UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

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10TH CIRCUIT
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Darren Lee, an individual Plaintiff/Petitioner - Appellant, v. U.S. Commodity Futures Trading Commission; Oklahoma Department of Securities ex rel. Irving L. Faught Defendant/Respondent - Appellee.	Case No. _10-6276_____ (D.C No. 5:09-CV-01284-R) (W.D. Okla) Appellant/Petitioner's Darren Lee's Opening Brief

NOTICE AND INSTRUCTIONS

If you proceed on appeal pro se, the court will accept a properly completed Form A-12 in lieu of a formal brief. This form is intended to guide you in presenting your appellate issues and arguments to the court. If you need more space, additional pages may be attached. A short statement of each issue presented for review should precede your argument. Citations to legal authority may also be included. This brief should fully set forth all of the arguments that you wish the court to consider in connection with this case.

New issues raised for the first time on appeal generally will not be considered. An appeal is not a retrial but rather a review of the proceedings in the district court. A copy of the completed form must be served on all opposing counsel and on all unrepresented parties and a proper certificate of service furnished to this court. A form certificate is attached.

APPELLANT/PETITIONER'S OPENING BRIEF

1. Statement of the Case. (This should be a brief summary of the proceedings in the district court.)

The District Court froze all assets before serving complaint forcing the Lee family to never be able to attend any preliminary hearing, or trial. The District Court refused to change the venue to South Carolina because the Plaintiffs didn't want the Lee family to have legal representation, or a voice in Court. That was the basis of the Plaintiffs' answer when the District Court asked during a hearing, in June, that we could not afford to attend. The District Court changed the trial from a non-jury trial, to a jury trial, and then the final pretrial report stated that it was changed back to a non jury trial without notifying any of the appellants. Meanwhile, the District Court refused to grant two different continuances knowing that the Plaintiffs had refused to disclose documents during the discovery process, the receiver refused to turn over any accounting that was ever complete, and allowing a government agency to destroy a United States Citizen's rights of due process.

2. Statement of Facts Relevant to the Issues Presented for Review.

On November 20, 2009, the Plaintiffs filed the Complaint in District Court. On December 10, 2009 the Receiver demanded the possession of Darren Lee's home, boat, and bank account from 2003-2009 regardless that Darren Lee was not named in this suit anywhere. On March 3, 2010, the Plaintiffs froze all assets of Darren Lee before serving the amended Complaint on March 6, 2010 naming Darren Lee as a Relief Defendant in the suit. April 21st, 2010, Judge Russell questioned the Plaintiffs during a hearing that Darren Lee could not afford to attend that those actions were "a stretch of due process". 50 days after the District Court granted the motion that ignored my 5th amendment rights.

The Receiver was notified of $240,000 that was in Darren Lee's account a month before Darren Lee purchased his home on Palmetto Hall Blvd and statements of several months leading up to the purchase. The Receiver manipulated those numbers and never mentioned them in any analysis that he submitted to the District Court. A week before trial the Receiver mentions that there is an extra $1.3 million that he cannot account for where it came from. The Receiver stated that it is "impossible to identify" whose wire transfers were whose from the Bank of America Statements that were in his possession. The Receiver failed in his duties to be indifferent and stole that amount of money from my family which resulted in the Receiver stealing our property and money. My father, Kenneth Lee, had submitted several different account statements that showed the Lee family with, over $1,000,000 total from all 4 family members accounts over the span of 2002-2004.

The District Court was also notified of those accounts, those amounts, and those statements in several motions and answers that were submitted to the District Court.

The Receiver failed in his duties to file the proper documents in South Carolina about the properties in question. The Receiver failed to do that in the 10 day time frame and failed in regards to filing the proper documents. 28 USC § 754. The failure to file such copies in any district shall divest the receiver of jurisdiction and control over all such property in that district. The Receiver was anything but indifferent from the start. The Receiver discriminated against Darren Lee during his deposition on December 9th, 2009, stating that Darren Lee was "not worth the money" that he was paid. Darren Lee worked off of performance of trades from his own money. Nevertheless, the Receiver should be indifferent to both parties. Liberte Capital Group, LLC v Capwill, 462 F. 3d 543, 551 n. 6(6th CIR 2006). Darren Lee challenged the Receivers competence and improper conduct with factual basis to raise those challenges and proved that they existed in several requests to the District Court. By the Receiver not filing the required documents in Charleston County, SC, and the illegal act of seizing Social Security money from my parents, the Receiver again showed proved his incompetence.

3. Statement of Issues.

a. First Issue: Rights of Due Process were denied throughout the process.

Argument and Authorities:

The 5th amendments Procedural Due Process clause (Bolling vs. Sharpe 347 US 497 (1954) added the equal protection element that the 14th amendment offers. (Barron v Baltimore). In 1934, the United States Supreme Court held that due process is violated, "if a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamentals." It includes an individual's right to be heard at the preceding, and that the person, or panel, making the final decision over the preceding be impartial in regards to the matter before them.

By freezing all assets before our voice was even heard in Court is just a blatant misinterpretation of what protected rights are. Commodity Futures Trading Commission (CFTC) Administrative Law Judge George H. Painter made serious allegations regarding fellow CFTC judge Bruce Levine in announcing his retirement. Judge Levine, "in the cynical guise of enforcing the rules, forces pro se complainants to run a hostile procedural gauntlet until they lose hope, and either with draw their complaint or settle for a pittance,

regardless of the merits of the case," Judge Painter wrote. The CFTC seems to have adopted Judge Levine's standard of practice by manipulating the Courts into forcing citizens from their homes, taking all monies before proving anything in Court, and violating several protected rights of an American family, in the United States of America.

It is impossible to have a fair trial when the Plaintiffs use so many lawyers that ignore facts just because they don't weigh in their favor. Ethics must not be important to any of the government agencies that are involved because it is perfectly clear that none of the lawyers involved have used any ethics throughout this process. When the Prosecutor against the Duke Lacrosse players that proceeded with the rape allegations, with the knowledge that they were innocent, he was disbarred due to his unethical conduct. There is absolutely no difference, other than criminal and civil courts, in what that Prosecutor has done and what these Plaintiffs are doing in this case. They have manipulated evidence, lied to the District Court, and proceeded to force a family into destitution and homelessness. What is civil about those intentions? Those acts by the Plaintiffs are against the fundamental roots of our society. I feel as if a crime has been committed against me and the judicial system is corrupted. The actions by the Plaintiffs (a government agency and a lone receiver), support my facts against them.

___b. Second Issue: Failure of the Discovery Process

_____Argument and Authorities:

The discovery process was due to expire on September 31, 2010. On September 15th, 2010 the Plaintiffs (CFTC) objected to answering any of the admissions and objected to turning over documents in their possession. James Holl answered for the CFTC in the Plaintiffs' objections and stated that the 2 weeks remaining were not enough time for the CFTC to answer. The Receiver failed to ever turn over the requested completed analysis. The Plaintiffs disclose at the end of October the extra $1.3 million that they cannot account for where it came from. The Receiver was required to turn over any corrected document or analysis and failed to do so. Darren Lee requested the accounting of the CFTC and was referred by the CFTC to the Receiver for their accounting. The Receiver is not void from paying the substantial fees involved with F.R.Civ.P 37(a)(2). The Plaintiffs and Receiver had the documents that Defendant Kenneth Lee and Relief Defendants turned over throughout the discovery process and, yet, they refused to participate in the crucial phase

of civil litigation. The District Court was notified of their refusal and did not act upon compelling the Plaintiffs to answer a Pro Se litigants Admissions, Interrogatories, and Document Requests. There is nothing civil about any of the Plaintiffs actions.

Federal Rule of Civil Procedure 26(e)(1) states: A party who has made a disclosure under Rule 26(a) — or who has responded to an interrogatory, request for production, or request for admission — must supplement or correct its disclosure or response:

(A) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(B) as ordered by the court.

Federal Rules of Civil Procedure 37(c) states:(1) Failure to Disclose or Supplement.

If a party fails to provide information or identify a witness as required by Rule 26(a) or 26(e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

(A) may order payment of the reasonable expenses, including attorney's fees, caused by the failure;

(B) may inform the jury of the party's failure; and

(C) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(2)(A)(i)-(vi).

(2) Failure to Admit.

If a party fails to admit what is requested under Rule 36 and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney's fees, incurred in making that proof. The court must so order unless:

(A) the request was held objectionable under Rule 36(a);

(B) the admission sought was of no substantial importance;

(C) the party failing to admit had a reasonable ground to believe that it might prevail on the matter; or

(D) there was other good reason for the failure to admit.

c. **Third Issue:** Personal Jurisdiction

Argument and Authorities:

The District Court should have known that Darren Lee was not in a proper jurisdiciton due to the fact of Darren Lee's personal jurisdiction. That is based on the fact that Darren Lee has zero contacts in Oklahoma. The District Court and Receiver denied Darren Lee's voice to be heard in court. Fair play was denied by the District Court from the very beginning of the case. Rights of due process were unjustly denied by the Receiver on 12/14/2009. The results have proven catastrophic and the Federal Court in Oklahoma had no jurisdiction over Darren Lee and ignored a most important question as to whether a person is in the jurisdiction of the Court involved.

If a court does not have personal jurisdiction over a defendant or property, then the court cannot bind the defendant to an obligation or adjudicate any rights over the property. Darren Lee does not have sufficient contacts in Oklahoma for the Court to long-arm its way to South Carolina. Darren Lee never purposely availed himself of the resources or protection of the state of Oklahoma. The exercise of jurisdiction offends traditional notions of fair play and substantial justice. The District Court did not even have general jurisdiction because Darren Lee did not have any dealings with the state in which the Court sits. For the purposes of specific jurisdiction, Darren Lee never had any activities in the state in which the Court sits. The Plaintiffs specifically targeted the state of Oklahoma so that Darren Lee could not financially represent himself and chose a venue that is not proper. Darren Lee is a *Pro Se* litigant that stated the jurisdiction was not correct. The District Court refused to listen to what a *Pro Se* litigant had to say and took the word of a deceitful government agency. The facts support that the CFTC is deceitful when the Honorable George Painter brought up the allegation of Judge Levine making a deal with Wendy Gramm in the 1980's. For 20 years, Judge Levine railroaded *Pro Se* litigants and the Honorable George Painter never did anything about it. What other procedures has Judge Levine instilled in the CFTC that ignores the rights of citizens in this country by only seeking out his own self-interest by destroying others? I am having difficulty finding a difference in what Judge Levine has done and what Judge Russell has allowed to be done in Oklahoma.

4. Do you think the district court applied the wrong law? If so, what law do you want applied?

Yes. The District Court placed a permanent injunction on Darren Lee from ever having a trading account or having the opportunity to have the right to choose employment in any field that is related . The Courts decision to do that has a punitive effect on a person that is admitted by the Plaintiffs to not have violated any rule, law, or regulation regarding this case.

5. Did the district court incorrectly decide the facts? If so, what facts?

1. The Prestige Enterprise received at least $10,656,921 from investors between March 5, 2003 and November 30, 2009 ("The Relevant Time Period").

The District Court incorrectly gave all of the Lee family money to the investors. That amount of $10,656,921 is highly exaggerated and was never a figure until the Lee family could not afford to attend the trial. The Receiver's analysis conflicts with this apparent fact to show that nobody is on the same page with this trial and my family was railroaded by the country that my father sacrificed his life for many years ago

2. The Prestige Enterprise received $15,162 from Darren Lee and disbursed $654,101 to or for the benefit of Darren Lee during the Relevant Time Period.

Darren Lee has submitted to the Receiver and the District Court several documents that showed the amounts that were deposited and the accruement over the years before purchasing my house on Palmetto Hall Blvd.

3. Darren Lee's residence, having a legal description of Lot 165, Tract J, Phase II, Palmetto Hall at Dunes West, Mt. Pleasant, Charleston County, South Carolina, street adderess 2676 Palmetto Hall Boulevard, Mt. Pleasant, South Carolina ("Darren Lee Residence"), was purchased with the funds received by the Prestige Enterprise from investors and is an asset of Prestige Enterprise.

Darren Lee has submitted to the Receiver and the District Court several documents that showed the amounts that were deposited and the accruement over the years before purchasing my house on Palmetto Hall Blvd.

4. A boat (2004 Edgewater 175 cc, Boat registration number5 1016BR, Hull number DMA03840H304) registered to David Lee and Darren Lee, along with an engine (2004

Yamaha F115, #68VL1018414, Engine serial number MAA0712198) and trailer (2004 Trailer, AA6515-17, $40ZBA1712Z3P101627) (herinafter collectively referred to as the "Edgewater Boat"), were purchased with funds received by the Prestige Enterprise and are assets of the Prestige Enterprise..

Darren Lee has submitted to the Receiver and the District Court several documents that showed the amounts that were deposited and the accruement over the years before purchasing his boat with his brother, David Lee..

6. Did the district court fail to consider important grounds for relief? If so, what grounds?

Darren Lee's proper personal jurisdiction does not lie in Oklahoma and therefore the District Court should have changed the venue to Charleston, SC where Darren Lee resides in Charleston County, South Carolina.. The Court failed to consider any of the exhibits and evidence that was submitted throughout the process that showed the monies were enough to purchase the homes in question, that Darren Lee did have a trading account that he traded through with Prestige Ventures and earned $600+ over the course of 3 years, and the receiver should have been relieved from his duties for the prejudices he had from the first day he was appointed.

7. Do you feel that there are any other reasons why the district court's judgment was wrong? If so, what?

The scale of justice was never balanced throughout this entire process. The District Court outweighed the balance in the Plaintiffs favor from the start. Only one motion did the Plaintiffs not get what they asked for and all the Defendants and Relief Defendants motions were denied with no thought.

8. What action do you want this court to take in your case?

1. Dismiss the case
2. Grant compensation from the Receiver to retain legal counsel
3. Fine Receiver, ODS, and CFTC for the illegal seizure of bank accounts, homes, and boat.
4. To have all the Plaintiffs and Receiver barred from practicing law ever again, and

5. Ensure that a government agency and District Court never railroad a family out of their residences, freedoms, rights, and liberties.

9. Do you think the court should hear oral argument in this case? If so, why?

Yes. The plaintiffs knew of evidence that they had in their possession that weighed in our favor, refused to acknowledge it to the Court during trial, and they will not manipulate us again without my physical presence. I already have a free flight to Denver, have several friends that live there I can stay with, and would love to have the Court hear the oral arguments in this case. I am not intimidated to speak up against any bully. How many more lives are going to be destroyed before our rights are protected again? How many lives will be sacrificed fighting for this country, for this country to cheap-shot their own citizens and make those sacrifices all in vain? This seems very suspect that it is ok to give a rapist an attorney but not a family that is violated in a much harsher way. I see no justice in that and strongly believe that when my voice rings in Court, the people of the United States will be much better off after. There is no stopping this from happening to you or your neighbor. Unless you are a judge, senator, congressman, or a government lawyer, you are susceptible to your rights being violated, also. That is not the American way. Just because a person is representing themselves *Pro Se* does not mean they can be manipulated and not be the wiser. This has me determined to go to law school so this does not happen to any other family. Nobody was able to help my family for less than $50,000 and I find that appaling. Money is not nearly as important as ensuring our citizens are protected against their own government. That would be ironic if Iraq invaded us because our government abused it citizens. There isn't much of a difference between physical and mental abuse. Physical wounds can heal but mental wounds can last forever. Which is worse?

March 16th, 2011	**Digitally Signed** /s/ Darren Lee
Date	Signature

CERTIFICATE OF SERVICE

I hereby certify that on _____March 16th, 2011_____ I served a
(date)

copy of the Appellant/Petitioner's Darren Lee's Opening Brief to:

Katherine Driscoll~CFTC	**kdriscoll@cftc.gov**
Terra Bonnell~ODS	**tbonnell@securities.ok.gov**
Stephen Moriarty~Receiver	**smoriarty@fellerssnider.com**

(Opposing Party or Attorney) (Email Address)

, the last known address/email address, by_____Email_____.
(state method of service)

March 16th, 2011 **Digitally Signed** _____/s/ Darren Lee
Date Signature

CERTIFICATE OF COMPLIANCE

I certify that the total number of pages I am submitting as my Appellant/Petitioner's Opening Brief is 30 pages or less or alternatively, if the total number of pages exceeds 30, I certify that I have counted the number of words and the total is 3,527, which is less than 14,000. I understand that if my Appellant/Petitioner's Opening Brief exceeds 14,000 words, my brief may be stricken and the appeal dismissed.

March 16th, 2011 **Digitally Signed** _____/s/ Darren Lee

Date Signature