

In the

# FLORIDA SUPREME COURT

Scott Huminski,	)	
Petitioner,	)	Case Number: 2025-0176
v.	)	
State of Florida,	)	Original Jurisdiction
Respondent.	)	

## MOTION TO TAKE JUDICIAL NOTICE

NOW COMES, Petitioner Scott Huminski (“Huminski”) and moves that the Court take judicial notice of the Notice of Removal, dated June 26, 2017, as filed in the 20<sup>th</sup> Judicial Circuit, *Huminski v. Town of Gilbert, AZ, et al*, 17-CA-815, 20<sup>th</sup> Circuit Court (later evolving to *State v. Huminski*, 17-MM-815, Lee County Court). A true and correct copy of the removal filing in State Court is attached hereto as Exhibit “A”. (Petition, page 11, contains the federal docketing of removal)

Dated February 14, 2025.

Respectfully Submitted,

-/s/- Scott Huminski

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Scott Huminski

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Certificate of Service

True and correct copies of the above document and any attachment was served upon the State of Florida via the Florida e-filing portal on February 14, 2025.

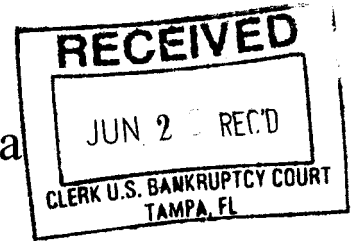
-/s/- Scott Huminski

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Scott Huminski

Exhibit “A”

In The  
United States Bankruptcy Court  
For the Middle District of Florida



IN RE, )  
SCOTT ALAN HUMINSKI, ) CASE No.17-03658-9D7  
DEBTOR )  
 ) ADV. PROC. NO.  
 )

**NOTICE OF REMOVAL TO U.S. BANKRUPTCY COURT**  
**and**  
**PROSECUTION OF VIOLATIONS OF THE 11 U.S. Code § 362 –**  
**AUTOMATIC STAY**

NOW COMES, Debtor, Scott Huminski (“Huminski”), notices of the removal of Huminski v. Town of Gilbert, et al., 17CA421, 20<sup>th</sup> Judicial Circuit, Lee County, Florida.

Huminski also seeks to prosecute three violations of the automatic stay by one of the defendants in the removed case, Sheriff Mike Scott and his agency. Defendants and the Court below have ignored the automatic stay and, in hearing, the Judge below stated that she can ignore bankruptcies (paraphrase).

Huminski filed for bankruptcy on 4/28/2017. Meeting of creditors was held on 6/13/2017.

The State proceeding may be removed to this Court pursuant to 28 U.S.C. § 1452, which provides in pertinent part:

A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title. 28 U.S.C.A. § 1452(a).

Based on the language of § 1452, a party may remove any civil action over which a bankruptcy court has jurisdiction under 28 U.S.C. § 1334. Pursuant to 28 U.S.C. § 1334, this Court has original jurisdiction over all civil proceedings “arising under title 11, or arising in or related to cases under Title 11.” 28 U.S.C. § 1334(b). The State suit was the catalyst that caused the filing of bankruptcy. Filed herewith are two motions requesting relief against a defendant in the removed matter for violation of the automatic stay. 11 U.S.C. § 362

The removed proceeding is related to the Debtor's Bankruptcy Case within the meaning of 28 U.S.C. § 1334 and it was essentially the sole motivation for bankruptcy.

The removed proceeding is a civil action within the meaning of 28 U.S.C. § 1452 because: a) the proceeding is a private party dispute between the Defendants and the Debtor in which the Plaintiff and Defendants seeks money and injunctive relief; and b) the Proceeding is not an action before the Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power.

Based on the foregoing, removal to this Court pursuant to 28 U.S.C. § 1452 is proper.

This Notice of Removal is timely pursuant to F.R.B.P. 9027 because the Debtor filed this Notice of Removal with this Court within ninety (90) days of entry of the order for relief under the Bankruptcy Code and within ninety (90) days of the Petition Date because the commencement of a voluntary Chapter 7 proceeding constitutes an order for relief. 11 U.S.C. § 301(b).

Upon removal, the Proceeding is a "core" proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B) and (O). Moreover, because the Proceeding asserts a claim against the Debtor, it necessarily implicates the bankruptcy claims allowance process and is therefore constitutionally as well as statutorily "core" within the Supreme Court's recent ruling in *Stern v. Marshall*, 131 S. Ct. 2594 (2011).

Further removal is proper: (a) under 28 U.S.C. § 1452, because the Action arises under the United States Bankruptcy Code, 11 U.S.C. § 101, et seq., (the "Bankruptcy Code"), and relates to a case under the Bankruptcy Code, as contemplated by 28 U.S.C. § 1334(b); (b) under 28 U.S.C. § 1441(b), because the case arises under federal law, as contemplated by 28 U.S.C. § 1331.

In addition, removal of this Action is proper under 28 U.S.C. § 1441(b) because this Court has federal question jurisdiction over Plaintiff's claims under 28 U.S.C. § 1331. Debtor has alleged a violation of his human rights in treaties the U.S. is a party to and under the supremacy clause such treaties become "law of the land" and Debtor seeks relief for vioations of 11 U.S.C. § 362, the automatic stay.

Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of the Debtor's rights to maintain and/or assert any affirmative defenses in this matter, including, but not limited to, the defenses of: (1) lack of jurisdiction over the person or subject matter; (2) arguments that venue is improper; (3) insufficiency of process; (4) failure to state a claim; (5)

and any other pertinent defense available under applicable state or federal law, or otherwise, which rights are expressly reserved.

Further, nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of the Debtor's rights and protections under the automatic stay provided pursuant to § 362 of the Bankruptcy Code and any other provision of the Bankruptcy Code, which rights and protections are expressly reserved.

Notice of this filing is being served upon defendants and will be filed in the State Court as soon as possible. When service is complete, Debtor will file a certificate of service.

WHEREFORE the Debtor hereby removes the aforementioned State Proceeding, Huminski v. Town of Gilbert, et al. to the United States Bankruptcy Court for the Middle District of Florida pursuant to 28 U.S.C. §§ 1441, 1452 and F.R.B.P. 9027.

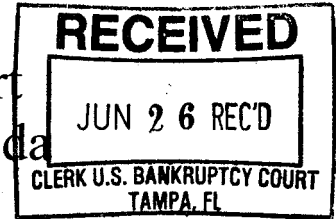
Dated at Bonita Springs, Florida this 25<sup>th</sup> day of June, 2017.

-/s/- Scott Huminski

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In The  
United States Bankruptcy Court  
For the Middle District of Florida



IN RE, )  
SCOTT ALAN HUMINSKI, ) CASE No.17-03658-9D7  
DEBTOR )  
 ) ADV. PROC. NO.  
 )

**MOTION TO VACATE PROTECTIVE ORDRS AS VOID AB INITIO OR  
VOID AND FOR DECLARATORY RELIEF**

NOW COMES, Debtor, Scott Huminski (“Huminski”), moves to vacate the protective order concerning Sheriff Mike Scott and the protective order prohibiting filing the Notice of Removal as unconstitutional and for a declaration that the protective orders issued in the Court below are unconstitutionally vague/over-broad, undermine federal bankruptcy law, are not narrowly tailored and contain unconstitutional time, place and manner restrictions on core protected speech as follows:

1. Debtor is required to file his notice of removal in the State Court under F.R.B.P. 9027 (c) which states in pertinent part,

*“Filing in Non-Bankruptcy Court. Promptly after filing the notice of removal, the party filing the notice shall file a copy of it with the clerk of the court from which the claim or cause of action is removed. Removal of the claim or cause of action is effected on such filing of a copy of the notice of removal. The parties shall proceed no further in that court unless and until the claim or cause of action is remanded”*

2. The protective order issued in the State Court obstructs Huminski's duty under 9027 and was issued after Debtor informed the State Court his bankruptcy was looming at hearing in April 2017. The State Court knows removal to bankruptcy court involves filing the notice in the State Court, thus, the State Court chose to foil bankruptcy law and obstruct justice with a prior restraint targeting removal to U.S. Bankruptcy Court and bankruptcy proceedings.

3. The protective order in the State Court states in pertinent part,

*“... Huminski was specifically ordered not to file any additional documents or materials of any nature with the Court unless the filing was signed by an attorney ...”*

4. No attorney is involved in IN RE Scott Alan Huminski, Huminski's bankruptcy.

5. The State Court knew that Huminski was indigent and could banish him from the courthouse and obstruct any bankruptcy matter by requiring he hire an attorney on his meager Social Security income. Mission accomplished – obstruction of justice. Which caused the delay of this filing until 4/26/2017 when Huminski had to weigh the contempt of state court versus the procedures of the bankruptcy court. Huminski opted to obey the constitution and federal law instead of the illegal protective orders. This conflict between State and Federal Courts is a product of a patently unconstitutional state court orders. No person should face contempt for obeying the rules of the bankruptcy court.

6. At hearing, the State Court opined that the bankruptcy court did not have to be obeyed by State courts. the Court Below was subject to *ex parte* contacts which were revealed when the State Court opined at hearing that the sworn description in the Complaint Para. 2 was false despite it is unopposed on the record. The *ex parte* contact created an improper animus and bias in the State Court.

7. The State Court also forbade service of bankruptcy court papers upon Sheriff Mike Scott as follows:

*“[i]n the Order on Defendant Mike Scott’s Motion to Dismiss and Motion for Protective Order, SCOTT HUMINSKI was specifically prohibited from directly contacting, communicating with or otherwise serving materials directly on Sheriff Scott, his agents and employees Scott ...”*

8. No attorney has appeared for Sheriff Scott in this adversary proceeding, as such, the State Court order concerning Sheriff Scott is wildly over-broad in violation of the First Amendment/Due Process and obstructs justice concerning service of papers related to this adversary proceeding upon Sheriff Scott. *Per se* obstruction of justice of matters pending before the United States Courts.

9. The prohibition of contact by Debtor with the only local law enforcement agency having jurisdiction in his town prohibiting reporting crime to the LCSO is for a lifetime, patently unconstitutional, over-broad and draconian concerning duration. Should deputies ask Huminski about a potential crime, Huminski is forbidden to talk to them. Another indication of the patently over-broad nature of the protective orders.

10. The order has not only theoretically obstructed justice, it has obstructed Huminski's ability to comply with F.R.B.P. 9027 (c) violating the First Amendment, Due Process. Huminski contacts with the sheriff reported a campaign of terrorist death threats issued to Huminski via the U.S. Mails and were sometimes critical of the Sheriff for ignoring and thus

supporting the crimes targeting Huminski – core protected political speech critical of a elected government actor. The order is against public policy as it denies Huminski access to public safety personnel and forbids Huminski's contact with an elected official and prohibits criticism of a politician.

11. Huminski emailed the judicial assistant for the State Court judge on 6/14/2017 noting the problem with the order obstructing bankruptcy matters. No response was received.

12. A similar banishment from a courthouse is documented at **Huminski v. Corsones**, 396 F.3d 53 (2nd Cir. 2005) although that case did not go to the extremes of constitutional deprivation depicted in the instant matter in violation of the First Amendment, Due Process and the Supremacy Clause. No party should have to risk contempt and imprisonment for merely obeying federal court rules as Huminski was forced to here.

13. All Huminski's communications with the defendant Sheriff were in furtherance of Huminski's report of a two year assassination plot which were met with the extremes of obstructing justice by usurping and rendering federal bankruptcy court rules void with vague and over-broad unconstitutional judicial threats.

#### MEMORANDUM OF LAW

The Supreme Court strongly protects “core political speech” as a “value hat occupies the highest, most protected position” in the hierarchy of constitutionally-protected speech. R.A.V. v. City of St. Paul, Minn., 505 U.S. 377, 422 (1992) (Stevens, J., concurring). See also Burson v. Freeman, 504 U.S. 191, 217 (1992). In defining the core political speech worthy of this elevated level of protection, the Court has broadly included “interactive communication concerning political change.”, the essence of Huminski’s communications with the sheriff. Meyer v. Grant, 486 U.S. 414, 422 (1988).

Political speech gets higher protection because it is an essential part of the democratic process. Indeed, evaluating a statute that would have restricted all anonymous leafleting in opposition to a proposed tax, the Supreme Court reflected on the importance of specifically protecting such political speech which applies equally here to Huminski’s speech regarding corruption and oppression by police and government actors who support the death threats received by Huminski. The First Amendment affords the broadest protection to such political expression in order “to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” McIntyre v. Ohio Elections



Comm'n, 514 U.S. 334, 346-47 (1995), quoting Roth v. United States, 354 U.S. 476, 484 (1957)

Recently, the Supreme Court made it abundantly clear that laws or in this case a court order that burden political speech are subject to strict scrutiny review. Citizens United v. Federal Election Comm'n, 558 U.S. 310 (2010), invalidated a federal statute that barred certain independent corporate expenditures for electioneering communications. Highlighting the primacy of political speech, the Court noted that “political speech must prevail against laws that would suppress it, whether by design or inadvertence. Laws that burden political speech are ‘subject to strict scrutiny,’ which requires the Government to prove that the restriction ‘furthers a compelling interest and is narrowly tailored to achieve that interest.’” Citizens United, 558 U.S. at 340 (quoting Federal Election Comm'n v. Wisconsin Right To Life, Inc., 551 U.S. 449, 464 (2007)). There exists no compelling reason to silence Huminski's reporting of crime or criticism of the sheriff.

The order and the threats from the Court under State/Common Law cut off the “unfettered interchange of ideas” in an important place for individual political expression—the Courts. McIntyre, 514 U.S. at 346-47.

Treading upon core First Amendment expression must be accomplished in as minimally a restrictive manner as possible, and should never be done so in the form of an absolute bar on all political expression as is the case at Bar whereby civil/bankruptcy litigation has been viewed as a *per se* criminal activity by the State Court. See Bd. of Airport Comm'rs of City of Los Angeles v. Jews for Jesus, Inc., 482 U.S. 569, 574 (1987) (invalidating a statute because it “reache[d] the universe of expressive activity, and, by prohibiting all protected expression, purport[ed] to create a virtual ‘First Amendment Free Zone.’ ”) (emphasis in original). Validating a sweeping ban on core political speech would seriously undermine the Supreme Court's stated goal of safeguarding the democratic process.

The contact with the Sheriff made by the Debtor were related to reporting crime and criticism of a political figure. A constitutional solution should have been to direct the sheriff to delete any emails he considered junk mail. Shutting down Huminski's reporting crime to law enforcement is an extreme remedy that does not survive constitutional scrutiny under vagueness and over-breadth precepts.

Grayned v. The City of Rockford, 408 U.S. 104 (1972) summarized the time, place, manner concept: "The crucial question is whether the manner of expression

is basically incompatible with the normal activity of a particular place at a particular time." Time, place, and manner restrictions must withstand intermediate scrutiny. Note that any regulations that would force speakers to change how or what they say do not fall into this category (so the government cannot restrict one medium even if it leaves open another) *Ward v. Rock Against Racism*(1989) held that time, place, or manner restrictions must:

- Be content neutral
- Be narrowly tailored
- Serve a significant governmental interest
- Leave open ample alternative channels for communication

If the government tries to restrain speech before it is spoken, as opposed to punishing it afterward, it must be able to show that punishment after the fact is not a sufficient remedy, and show that allowing the speech would "surely result in direct, immediate, and irreparable damage to our Nation and its people" (*New York Times Co. v. United States*). U.S. courts have not permitted most prior restraints since the case of *Near v. Minnesota* in 1931.

Reporting crime to a local agency is not a crime or contempt, however, obstruction of service of bankruptcy court papers and compliance with Bankruptcy rules is *per se* criminal. Orders of the State Court have obstructed service of bankruptcy related papers upon the sheriff and were an attempt to obstruct Bankruptcy Rules.

Dated at Bonita Springs, Florida this 25<sup>th</sup> day of June, 2017.

-/s/- Scott Huminski

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