINDINGS OF FACT" PER Tenn. Code Ann. § 27-1-113 AND TO CORRECT THE RECORD AND RULING PER RULE 36 AND RULE 60.02 AS "STATED WITH PARTICULARITY" PER RULE 9.02. A copy of the Front Page and Certificate of Service also follow as an attachment to this APPLICATION. This MOTION was filed twice, first with the PETITION FOR REHEARING was not even acknowledged by the court that it had been filed. It was filed a second time but the court mistakenly considered it a refiling of the Petition for Rehearing and was DENIED. A similar MOTION was filed with the Chancery Court [Martin] who speedily DISMISSED without comment or requiring any opposing counsel arguments.

On **July 20th, 2016** Defendant Kelly D. Bush received an ORDER from the COURT OF APPEALS [copy again attached] granting her attorney "*leave to withdraw as counsel of record for the appellant, Kelly D. Bush. The appellant shall proceed with the appeal pro se...*" This is a clear indication as of this date that the appeal process was still incomplete and a Final Ruling had not yet been made.

On **September 12th, 2016** Defendants filed their APPLICATION TO THE TENNESSEE SUPREME COURT which did not hear, sending the case back to the Chancery Court.

Again, this RULE 60.02 MOTION was filed **May 25th, 2016** which is easily within the one-year limitation. However, whether it is... or is not filed within one-year... is not the issue. ***"This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding, or to set aside a judgment for fraud upon the court."*** [RULE 60.02] Judge Johnson acted well-within her jurisdiction.

The *Real Issue* is that officers-of-the-courts have not wanted to expose the "*fraud*" upon the part of a Middle Tennessee Bank; AND a Middle Tennessee Judge peer, made evident by the continued *deafening-silence* of Judge Martin's omissions which should be fully and openly adjudicated. The "*fraud upon the courts*" still continues, but perhaps now involves others.

FIRST AMENDMENT / FREEDOM OF SPEECH:

Defendants have been very careful to avoid any *stretching-of-the-truth*, or slanderous speech, or activity that defames. It is good to yell "FIRE" in a theater, when a fire is near and present. It is heroic to yell "WOLF" to warn others allowing their escape to safety. BOTH are dangerous when used to distract or defame honest people. However Defendants, family members, friends and as of this date the Nashville SCENE have received "CEASE AND DESIST" Letters for stating on Facebook AND *Inside-Front-Cover* only what Reliant Banks's Sr. Officers themselves "*allege*" and/or "*admitted to*" during Depositions and Trial, in their own words. Read for yourself the following Ads that the Nashville SCENE has now pulled from their press; but rest assured that more will be revealed. Defendants will continue to exercise our right to FREEDOM OF SPEECH by warning the citizens of Tennessee of this predatory bank who is attempting to defraud our family and of a judicial system which has allowed this travesty to occur. Are there others?

FAIR MARKET VALUE:

Judge Deanna B. Johnson's February 20th, ruling on this RULE 60.02 MOTION was flawed by her dependence on Judge Martin's deception concerning the original NOTE as being fully recourse; when the clear language says otherwise. But it was also brave for her to consider the injustice caused by a peer with whom she shares an office in Williamson County. She was correct for initiating her "*independent action*" and her accurate analysis of the FAIR MARKET VALUE is the most thorough to date.

Even the recent OPINION by the Appellate Court included on page 2, paragraph 4, states, "*At trial, the parties offered conflicting evidence of the commercial property's value at the time of the foreclosure. Reliant's expert testified that the fair market value of the property was $1,050,000, while the Bushes' expert testified that the fair market value was $1,885,000.* [Commerce Union Bank, 512 S.W.3d at 236.] *Another witness called by the Bushes testified that both valuations were "credible" but that he favored the appraisal of the Bushes' expert.*"

To be clear, Defendant's appraisal expert had determined that Reliant's appraisal was "*credible*" in that it could be independently "*believed*" by an uninformed reader, but that the Bushes' appraisal was more accurate and had used better appraisal techniques and comparisons. Judge Johnson agreed.

Reliant's appraiser, Ben Jones was just starting out and had only done one similar commercial appraisal. He had a close family contact within Reliant Bank which drew questions of collusion a concern from the Defendant. He used flawed technique. His appraisal request from Reliant contained a request for "*liquidation value*" code-speak for *low-ball* appraisals. His first appraisal of **$890,000** was done in the Fall' of 2010, just ten-months after Reliant had received another appraisal for the January 2010 NOTE Renewal by Eric Boozer for **$2,475,000**. Jones later revised his appraisal up to **$1,050,000**.

The Bushes were NEVER informed of these appraisals which coincidentally occurred at the same time that Reliant's Sr. VP testified that he "*found the Third Party Agreement*" which would "*satisfy the Borrower's debt... upon default*" and concurrently determined the "*remedy for default*" to be "*ambiguous*" and a "*mistake*" upon the part of Reliant, but

"NEVER *told the Bushes... and wouldn't have told the Bushes even if he had been asked*". After that he "*made it a point to ensure that the Third Party Agreement was not renewed*".

Conversely at foreclosure, Defendant's appraiser was the same Eric Boozer used by Reliant Bank just two-years prior. His appraisal in November 2012 was now **$1,885,000** in whole or **$2,225,000** if sold in separate sections of the Property. Ben Jones had previously been employed by Eric Boozer. Small world!

In spite of all of these revelations, case law will show that in every case the *Defendant's valid appraisal is the starting point* from which the "*materially less standard*" is determined. But not in Reliant v Bush. The "*abuse of discretion*" should be obvious.

CLOSING:

Tennessee has some excellent Judges, several of whom I am blessed to know personally. Unfortunately not all who take their Oath of Office remain committed to the cause of Justice, but instead become entrenched in the authority they have been given and *little-by-little* in incremental steps begin to exercise their power separate from their public calling. Silence is sometimes the loudest evidence of this, of what is heard, but never repeated.

There are three primary ways that judges issue corrupt rulings. 1.) They belittle the party against whom they will decide as being "*NOT CREDIBLE*"; 2.) They ignore established law as though it does not exist; and 3.) They *leave-out*; OMIT "*Material Facts*" heard during Trial, which IF INCLUDED, would change the outcome. Such is the classic case of **Reliant v Bush**.

Defendants had made "***4-requests***" to the Appellate Court in order of preference, located on page 36 of the attached APPELLEE'S BRIEF to allow for their consideration and in the best interest of JUSTICE. Please read for yourself the willingness of Defendants for Tennessee Courts to adjudicate wisely in this manner. Instead all was washed aside, covered-up by the Court as being filed "*untimely*". Again, *"Is it any wonder that numerous articles abound shedding light on this public travesty, including an article written by Senator Brian Kelsey in 2014 titled, "**TN is a corrupt state needing judicial reform**"?* This Tennessee Supreme Court NOW has an opportunity to reign-in this corruption that is self-perpetrating. *PLEASE* do so.

Included with this APPLICATION you will find two of the Nashville Scene Articles which follow and earned a "*Cease and Desist Letter*" from Plaintiff's attorneys; the Appellate Court's Opinion of December 28th, 2018; and the Defendants' Brief to the Appellate Court filed on September 10th, 2018 which contains support detail for this APPLICATION. The Court should also be aware that a formal complaint has now been filed against Judge James G. Martin, III for his blatantly prejudicial and *one-sided-omissions* which have deceived the courts of Tennessee by his *abuse of discretion* resulting in "*fraud upon the court*".

Over fifty years ago Dr. Martin Luther King, Jr. sat in a Birmingham Jail arrested for protesting the mistreatment of persons who were equally created in the *Image of God*, yet unequally treated simply because of the color of their skin. History has shown Dr. King's willingness to be imprisoned and to stand *against-all-odds* amid the silence of authorities and prejudicial mistreatment of people of color to be a JUST CAUSE. Defendants have stood and will stand against the privileged, the well-connected and the silence of authorities who have heard the WHOLE TRUTH... but refuse to impartially speak it. Tennessee deserves better!

Defendants do hereby make **RULE 11 APPLICATION TO THE TENNESSEE SUPREME COURT FOR WRIT OF CERTIORARI**.

Respectfully and Prayerfully Submitted,

Byron V. Bush, DDS

Kelly D. Bush

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Appellees' Application has been delivered by various means to Governor Lee, State Attorney General, Members of the Tennessee Legislature and their respective Judicial Oversight Committees, US Senators Alexander and Blackburn, the TBI, FBI and Members of the Press as well as others; and also served by U.S. Mail postage prepaid, upon the following on this 22nd day of February, 2019.

The Honorable James G. Martin, III
Williamson County Chancery Court
Court Clerk's Office
Franklin, TN

The Honorable Deanna B. Johnson
Williamson County Chancery Court
Court Clerk's Office
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615-726-0573
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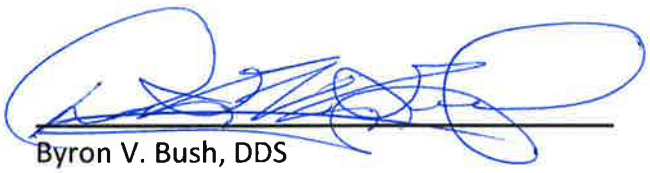

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