

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JURY TRIAL IS
DEMANDED

FORM TO BE USED IN FILING A CIVIL COMPLAINT IN FEDERAL COURT
(Non-Prisoner Context)

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application or the only plaintiff to be considered will be the plaintiff who filed an application.

William Albert Maecker

-vs-

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. Add a separate sheet, if necessary.

- 1. Barbara Howe
2. Joseph Shifflett
3. Mary DeeMartoche
4.
5.
6.

2. STATEMENT OF JURISDICTION, VENUE and NATURE OF SUIT

All of these sections MUST be answered

Identify the basis for federal Court jurisdiction over your claim, such as that the United States government is a party to the action, all the parties reside in different states and therefore you claim diversity jurisdiction, or the claim presents a federal question or arises under federal law.

A. Basis of Jurisdiction in Federal Court: Constitutional Jurisdiction.
Fraud upon the Court, denial of right to fair trial.

State why the Western District of New York is the proper venue for this action, such as that your claim arises in or the defendant resides in the 17 westernmost counties of New York State.

B. Reason for Venue in the Western District: Plaintiff resides in western New York State.
Alleged fraud occurred in western New York, Surrogate's Court, Erie County.

Identify the nature of this action, such as that it is a civil rights claim, a personal injury or personal property (tort) claim, a property rights claim, or whatever it is.

C. Nature of Suit: Civil rights claim: fraud upon the court, tampering with the judicial record in transcripts by editing digital audio F.T.R. recordings for the purpose of controlling outcome of the case and removal of evidence and testimony from the Appellate record and to protect 'friends of the court' from investigation of fraud, tort, misconduct and complicit acts, as part of the concealment of corruption within the Court in this case. There is reasonable expectation that upon Discovery, admissible and absolute, best evidence will be found.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: *To list additional plaintiffs, use this format on another sheet of paper.*

Name of First Plaintiff: William Albert Maecker

Present Address: 133 Central Avenue, Silver Creek, NY 14136

Name of Second Plaintiff: _____

Present Address: _____

DEFENDANT'S INFORMATION NOTE: *To list additional defendants, use this format on another sheet of paper.*

Name of First Defendant: Honorable Barbara Howe, J.D.

Official Position of Defendant (if relevant): Surrogate's Court Judge

Address of Defendant: Erie County Surrogate's Court 92 Franklin St. Buffalo, NY 14202

Name of Second Defendant: Joseph Shifflett, Esq.

Official Position of Defendant (if relevant): Surrogate's Court Chief Attorney

Address of Defendant: Erie County Surrogate's Court 92 Franklin St. Buffalo, NY 14202

Name of Third Defendant: Mary Dee Martoche, Esq.

Official Position of Defendant (if relevant): Surrogate's Court Chief Clerk

Address of Defendant: Erie County Surrogate's Court 92 Franklin St. Buffalo, NY 14202

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in **state or federal court** dealing with **the same facts involved in this action**?
Yes No

If Yes, complete the next section. NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes ___ No ___

If not, give the approximate date it was resolved. _____

Disposition (check those statements which apply):

___ Dismissed (check the statement which indicates why it was dismissed):

___ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

___ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

___ By court due to your voluntary withdrawal of claim;

___ Judgment upon motion or after trial entered for

___ plaintiff

___ defendant.

5. STATEMENT OF CLAIM

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, just tell the story of what happened and do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

A. FIRST CLAIM: On (date of the incident) May 13th, 2009 and January 12th, 2011 and others,

defendant (give the **name and (if relevant) the position held of each defendant** involved in this incident) _____

On May 13th, 2009, a proceeding in the Estate of Arthur L. Maecker were held in Surrogate's Court. Plaintiff alleges that digital audio recordings of court proceedings were edited on that same day and that the edited recordings were transcribed by Court's order the next day and placed into Court Record of the case.

did the following to me (*briefly state what each defendant named above did*): _____

Plaintiff alleges that Judge Howe ratified editing of recordings and pretended editing never occurred, stated that plaintiff's claims of editing were baseless, refused to investigate editing, refused to investigate allegations of theft of assets in the estate as was stated by Plaintiff under oath, then allowed summary judgment against plaintiff and his 98 year-old mother. Plaintiff alleges that actions of Judge Howe were complicit to conceal fraud, theft and tort by individuals within western New York Courts. Plaintiff further alleges that abuse of process occurred simultaneously with events of May 13th, 2009 in attempt to incriminate plaintiff instead of acting appropriately to investigate theft and fraud alleged by plaintiff in Court that day. Documentation of fraud and theft by Receiver Terence B. Newcomb, Esq., consistent with claims of plaintiff, has been provided to Erie County NY District Attorney. Those claims were among the edited-out portions of the audio recordings.

The federal basis for this claim is: _____

Fraud upon the Court, tortious interference, abuse of process, accounting, acting outside duties as Judge.

State briefly **exactly** what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes:*

JURY TRIAL IS DEMANDED.

B. SECOND CLAIM: On (*date of the incident*) See affidavit. _____,

defendant (*give the name and (if relevant) position held of each defendant involved in this incident*) _____

Chief Attorney, Joseph Shifflett, Esq.

Chief Clerk, Mrs. Mary Dee Martoche, Esq.

did the following to me (*briefly state what each defendant named above did*): _____

Mr. Shifflett and Mrs. Martoche were present at proceedings of May 13th, 2009, had full knowledge that the digital audio recordings were edited, had knowledge of the case, had access to the Court, had access to FTR recording system, had knowledge of use and operation of the system and had interest in the case by friendship with counsel who gained financially from the case and protected individuals from being exposed for theft, fraud and misconduct. These three individuals had interest, access and knowledge capable of editing the digital audio FTR files. Mr. Shifflett conducted the hearing of January 12th, 2011.

The federal basis for this claim is: Fraud upon the Court, breach of duty, acting outside duties.

State briefly **exactly** what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes:*

JURY TRIAL IS DEMANDED.

If you have additional claims, use the above format to set them out on additional sheets of paper.

6. SUMMARY OF RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Personal and Punitive damages are sought. Request for relief is to correct harm and to make whole the family of Plaintiff and for repair of proximate damage to Plaintiff's businesses. Punitive damages are requested to impose judgment and warning upon these irresponsible Officers of the Court who have committed harm to litigants and the communities the Courts are empowered to serve. Repair of FOR THE RECORD systems and blocking from use within Courts and agencies, investigation and prosecution of any and all involved with the editing capability. Vitiating of all orders in this Court and retrial of issues. Request for relief is \$14,000,000. damages and any further relief as jury determines just in these circumstances.

Do you want a **jury trial**? Yes X No _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

Signature(s) of Plaintiff(s)