

**UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

IN RE Christopher B. Julian,  
Renee G. Julian

*Petitioners.*

On Petition for a Writ of Mandamus to the United States Court of Federal  
Claims in Case No. 1:15-cv-01344-EJD, Superior Judge Edward J. Damich

**PETITION FOR WRIT OF MANDAMUS**

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Pro Se *Plaintiff*

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**STATEMENT OF RELATED CASES**

Petitioners are not aware of any other appeal arising out of this action that has previously come before this Court or any other appellate court, and no case known to Plaintiffs in this or any other court will directly affect of will be directly affected by this Court’s decision in the pending petition.

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3 **INTRODUCTION**

4 Petitioners Christopher B. and Renee G. Julian here and after referred to as  
5 Petitioners filed suit in the U.S. Court of Federal Claims for breach of an express  
6 or implied contract and a taking without just compensation.  
7

8 A principal merit of Plaintiffs case, claims conversion and breach of a contractual  
9 agreement with the United States resulting from unlawful deprivation of  
10 constitutional rights, failure to abide by the law, and ignoring Supreme Court  
11 Precedent to unlawfully protect a criminal government enterprise.

12 Another wholly important merit of this case is its originates from a civil cause of  
13 action for racketeering at the highest levels of the United States Government  
14 alleging Executive offices are involved in the operation of the alleged enterprise.  
15

16 From a public perspective these allegations are of significant importance to  
17 society, the constitution, and the rule of law.

18 Consequently, This Court should consider this instant case and its predecessors  
19 amongst the most significant to ever reflect on the Federal Judiciaries  
20 independence, integrity, honesty, and honor. Furthermore, it ask the court to  
21 demonstrate its commitment to the constitutional rights of American citizens  
22 freedom from tyranny and oppression by unconstitutional and unlawful acts of  
23 Federal Government Officers and Agencies. It questions the Federal Court  
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1 Systems commitment to upholding the Constitution of the United States of  
2 America.  
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4  
5 **RELIEF SOUTHT**

6 Petitioners respectfully request the court issue a writ of mandamus directing  
7 the Court of Federal Claims to (i) Vacate the judgment issued. (ii) Instruct  
8 Superior Judge Edward J. Damich to recues himself from these proceedings  
9 pursuant to 28 U.S.C. §455(a). (iii) Instruct the Court of Federal Claims to assign  
10 a new judge willing to attest in writing to haven taken the oath of office and a  
11 commitment to abide by that oath accordingly in application of the law and in  
12 accordance with the Constitution of these United States. (iv) Instruct the Court of  
13 Federal Claims in any and all subsequent rulings to support the rulings with  
14 published findings of fact, conclusions of law and in the absence of same for the  
15 judgment issued, the ruling be stricken as unsupported opinion, frivolous, void,  
16 and not binding in the Court of Federal Claims. (vi) Petitioners respectfully  
17 request in light of the significant public implications of all the related  
18 proceedings this Court abide by their oaths of office and respond to this writ with  
19 published findings of fact and conclusions of law.  
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## ISSUES PRESENTED

1. Whether Superior Judge Edward J. Damich should have recues himself from the proceedings prior to issuing judgment in case 1:15-cv-01344-EJD.
2. Whether the Judgment of Superior Judge Edward J. Damich should be vacated, and stricken as unsupported opinion, frivolous, void and not binding in the Court of Federal Claims.
3. Whether the Court should direct the Court of Federal Claims to assign a new judge to these proceedings.
4. Whether the Court should instruct the Court of Federal Claims to assign a judge willing to commit to abiding by his oath to uphold the law and the Constitution supporting its rulings with findings of fact and conclusions of law.

## STATEMENT OF FACTS

### **A. Procedural History**

1. September 16, 2013 Petitioners filed suit in the Federal District Court of Virginia Western District (Danville) against the United States Department of Agriculture “USDA”, multiple Federal employees of the USDA, National Appeals Division “NAD”, Farm Service Agency “FSA” and one employee of the State of Virginia Agricultural Mediation Program under the Racketeer Influenced Corrupt Organizations Act “RICO” case No. *4:13-cv-00054 JLK*, which was criminally and unlawfully converted and dismissed without prejudice.
2. May 2014 an interlocutory appeal was filed with the 4<sup>th</sup> CA case No.’s *14-1480* .



- 1 3. September 2014 an appeal was filed on the unconstitutional judicial  
2 review of a matter that was the juries' purview per the Constitution in  
3 matters of civil suit.
- 4 4. November 2014 case 14-1480 and 14-1925 were consolidated for opinion  
5 and the court of appeals upheld the rulings without comment.
- 6 5. February 2015 a *writ of certiorari* petition #14-1051 was submitted to the  
7 Supreme Court of the United States.
- 8 6. April 27, 2015 the Supreme Court of the United States denied cert.
- 9 7. November 9, 2015 As a result of the dismissal and rulings of March 24,  
10 2014 and for legal cause Petitioners Filed suit against the United States  
11 Government for Breach of Contract and a taking without just  
12 compensation in the Court of Federal Claims case No. *1-15-cv-01344*. Dkt  
13 #1.
- 14 8. November 9, 2016 Petitioners filed a motion to proceed *informa pauperis*.  
15 Dkt #2.<sup>1</sup>
- 16 9. November 23, 2016 the department of Justice filed a notice of appearance  
17 with the Clerk of Court of Federal Claims. Dkt #9.<sup>2</sup>
- 18 10. Jan 8, 2016 Defendants filed a motion to dismiss under RCFC 12(b) 1 & 6.  
19 Dkt # 5.
- 20 11. Jan 19, 2016 Having prior experience with Federal Judge Jackson L. Kiser  
21 who decimated any false perception a litigant might have a judge should  
22 be blindly trusted as honest, ethical, and impartial. In conjunction with the  
23 following facts.

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24 <sup>1</sup> The motion to proceed *informa pauperis* was never ruled on but  
25 by implication is/was assumed granted

26 <sup>2</sup> Was not docketed on the courts docket for more than 2 months.

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- a. The court had not as of Jan 19,2016 docketed the DOJ notice of appearance. Raising suspicions about judicial intentions.
- b. The Court never to date ruled on the request for informa pauperis status. Raising suspicions about judicial intentions.
- c. Petitioner Pro Se expected the Court to issue a Roseboro notice with the 12(b) 6 motion to dismiss made by the defendants. But none was ever issued. Raising suspicions about judicial intentions.
- d. Petitioners experience with Judge Jackson L. Kiser prompted a desire for any judge to state for the record his intent to provide Petitioners the due process commanded by the Constitution. Petitioner wanted to accept the offer expressed by the constitution, which he had not formally contracted with Judge Jackson L. Kiser and have his intent on the record. All law is Contract. All US societal law extends from the Constitution. Petitioners consider by implication of past experience suspicions of judicial intentions especially in light of the nature of these cases well founded.
- e. Petitioners were well aware Judge Edward J. Damich was appointed to the bench by former President William Jefferson Clinton, whom Petitioners allege and would argue in these proceedings, institutionalized the RICO enterprise currently operating within the Executive office of the Secretary of Agriculture. Raising concerns of Judge Edward J. Damich impartiality regarding this instant case. Petitioners had actually waited for a judicial appointment with anticipation of

1  
2 this being an issue of impartiality.

3  
4 Consequently, Petitioners filed a motion with the court requesting  
5 Superior Judge Edward J. Damich confirm for the record he had  
6 taken the oath of office, he would adhere to his oath through out the  
7 court proceedings, and he would abide by the judicial canons of his  
8 office. Ensuring Petitioner of his honest, ethical, intent to apply the  
9 law and abide by the Constitution with impartiality. Dkt #6.<sup>3</sup>

10 12. February 3, 2016 Petitioners filed to comply with deadlines a response  
11 to the 12(b) 1 & 6 motions to dismiss. Since at the time the motion of  
12 January 19, 2016 for attestation of the oaths and intent to comply had  
13 not been docketed. Petitioners made a footnote in the response on the  
14 same page as the summary of the role former President William  
15 Jefferson Clinton in the establishment of the USDA's RICO enterprise.  
16 The footnote for the record reads:

17 " In light of these facts Plaintiffs believe Judge Edward J. Damich  
18 having been appointed by William F. Clinton should recues himself  
19 from this case. And any judge not willing to affirm their oath of  
20 office and intention to abide by it." <sup>4</sup>Otherwise their impartiality  
21 would reasonably be in question and in violation of federal law 28  
22 U.S.C. 455(a). See Dkt # 7 at 13.

23 13. February 4, 2016 Judge Edward J. Damich posted his response denying

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24 <sup>3</sup> Note this item is docketed prior even to the courts docketing  
25 the defense notice of appearance.

26 <sup>4</sup> The precise wording of the footnote is important as Judge  
27 Edward J. Damich materially misrepresents it in his opinion  
28 docket item #12.

1  
2 the request to attest to his oath of office and intent to abide by that  
3 oath. Petitioners took Judge Edward J. Damich denial of the request to  
4 confirm, by implication to suggest, he could in fact not be trusted to  
5 abide by his oath of office a Judge who cannot be trusted to abide by a  
6 sworn oath is untrustworthy and it isn't possible for true justice to be  
7 served by a less than honest judge. Petitioners considered a motion to  
8 the court for Judge Edward J. Damich to recues himself, but felt the  
9 footnote on declining to attest to his oath and his appointment to the  
10 judiciary by former President William Jefferson Clinton a man of  
11 integrity would find more than reasonable to question his impartiality  
12 and an honest judge of any integrity would recues himself rather than  
13 appear to violate federal law 28 U.S.C 455(a). Judge Damich was given  
14 a reasonable opportunity to respond to the neglect of his oaths to recues  
15 himself honorably but did not. Dkt #8.

14. February 10, 2016 the court finally docketes the DOJ notice of  
15 appearance. Raising suspicions of judicial intentions waiting until after  
16 a response to the 12(b) motions had been docketed. Dkt 9

15. February 16, 2016 the Defense posted a reply to Petitioners response.  
18 Dkt # 10.

16. February 24, 2016 Petitioners anticipating, based on all of the  
19 suspicions around intent to deny impartiality, Petitioners would not  
20 have another opportunity to rebut. Petitioners took liberty to submit a  
21 Sur-Reply. Dkt # 11.

17. March 10, 2016 the court entered an opinion and order dismissing the  
22 Petitioners suit on 12(b) grounds. Dkt #12

18. March 10, 2016 Court entered Judgment. Dkt #13

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3 **B. The Parties**

- 4 a. Petitioners Christopher B. and Renee G. Julian private citizens, who  
5 invested their life's savings and years of hard labor to develop a  
6 rural home and business but, were raped, robbed, tortured, by a  
7 despotic, tyrannous, oppressive criminal and corrupt set of  
8 government enterprises. A Government that repeatedly maliciously  
9 and with premeditation refuses to grant petitioners the  
10 Constitutional guarantees of Due Process, Equal Justice and  
11 address of grievance for countless criminal violations against them.  
12 b. Defendants The United States Government, The United States  
13 Federal Judiciary, The United States Department of Agriculture.

14 **C. The Asserted Rights**

- 15 a. The right of a private citizen (Petitioners) to contract with the  
16 Federal Judiciary of THE UNITED STATES to uphold Petitioners  
17 Constitutional rights and the Federal Laws of the republic of the  
18 united states of America.

19 **LEGAL STANDARD**

- 20 I. The writ of mandamus is available in extraordinary situations to  
21 correct a clear abuse of discretion or usurpation of judicial power. *In*  
22 *re Calmar, Inc.* , 854 F.2d 461, 464 (Fed. Cir. 1988).  
23 II. A party seeking the writ bears the burden of proving that it has no  
24 other means of obtaining the relief desired, *Mallard v. U.S. District*  
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2 *Court*, 490 U.S. 296, 309 (1989).

3 III. A party seeking the writ bears the burden of proving the right to  
4 issuance of the writ is “clear and indisputable,” *Allied Chem. Corp.*  
5 *v. Daiflon, Inc.* , 449 U.S. 33, 35(1980) (citation and internal  
6 quotations omitted).  
7

8 **STATEMENT OF REASONS WHY THE WRIT SHOULD ISSUE**

9 I. Argument - Superior Federal Judge Edward J. Damich’s  
10 clear abuse of discretion and usurpation of judicial power.  
11

12 A. (11) described supra - On January 19, 2016 because numerous  
13 Federal & State judges had ignored federal laws and Petitioners  
14 constitutional rights on numerous occasions and multiple actions of  
15 the court raised perception of a lack of Integrity and impartiality. See  
16 the items listed in (A.) with emphasis added. Petitioners  
17 consequently, made motion to the court for Judge Edward J. Damich  
18 of the Court of Federal Claims to state in writing: 1 he had taken the  
19 judicial oath of office 2 he would adhere to that oath during  
20 proceedings 3 he would abide by the Judicial cannons of his office. See  
21 Fact # 11 Dkt # 6.<sup>5</sup>  
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24 <sup>5</sup> Again note the items requested are factually materially  
25 misrepresented by judge Edward J. Damich in is Opinion dkt #12  
26 Item D at 4.  
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- 1 Why if you took an oath of office to uphold the law and the constitution might you hesitate even a minute to affirm it?
- 2 Why if you took an oath of office to uphold the law and the constitution might you hesitate for even a minute to affirm your intent to abide by that oath?
- 3 Why if you took the oath of a judge would you hesitate to affirm your intent to abide by the canons of that office?

While you “may” not be required to do so surely an honest judge of integrity would have no problem as an officer of the United States Government putting the Constitutional promise (Offer) in writing to a Petitioner given he has a sworn duty as an Officer of the United States Government to uphold the Constitution and the law. See 28 U.S.C.§453 and 5 U.S.C §3331 Failing to do so is declining an implied acceptance of an offer made putting the United States Government in breach of contract. Judge Edward J. Damich denial of attestation is calculated obstruction of justice and so, a contempt of court, a broken oath and, a breach of contract. Collectively these are more than sufficient to suggest Judge Edward J. Damich impartiality; intent, honesty and honor might reasonably be questioned as defined in 28 U.S.C. §455(a).

**Canon 1: A Judicial Employee Should Uphold the Integrity and Independence of the Judiciary and of the Judicial Employee's Office**

The reasons for asking Judge Edward J. Damich to attest he took an oath of office and intends to abide by that oath of office and his

1  
2 judicial canons is to ascertain beforehand, the honesty, fairness,  
3 independence and integrity this total stranger “intends” to display  
4 during the course of proceedings. Remember, this stranger Judge  
5 Edward J. Damich holds enough power and potential over Petitioners  
6 to disrupt the Petitioners life and remove their liberties. Which  
7 numerous Judges had already done to the Petitioners! Furthermore,  
8 and of great importance is the role prior breaches of the laws, the  
9 oaths, and canons by Executive, Legislative, and Judicial branches of  
10 the U.S. Government at the highest levels have played in the  
11 proximate cause of the complaints at issue.

12 *“The due administration of justice requires first that all citizens*  
13 *should have unhindered access to the constitutionally established*  
14 *courts of criminal or civil jurisdiction for the determination of disputes*  
15 *as their legal rights and liabilities; secondly, that they should be able*  
16 *to rely upon obtaining in the courts the arbitrament of a tribunal*  
17 *which is free from bias against any party and whose decision will be*  
18 *based upon those facts only that have been proved in evidence adduced*  
19 *before it in accordance with the procedure adopted in courts of law;*  
20 *and thirdly that, once the dispute has been submitted to a court of law,*  
21 *they should be able to rely upon there being no usurpation by any other*  
22 *person of the function of the court to decide according to law. Conduct*  
23 *which is calculated to prejudice any of these requirements or to*  
24 *undermine public confidence that they will be observed is contempt of*  
25 *court” – Lord Diplock in Att-Gen v. Times Newspapers Ltd. [1974].*



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3 *"The absolute rights of man, considered as a free agent, endowed with*  
4 *discernment to know good from evil, and with power of choosing those*  
5 *measures which appear to him to be most desirable, are usually*  
6 *summed up in one general appellation, and denominated the natural*  
7 *liberty of mankind. This natural liberty consists properly in a power of*  
8 *acting as one thinks fit, without any restraint or control, unless by the*  
9 *law of nature: being a right inherent in us by birth, and one of the gifts*  
10 *of God to man at his creation, when he endued him with the faculty of*  
11 *free will. But every man, when he enters into society, gives up a part of*  
12 *his natural liberty, as the price of so valuable a purchase; and, in*  
13 *consideration of receiving the advantages of mutual commerce, obliges*  
14 *himself to conform to those laws, which the community has thought*  
15 *proper to establish."* – William Blackstone, *Commentaries on the Laws*  
16 *of England.*

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Petitioners had a due process right to know their going to be treated  
in the manner prescribed by this unknown strangers oath of office, his  
commitment to the Constitution of the United States, and the promise  
the Constitutions offers to all citizens in getting access to the law.  
Petitioners are entitled having given up some natural freedoms,  
which Government is ever increasing to demand more of. Petitioners  
opted into being subject to the Constitution and allowing the Supreme  
Law to have [legitimate] control over them. "Contracts make the law  
- all law is contract.

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3 Once laws are made it's the job of the judge to listen to and make  
4 judgments when there are disputes and allegations of wrong doings.  
5 This position as you would expect requires the holder to be of  
6 impeccable character and hold the highest moral standards and  
7 unshakeable integrity. There can be no lesser qualifications for a  
8 position in society of such great importance and power. Especially  
9 when Government is charged with criminal violations of the  
10 Constitution.

11 You should ALWAYS get a positive answer from an honest judge, how  
12 could you not?

13  
14 In an ideal world no one would even dream of questioning a judges  
15 integrity. It would go without saying that, if that man or woman took  
16 a solemn oath to perform and act in a certain way, there would be no  
17 way on Earth that solemn vow would be welched on, or forgotten  
18 when suited. Men and women who are honest develop a reputation for  
19 that honesty and so there is very little if any natural motivation to  
20 question that honesty.

21  
22 For a Federal Judge to confirm his intention gives the people and  
23 Plaintiffs confidence in these complete strangers to act fairly, honestly  
24 and with integrity and to be TOTALLY IMPARTIAL. A judge's denial  
25 of such a motion for said relief provokes the antithesis.

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3 This is a NORMAL request for someone to ask in a situation as alien  
4 to him as this and having a case based largely on Criminal acts  
5 involving the highest levels of the U.S. Government aided by the  
6 Federal Judiciary.

7  
8 Judge Edward J. Damich declination of a request to confirm being  
9 bound by his oath did not foster confidence, judge Edward J. Damich  
10 would act as professional as one would expect, and so together with  
11 other seeming improprieties there was no trust in judge Edward J.  
12 Damich judicial abilities or integrity when the responsive pleading  
13 was written. DKT # 7. See footnote at 13 suggesting he should recues  
14 himself.

15  
16 Petitioners have found judges lacking in honesty, fairness and  
17 integrity, a requirement demanded by their “noble” profession. It’s  
18 these judges that appear to have abandoned their oath and honor, and  
19 it’s these judges’ prior actions that demanded Plaintiffs ask Judge  
20 Edward J. Damich if he would be bound by the principles of his oath  
21 with the intention of getting a positive answer.

22 Consider the Words Thomas Jefferson in a *letter to William Jarvis*  
23 *September 28th 1820* "judges are as honest as other men, and not  
24 more so. They have, with others, the same passions for party, for  
25 power, and the privilege of their corps, Their power [is] the more  
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2 dangerous as they are in office for life, and not responsible, as the  
3 other functionaries are, to the elective control."

4  
5 Appointed to be a Justice by Former President William Jefferson  
6 Clinton and later assigned Petitioners case accusing Former  
7 President William Jefferson Clinton of establishing and operating a  
8 criminal unconstitutional enterprise warring against We The People.  
9 Should Judge Edward J. Damich not recues himself on the grounds  
10 presiding over such a case might appear to lack independence or  
11 worse an intent to protect a criminal enterprise involved in act of  
12 treason. An enterprise accused of being designed to deny individuals  
13 the constitutional rights a judge has a sworn oath to uphold? See 5  
14 U.S.C §3331.

15 **Canon 2: A Judicial Employee Should Avoid Impropriety and**  
16 **the Appearance of Impropriety in All Activities**

17 Presiding over a case in which President William Jefferson Clinton  
18 who had appointed Judge Edward J. Damich to the bench as a judge  
19 with a fifteen-year plus appointment is accused of establishing a  
20 criminal unconstitutional RICO enterprise at about the time of Judge  
21 Edward J. Damich appointment presents a significant appearance of  
22 impropriety.<sup>6</sup> The relationship is deeper still than that. At the time

23  
24 <sup>6</sup> While its stated in the footnote on Docket item #7 at 13 that  
25 Judge Edward J. Damich should recues himself due to a conflict  
26 of interest between allegations made and the President whom  
27  
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1  
2 the alleged RICO usurping the constitutional separation of powers  
3 was institutionalized under former President William Jefferson  
4 Clinton, Vice President Joe Biden was chairman of the Senate  
5 Judiciary committee and Judge Edward J. Damich was Chief  
6 Intellectual Property Counsel for the Senate Judiciary committee.  
7 These fact present an indisputable appearance of impropriety under  
8 which Judge Edward J. Damich should have recues himself.

9  
10 If a judge does not fully comply with the Constitution, then his orders  
11 are void, *In re Sawyer, 124 U.S. 200 (1888)*, he/she is without  
12 jurisdiction, and he/she has engaged in an act or acts of treason.

13  
14 Any judge who does not comply with his oath to the Constitution of  
15 the United States wars against that Constitution, and engages in acts  
16 in violation of the Supreme Law of the Land. The judge is engaged in  
17 acts of treason. Furthermore, since the Petitioners case and  
18 predecessor cases involve treason judge Damich has chosen to War  
19 against We The People and to adhere to the enemies of We The  
20 People, in an act of passion for his party, for power, and the privileges  
21 of the corps.

22 These are hardly what can be characterized as Judicial functions or

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23  
24 appointed him to the bench. With a total lack of integrity and  
25 dishonestly this information is not disclosed in the judges  
26 opinion. Where he specifically address recusal.  
27  
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1  
2 the expectations society has on such a high office and an officer sworn  
3 to uphold the constitution under 28 U.S.C §453 and 5 U.S.C. §3331.

4  
5 The Constitution of these United States of America is the supreme  
6 law of the land. No other law, rule, regulation or code including  
7 contract can supersede it, nor can authority as a judge, or an imposter  
8 acting as a judge. Judge Edward J. Damich declined to confirm his  
9 oath and consequently, he calculated an obstruction of justice and so,  
10 a contempt of court, a broken oath, a breach of contract and an act of  
11 treason. Judge Edward J. Damich is an imposter, unlawful in the  
12 office, and in violation of 18 U.S.C §912.

13 For all the reasons stated supra Judge Edward J. Damich violated 28  
14 U.S.C. §455(a) Judge Edward J. Damich should have recues himself  
15 and should have stepped down.

16  
17 Judge Edward J. Damich actions are a clear abuse of discretion and a  
18 usurpation of judicial power as an imposter.<sup>7</sup>

19  
20  
21 <sup>7</sup> Interesting to note the major significance of Executive  
22 branches usurping judicial power as a basis for the RICO  
23 spawning these proceedings, while the Judiciary continues to  
24 protect that usurpation of judicial power in these  
25 proceedings. Are the Judiciary and Executive branches co  
26 conspirators in treason against We The People? Has the  
27 branches of Government conspired against the people for power,  
28 tyranny, and oppression?

1  
2 **II. The only satisfactory means to rectify this unconstitutional**  
3 **deprivation of the Petitioners Constitutional rights is for this**  
4 **Court to fully grant the writ of mandamus.**

5 Superior Judge Edward J. Damich has entered judgment and  
6 Petitioners have and retain the right under the law to appeal.  
7 However, for all reasons stated supra Judge Edward J. Damich  
8 judgment is not voidable but void. Appeal of any judgment made by  
9 a judge who is not committed to judgment in accordance with his/her  
10 oath of office is subject on appeal to the same abuse of discretion and  
11 usurpation of judicial power affected by Judge Edward J. Damich.

12 Petitioners have no reason to believe a post motion judgment  
13 presented to Judge Edward J. Damich would be handled without  
14 impropriety.

15 Consequently, the only means of obtaining the relief desired is for  
16 the judgment to be vacated and new judge assigned by the Court of  
17 Federal Claims willing to commit in writing to exercise their duties  
18 faithfully and in accordance with their oath, judicial canons, and the  
19 law.

20 The only satisfactory means to rectify this criminal unconstitutional  
21 deprivation of the Petitioners Constitutional rights is for this Court  
22 to fully grant this writ of mandamus.

23 **i. The right to Issuance of a Writ is clear and indisputable.**

24 Judge Edward J. Damich actions are a clear abuse of discretion and  
25  
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1 a usurpation of judicial power as an imposter.  
2

3 **ii.** The only satisfactory means to rectify this criminal unconstitutional  
4 depravation of the Petitioners Constitutional rights is for this Court  
5 to fully grant this writ of mandamus.

6 **iii.** Petitioners contend Judge Edward J. Damich withdrew the  
7 Constitutions offer of a fair, impartial hearing based on the  
8 constitution and the law when Petitioners provided an implied  
9 acceptance as a request Judge Edward J. Damage as an officer and  
10 Agent of the United States commit his personal attestation to honor  
11 the offer as the presiding judge. Common law states a valid offer  
12 and a valid acceptance is a binding contract. Once accepted  
13 rescinding an offer is a breach of contract. Judge Edward J. Damich  
14 denial of attestation is calculated obstruction of justice and breach of  
15 that contract.

16 **iv.** Petitioners contend the memorandum opinion of Judge Edward J.  
17 Damich reflects a regurgitation of the defense motion and ignores  
18 the Petitioners rebuttal arguments without consideration. Their  
19 reflective of a complete bias for arguments of the defense and they  
20 demonstrate Judge Edward J. Damich lack of integrity and his  
21 dishonesty. Petitioners are not going to rearguing the points again  
22 for this writ. However, it's worth pointing out a least one specific  
23 example as it relates to this entire argument.

24 a. In the Opinion by Judge Edward J. Damich Dkt # 12 at 4 D  
25 Motion for recusal. Judge Edward J. Damich states

26 "Mr. and Mrs. Julian's argument for recusal is the denial  
27 of their motion for attestation to the taking of the oath of  
28



office.”

This is a completely dishonest statement reflecting intent to hide material issues. 1. Because the attestation requested more than attesting to taken the oath. It requested and attestation of a commitment to abide by the oath and abide by the judicial canons of office. 2. The request was based on as stated in the footnote dkt 7 at 13 see fact 12 an Appearance of Impropriety presiding over a case where the former President whom appointed Judge Edward J. Damich to the Bench is accused of establishing a criminal unconstitutional racketeering enterprise for the theft of constitutional rights aided and abetted by the Federal Judiciary.

v. Judge Edward J. Damich in his docketed opinion found no reason he was in violation of his oath, the law, or his canons. A motion after Judgment is entered to request recusal would be met with the same lack of honesty, integrity, and impartiality and judicial abuse of discretion as the current judgment against Petitioner.

vi. Petitioners are entitled under the constitution to a fair and impartial hearing based on the constitution and law. The Constitution of the United States, whereby, among other things, it is provided that no person shall be deprived of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction equal protection of the law. Petitioner’s rights have been continually denied by the judicial system.

vii. This court could deny the writ but in so doing would place Petitioners and the Court in an endless loop of filings and appeal until such time as the Court finds a Judge willing to comply with his

1 oath of office. This would be a clear violation of the Constitution, due  
2 process, equal justice, and FRCP (1). just, speedy, and inexpensive  
3 determination of every action and proceeding. There is no  
4 opportunity after a judgment for a Petitioner to obtain on the record  
5 acceptance of the Constitutions offer. And any appeal is subject to  
6 the rubber stamp of approval and depravation of the rights  
7 abridged. That is any appellate review is subject to the same bias,  
8 dishonesty, and lack of integrity in application of the law.

9 **viii.** The Court has not provided the due process, equal justice, or equal  
10 protection of the law Petitioners are entitled to under the  
11 constitution of the United States.

12 **ix.** The Court has not provided the due process, equal justice, or equal  
13 protection of the law Petitioners are entitled to under the  
14 constitution of the United States.

15 **x.** Approval of the writ is the only means the Petitioner has after  
16 judgment entered to demand his constitutional rights are observed  
17 in a just speedy and lest inexpensive manner.

18 **xi.** Constitution provides among other things no person shall be  
19 deprived of life, liberty, or property without due process of law, nor  
20 denied within its jurisdiction equal protection of the law. Petitioner's  
21 rights have been continually denied by Government officers who  
22 have not adhered to their oaths of office, provided fair and impartial  
23 tribunals, acted with integrity and honesty in accordance with the  
24 just, due, and impartial administration of the law as duly sworn. Its  
25 time a judge places the oath in writing and provides a fair hearing.  
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1  
2 **xii.** Based on the stated facts supra the right to issuance of the writ is  
3 Clear and indisputable!  
4

5 **CONCLUSION**

6 In accordance with Petitioners constitutional rights to due process, equal justice,  
7 and equal protection of the law this court should issue a writ with published  
8 findings of fact and conclusions of law vacating the judgment issued and  
9 instructing Superior Judge Edward J. Damich to recues himself from these  
10 proceedings pursuant to 28 U.S.C. §455(a). The Court should instruct the Court  
11 of Federal Claims to assign a new judge willing to attest in writing to the taking  
12 of the oaths of office and a commitment to abide by those oaths accordingly in  
13 application of the law and in accordance with the Constitution of these United  
14 States. This Court should instruct the Court of Federal Claims in any and all  
15 subsequent rulings regarding case 1:15-cv-01344 to support the rulings with  
16 published findings of fact, conclusions of law, and in the absence of same for the  
17 judgment issued, the ruling be stricken as unsupported opinion, frivolous, void,  
18 and not binding in the Court of Federal Claims.  
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23 Submitted by,

24 Christopher B Julian Pro-Se  
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Certificate of Service

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I hereby certify under penalty of perjury that on this 18<sup>th</sup> day of March 2016, a true and correct copy of the foregoing instrument I caused to be placed in the United States mail (first-class, postage prepaid), copies of a Writ of Mandamus on Case 1:15-cv-01344 EJD to the UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

Superior Judge Edward J. Damich  
C/O Clerk, U.S. Court of Federal Claims  
717 Madison Place, NW, Room 103  
Washington, DC 20439

Melissa L. Baker  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice  
P.O. Box 480  
Ben Franklin Station  
Washington, D.C. 20044

\_\_\_\_\_  
Christopher B. Julian Pro-Se

\*\*\*\*\*

ORIGINAL

In the United States Court of Federal Claims

No. 15-1344C
(Filed March 10, 2016)
Not For Publication

FILED

MAR 10 2016

U.S. COURT OF
FEDERAL CLAIMS

\*\*\*\*\*

CHRISTOPHER B. JULIAN, et al.,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

\*\*\*\*\*

OPINION AND ORDER

DAMICH, Senior Judge:

Plaintiffs Christopher B. Julian ("Mr. Julian") and Renee Julian ("Mrs. Julian") have filed a complaint, pro se, alleging a breach of contract and taking without just compensation. The Defendant, the United States Government, filed a Motion to Dismiss in response.

The case is now before the Court on Defendant's Motion to Dismiss. For the reasons discussed herein, the Court GRANTS the Defendant's Motion to Dismiss.

I. Background

From what the Court can discern, Mr. Julian and his wife filed a suit in the United States District Court for the Western District of Virginia on September 16, 2013. They alleged violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"). 18 U.S.C. § 1964(c). The District Court dismissed Mr. and Mrs. Julian's RICO claim, and the Court of Appeals for the Fourth Circuit affirmed the dismissal. See Julian v. Rigney, No. 4:13-cv-00054, 2014 U.S. Dist. LEXIS 38311 (W.D.Va. March 24, 2014), aff'd, Julian v. United States Dep't of Agriculture, 585 F. App'x. 850 (4th Cir. 2014). The Supreme Court denied their petition for writ of certiorari on April 27, 2015.

Subsequently, Mr. and Mrs. Julian filed this complaint on November 9, 2015 against the United States Department of Agriculture, the District Court of Virginia Western Division, and the Fourth Circuit Court of Appeals. Mr. and Mrs. Julian allege that their due process rights were violated by the district court and the court of appeals in incorrectly ruling on their RICO

claim. Pl.'s Resp. to Mot. to Dismiss 6, 15 (Feb. 3, 2016). Mr. and Mrs. Julian argue that this Court has jurisdiction because the Government breached an implied contract between itself and its citizens. Pl.'s Compl. 12-15 (Nov. 9, 2015).

Mr. and Mrs. Julian also allege a takings claim. Namely, they claim "[t]he courts' unlawful conversion of the express and implied terms of the contract result[ed] in the unlawful taking of personal property lawfully conveyed under the terms of the contract with Plaintiffs." Pl.'s Compl. ¶ 64.

The Government filed a Motion to Dismiss on January 8, 2016. The Government asserts in its Motion to Dismiss that this Court lacks jurisdiction over their claim. Gov't.'s Mot. to Dismiss 4 (Jan. 8, 2016). It also asserts that Mr. and Mrs. Julian do not have a property interest in their RICO claims and therefore this is not a taking. Gov't.'s Mot. To Dismiss 9 (Jan. 8, 2016). Mr. Julian and his wife filed a Response to the Motion to Dismiss on February 3, 2016. The Government replied on February 16, 2016 and Mr. and Mrs. Julian filed a sur-reply on February 24, 2016. The matter is now ripe for disposition.

## II. Standard of Review

When a complaint is filed *pro se*, the Court holds the pleadings of such plaintiffs to "less stringent standards than formal pleadings drafted by lawyers" and liberally construes those pleadings. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court, however, cannot extend this leniency to relieve plaintiffs of their jurisdictional burden. *Kelley v. Sec'y, United States Dep't of Labor*, 812 F.2d 1378, 1380 (Fed. Cir. 1987).

In ruling on a motion to dismiss pursuant to RCFC 12(b)(1), the Court must accept as true all undisputed factual allegations and construe all reasonable inferences in favor of the plaintiff. *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), *abrogated on other grounds by Harlow v. Fitzgerald*, 457 U.S. 800, 814-15 (1982); *Godwin v. United States*, 338 F.3d 1374, 1377 (Fed. Cir. 2003). The plaintiff, however, bears the burden of establishing subject matter jurisdiction by a preponderance of the evidence. *Knight v. United States*, 65 Fed. App'x 286, 289 (Fed. Cir. 2003)). If jurisdiction is found to be lacking, this Court must dismiss the action. RCFC 12(h)(3).

RCFC 12(b)(6) requires that parties state a claim upon which relief can be granted. The Court must decide "not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims." *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 511 (2002) (quoting *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)).

## III. Discussion

### A. The Court does not have the jurisdiction to review another court's rulings.

Mr. and Mrs. Julian are seeking review of the district court's dismissal and the court of appeals' affirmance of the lower court's ruling. The Tucker Act does not provide this Court with

the jurisdiction to review decisions of the district court or the court of appeals. *See Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994).

Furthermore, the plaintiffs assert that their claims are based on the Fifth and Fourteenth Amendments of the United States Constitution. They contend that this Court has jurisdiction over claims arising from federal law that are brought against the United States. However, for this Court to have jurisdiction, the claims must arise from money mandating federal laws. *Crocker v. United States*, 125 F.3d 1475, 1476 (Fed. Cir. 1997) (citations omitted). The Fifth and Fourteenth Amendments are not money mandating as they do not provide “a substantive right to money damages.” *Id.* Therefore, Mr. and Mrs. Julian’s claim is outside of the Court’s jurisdiction and shall be dismissed pursuant to RCFC 12(b)(1).

**B. There is no contract.**

In the alternative, Mr. Julian and his wife argue that the RICO statute created a contract between the United States and its private, individual citizens and therefore this Court has jurisdiction. There is no evidence that RICO was intended to contractually bind the United States and its citizens. *See* 18 U.S.C. §§ 1961-68; *see also Nat’l R.R. Passenger Corp. v. Atchison Topeka and Santa Fe R.R. Co.*, 470 U.S. 451, 565-66 (1985) (holding that “absent some clear indication that the legislature intends to bind itself contractually, the presumption is that a law is not intended to create private contractual or vested rights...”). There is no indication that the RICO statute creates a contract between the United States and the public. *See* 18 U.S.C. § 1964(c); Gov’t.’s Reply 2 (Feb. 16, 2016). Therefore, Mr. and Mrs. Julian fail to state a claim upon which relief can be granted and this claim shall be dismissed under RCFC 12(b)(6).

**C. There is no taking.**

This Court has jurisdiction over takings claims. However, a determination must first be made whether the plaintiffs are alleging a compensable property interest that would be considered a taking for the purposes of the Fifth Amendment. *Evans v. United States*, 74 Fed. Cl. 554, 562 (2006).

[A] court must first establish whether a plaintiff holds a property interest for purposes of the Fifth Amendment and then, if such a property interest exists, determine whether a taking occurred.

*Id.* In this case, Mr. and Mrs. Julian allege a property interest in their RICO claims. Pl.’s Compl. ¶ 64. Specifically, they assert that the taking occurred when the court dismissed their claim. *Id.* The Court of Appeals for the Federal Circuit held in *Belk v. United States* that a dismissal of legal claims was not a compensable property interest. 858 F.2d 706, 709 (Fed. Cir. 1988). While there is a due process right to bring a legal claim in court, there is no guarantee that such a claim will be successful and a claim’s failure does not necessarily create a due process violation. Therefore, Mr. and Mrs. Julian do not have a property interest in their RICO claims and thus they fail to state a claim upon which relief can be granted. RCFC 12(b)(6).

**D. Motion for Recusal**


Mr. and Mrs. Julian’s Response to the Motion to Dismiss included a footnote requesting that this Judge recuse himself from this case. The Government did not address it but, the Court will. Mr. and Mrs. Julian’s argument for recusal is the denial of their Motion for Attestation to Taking the Oath of Office<sup>1</sup>. Under 28 U.S.C. § 455, this is not a valid ground for recusal and there is no requirement imposed upon a judicial officer to demonstrate that to a party.

While federal judges have an analogous statutory obligation to take an oath before performing the duties of their office, see 28 U.S.C. § 453, nothing in this statute (or elsewhere in the law) requires that a district judge demonstrate to the satisfaction of a litigant in a particular case that he or she has taken this oath.

*In re Anthony*, 481 B.R. 602, 613 (D. Neb. 2012) (quoting *United States v. Conces*, 507 F.3d 1028, 1041 (6th Cir. 2007)). Therefore, the request for recusal is DENIED.

**IV. Conclusion**

For the foregoing reasons, the defendant’s motion for dismissal is GRANTED. The Clerk is directed to mark the case closed and enter the judgment accordingly.

  
EDWARD J. DAMICH  
Senior Judge

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<sup>1</sup> This motion was filed on January 19, 2016 and was denied on February 4, 2016.



ORIGINAL

FILED

JAN 19 2016

U.S. COURT OF FEDERAL CLAIMS

Christopher B. Julian  
474 Orchard View Drive  
Ararat Virginia, 24053  
980-254-1295  
Christopher.b.julian@gmail.com  
Pro Se Plaintiff

By leave of the Judge

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

CHRISTOPHER B. AND RENEE G.

JULIAN

Plaintiff(s),

V,

THE UNITED STATES,

Defendant(s).

) Case Number: 15-1344C

) Judge: Edward J. Damich

**Motion For Judges Attestation to Taking the Judicial Oath of Office.**

RECEIVED JAN 19 2016

Motion For Judicial Affirmation to Oath of Office.

RECEIVED JAN 19 2016

1 Plaintiffs motion for a Judicial Affidavit from Judge Edward J. Damich.

2 Providing for the record a written response to the following three questions.

- 3 1. Have you Judge Edward J. Damich officially and in accordance with the  
4 constitution of the United States taken the Judicial Oath of Office?  
5 2. Do you Judge Edward J. Damich intend on adhering to your Judicial  
6 Oath of Office throughout the proceedings in case number 15-1344C?  
7 3. Do you Judge Edward J. Damich intend on adhering to your Judicial  
8 Cannons throughout the proceedings in case number 15-1344C?  
9  
10  
11

12 Respectfully Submitted;  
13 Christopher Julian Pro-Se

14 

15 474 Orchard View Drive

16 Ararat VA, 24053

17 (980) 254-1295

18 [Christopher.b.julian@gmail.com](mailto:Christopher.b.julian@gmail.com)  
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25 Motion For Judicial Affirmation to Oath of Office.

26 Page 2 of 3  
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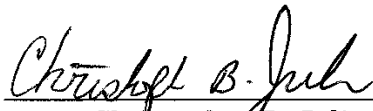
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Certificate of Service

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I hereby certify under penalty of perjury that on this 12th day of January 2016, a true and correct copy of the foregoing instrument I caused to be placed in the United States mail(first-class, postage prepaid), copies of a motion for a judicial affidavit for affirmation the judge has taken and will abide by the Judicial oath of office.

Malissa L. Baker  
Trial Attorney  
Commercial Litigation branch  
Civil Division  
United States Department of Justice  
P.O. Box 480  
Ben Franklin Station  
Washington, D.C. 20044

  
Christopher B. Julian Pro-Se

\*\*\*\*\*

Motion For Judicial Affirmation to Oath of Office.

1  
2 Since the passage of the Agriculture Reorganization Act, NAFTA an  
3 signing of U.N. Agenda 21 over 2 million small farmers have been  
4 displaced.

5  
6 **In Summary The Point of The History is:<sup>1</sup>**

- 7  
8 A. As presented Alexander Hamilton and the Federalist contemplated a  
9 Judicial body outside of the Federal Judiciary but, completely rejected  
10 the concept contending the constitutional segregation of powers should  
11 leave congress responsible for keeping the Judiciary in Check.  
12  
13 B. Thomas Jefferson warned of the dangers of a judiciary going unchecked  
14 by the legislative body - Oligarchies and despotism.  
15  
16 C. It is the duty of Congress and consequently by appointment of duty to  
17 the Federal District Court Of Claims, to be keeper of the nation's  
18 conscience. And maintain a check on the Judiciary and Executive  
19 branches.  
20  
21 D. The Constitution is in fact and must be regarded by judges as a  
22 fundamental law!

23 <sup>1</sup> In light of these facts Plaintiffs believe Judge Edward J.  
24 Damich having been appointed by William F. Clinton should  
25 recues himself from this case. And any judge not willing to  
affirm their oath of office and intention to abide by it.

26 Plaintiffs Reply to Motion by Defense to Dismiss Under 12B 1& 6 Tuesday, February 2, 16

Edward J. Damich, presiding







Eric G. Bruggink, referral

**Date filed:** 11/09/2015

**Date terminated:** 03/10/2016

**Date of last filing:** 03/10/2016

## History

Doc. No.	Dates	Description
<a href="#">1</a>	<i>Filed &amp; Entered:</i> 11/09/2015	 Complaint
<a href="#">2</a>	<i>Filed &amp; Entered:</i> 11/09/2015 <i>Terminated:</i> 03/10/2016	 Motion for Leave to Proceed in forma pauperis
<a href="#">3</a>	<i>Filed &amp; Entered:</i> 11/09/2015	 Notice of Assignment
<a href="#">4</a>	<i>Filed &amp; Entered:</i> 11/09/2015	 Notice of Assignment - Auto ADR
<a href="#">9</a>	<i>Filed:</i> 11/23/2015 <i>Entered:</i> 02/10/2016	 Notice of Appearance
<a href="#">5</a>	<i>Filed:</i> 01/08/2016 <i>Entered:</i> 01/11/2016 <i>Terminated:</i> 03/10/2016	 Motion to Dismiss - Rules 12(b)(1) and (6)
<a href="#">6</a>	<i>Filed:</i> 01/19/2016 <i>Entered:</i> 02/04/2016 <i>Terminated:</i> 02/04/2016	 Motion for Miscellaneous Relief
<a href="#">7</a>	<i>Filed:</i> 02/03/2016 <i>Entered:</i> 02/04/2016	 Response to Motion [Dispositive]
<a href="#">8</a>	<i>Filed &amp; Entered:</i> 02/04/2016	 Order on Motion for Miscellaneous Relief
<a href="#">10</a>	<i>Filed:</i> 02/16/2016 <i>Entered:</i> 02/17/2016	 Reply to Response to Motion
<a href="#">11</a>	<i>Filed &amp; Entered:</i> 02/24/2016	 Sur-Reply
<a href="#">12</a>	<i>Filed &amp; Entered:</i> 03/10/2016	 Order on Motion to Dismiss - Rule 12(b)(1) and (6)
<a href="#">13</a>	<i>Filed &amp; Entered:</i> 03/10/2016	 Judgment

<b>PACER Service Center</b>			
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<b>Billable Pages:</b>	1	<b>Cost:</b>	0.10

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3 **A Corrupt Federal Agency aided and abetted by a Corrupt Federal**  
4 **Court(s) is a travesty of justice for American Democracy, an Insult to the**  
5 **U.S. Judicial system, to the Constitution of the united states of America,**  
6 **and to life, liberty, and justice for all. It results in tyranny, oppression,**  
7 **and absolute despotism of the people, justifying completely and**  
8 **succinctly the second amendment to the constitution of the United**  
9 **States. There is no greater criminal than the criminals sitting on the**  
10 **bench robbing America of its Constitutional foundations.<sup>8</sup>**

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14 **Christopher B. Julian Pro - Se**  
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24 <sup>8</sup> "A Nation can survive its fools, and even the ambitious. But  
25 it cannot survive treason from within" *Cicero 42 BC.*