

EXHIBIT
"NOACK BOTTLED IT ARTICLE"
(TEXT ONLY)

- **THE WILD WEST**
- **LIT PRESS**
- **LIT LIST**
 - **CFPB**
 - **Debt Collector**
 - **Deed of Trust**
 - **Fake Documents**
 - **Foreclosures**
 - **Federal Law**
 - **Justice Seekers**
 - **Jurisdiction**
 - **Lawyers Misconduct**
 - **Mortgage Servicers**
 - **Texas**
- **WANTED**
- **GALLOWS**
 - **Texas Courts**
 - **Texas Supreme Court**
 - **Court of Appeals for the Fifth Circuit**
 - **Texas Federal Courts**
 - **E.D. Tex.**
 - **N.D. Tex.**
 - **S.D. Tex.**
 - **W.D. Tex.**
 - **Appellate Circuit**
 - **Fifth Circuit (CA5)**
 - **CA5 Recent Opinions**
 - **Eleventh Circuit (CA11)**
 - **First Circuit (CA1)**
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 - **Third Circuit (CA3)**
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 - **Tenth Circuit (CA10)**
 - **US Supreme Court**
- **OUTLAWS**
 - **State Judges**
 - **Harris County District Court Judges**
 - **Federal Judges**
 - **Meet the Judges of the Southern District of Texas (Houston)**
 - **Data 2022: Random Assignments SDTX (Jan-Jun)**
 - **Data 2022: Random Assignments SDTX (Jan-Mar)**
 - **Appellate Judges**
 - **Meet the Judges of the 5th Cir.**

- **Fifth Circuit Judicial Complaints**
- **Court of Appeals for the Fifth Circuit Judicial Council**
- **Meet the Judges of the 11th Cir.**
- **Supreme Justices**
 - **Meet the Justices of the Supreme Court of Texas**
- **Texas Senators**
- **BANDITS**
 - **Bandit Debt Collecting Law Firms**
 - **Criminals Thievin' Homes**
 - **Trackin' the Foreclosure Scam Squads in Texas**
 - **Bandit Lawyers Sal Momin and Kamelia Namazi**
 - **Brian Brewer**
 - **Christian Consultants of Texas**
 - **Jerry Hofrock of Capital Capitol**
 - **Mike Minuto, MTM Accelerated Holdings, LLC**
 - **Rogue Lawyer Erick DeLaRue**
 - **Rogue Lawyer James Minerve**
 - **Rogue Lawyer Mark Hopkins**
 - **Rogue Lawyer Shelley Hopkins**
 - **Rogue Lawyer Jason Leboeuf**
 - **Rogue Lawyer Robert C. Vilt**
 - **Rogue Lawyer James Rivera and Wife**
 - **Rogue Lawyer Stephen Casey**
 - **Sandra Forsythe**
 - **Big Law**
 - **BakerHostetler**
 - **Boies Schiller Flexner LLP**
 - **Gibson Dunn**
 - **Allyson Ho**
 - **Orin Snyder**
 - **Goodwin Law's Hall of Shame**
 - **Who is Catalina Azuero?**
 - **Who is Lawyer Alexis Susan Coll-Very?**
 - **Who is Laura Stock Craven?**
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 - **Special Report on Michael F. Hord, Jr. of Hirsch Westheimer**
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 - **CA11 Intervenor Appeal**
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- **SALOONS**
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Laws In Texas

- **THE WILD WEST**
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CFPB Y'all Could Have Won LIT's 'Tony' Award, But Instead, Y'all...

After taking up LIT's cause to out the rogue debt collection firms and their counsel, lawyer James 'Tony' Foley dismisses Noack.

By **justicefortexas**

Posted on April 29, 2023

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Comments

Tameka v. Rock Creek Capital LLC (**4:23-cv-01261**) District Court, S.D. Texas, Judge A. Hanen APR 4, 2023 | REPUBLISHED BY LIT: APR 29, 2023
~~Apr 29, MAY 24, JUN 2, 2023~~

What's with the case style? The First Name as the Plaintiff? S.D. Tex. getting really creative these days...

Tameka v. Rock Creek Capital LLC et al

Order Dismissin' Noack – 2 weeks after filing complaint

Initial Conf.

ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons.

Initial Conference set for 7/5/2023 at 12:00 PM by video before Magistrate Judge Sam S Sheldon.

(Signed by Judge Andrew S Hanen) Parties notified.(RebeccaBecknal, 4) (Entered: 04/05/2023)

From and including: **Tuesday, April 4, 2023**
To, but **not** including **Wednesday, July 5, 2023**

Result: 92 days

It is 92 days from the start date to the end date, but not including the end date.

Or 3 months, 1 day excluding the end date.

Parties and Docket

U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:23-cv-01261

RECAP Actions

Tameka v. Rock Creek Capital LLC et al
Assigned to: Judge Andrew S Hanen
Demand: \$1,000,000
Cause: 15:1692 Fair Debt Collection Act

Date Filed: 04/04/2023
Jury Demand: Plaintiff
Nature of Suit: 480 Consumer Credit
Jurisdiction: Federal Question

Plaintiff

Lomas Tameka

represented by **Daniel J. Ciment**
Ciment Law Firm, PLLC
221 Bella Katy Drive
Katy, TX 77494
833-663-3289
Fax: 855-855-9830
Email: ****

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

V.

Defendant

Rock Creek Capital LLC

Defendant

Noack Law Firm PLLC

TERMINATED: 04/19/2023

Date Filed	#	Docket Text
04/04/2023	1	COMPLAINT against Lomas Tameka (Filing fee \$ 402 receipt number ATXSDC-29702751) filed by Lomas Tameka. (Attachments: # 1 Civil Cover Sheet)(Ciment, Daniel) (Entered: 04/04/2023)
04/04/2023	2	Request for Issuance of Summons as to Lomas Tameka, filed. (Attachments: # 1 Noack Summons)(Ciment, Daniel) (Entered: 04/04/2023)
04/05/2023	3	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 7/5/2023 at 12:00 PM by video before Magistrate Judge Sam S Sheldon. (Signed by Judge Andrew S Hanen) Parties notified.(RebeccaBecknal, 4) (Entered: 04/05/2023)
04/05/2023	4	Summons Issued as to All Defendants. Issued summons delivered to plaintiff by NEF, filed.(RhondaMooreKonieczny, 4) (Entered: 04/05/2023)
04/17/2023	5	NOTICE of Dismissal as to Lomas Tameka by Lomas Tameka, filed. (Ciment, Daniel) (Entered: 04/17/2023)
04/19/2023	6	ORDER OF DISMISSAL as to Defendant Noack Law Firm, PLLC, only. (Signed by Judge Andrew S Hanen) Parties notified.(rhawkins) (Entered: 04/20/2023)

PACER Service Center
Transaction Receipt
04/29/2023 16:22:06

James "Tony" Foley

PLAINTIFF'S ORIGINAL COMPLAINT

APR 4, 2023 | REPUBLISHED BY LIT: APR 29, 2023

Y'ALL WERE UP FOR A 'TONY' AWARD

Howdy,

We're writing up an article on Tameka's case before Judge Hanen.

Question: Why did y'all bottle it when it came to Noack?

Disclaimer: Any comments will be published on the article along with this email.

Y'all have a great day.

(Email from LIT to Tony Foley at Ciment Law Firm, sent 17:10 hrs on 4/29/2023.).

Preliminary Statement

1. Plaintiff, Tameka Lomas, ("Plaintiff") brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), as well as under the Texas Debt Collection Act, Tex. Finance Code § 392.001, et seq. ("TDCA"), The Texas Finance Code § 348.501 and the Texas Deceptive Trade Practices Act, Subchapter E, Chapter 17, Business & Commerce Code ("DTPA"), to obtain actual damages, statutory damages, injunctive relief, declaratory relief, and other relief for the Defendants' violations of the FDCPA, the TDCA and the DTPA.

JURISDICTION AND VENUE

2. This is an action under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et. seq. against Defendants for engaging in unfair or deceptive acts or practices in violation of the FDCPA, 15 U.S.C. § 1692.

3. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1331, 1337(a), and 1367.

4. Venue is proper in the United States District Court for the Southern District because the acts and transactions occurred here, and the Defendants transact business here.

DEFINITIONS

5. As used in reference to the FDCPA, the terms "creditor," "debt," and "debt collector" are defined in § 803 of the FDCPA, 15 U.S.C. § 1692a and 15 U.S.C. § 1692j(a) and (b).

THE PARTIES

6. Defendant, Rock Creek Capital, LLC, (Rock Creek) is a purchaser of charged off debts, a foreign for-profit corporation, and is in the business of collecting consumer debt in the Southern District of Texas.

The principal purpose of Rock Creek's business is the collection of consumer debts using the mail and telephone. Rock Creek buys up charged off debts and then files lawsuits en masse to collect consumer debts.

Rock Creek is a "debt collector" as defined by 15 U.S.C. § 1692a(6) and Tex. Finance

Code § 392.001(6). ROCK CREEK is also a "third-party debt collector" as defined by Tex. Finance Code § 392.001(7).

They are a holder of a motor vehicle retail installment sales contract as defined by Tex. Finance Code § 348.001(3)(B).

Rock Creek can be served by and through their registered agent Corporation Service Company dba CSC Lawyers Incorporating Service Company, located at 211 E. 7th Street, suite 620, Austin, TX 78701-3218.

7. Defendant Noack Law Firm, PLLC (Noack) is a law firm engaged in the collection of debts.

They collect debts for others by filing lawsuits in Texas Courts. Noack is a "debt collector" as defined by 15 U.S.C. § 1692a(6) and Tex. Finance Code § 392.001(6).

Noack is also a "third-party debt collector" as defined by Tex. Finance Code § 392.001(7).

Noack can be served by and through their registered agent Craig Noack, located at **25819 Enchanted Dawn, San Antonio, TX 78255.**

8. Plaintiff, Tameka Lomas, ("Lomas") is an individual who resides in Harris County, Texas and is a consumer as defined by 15 U.S.C. §1692(a)(3) and the Tex. Finance Code § 392.001(1)

FACTUAL ALLEGATIONS

9. On or about November 15, 2022 Defendant Rock Creek filed suit against Lomas in a case styled Rock Creek Capital LLC v Tameka Lomas cause number 224200408701, in the Harris County Justice of the Peace Court for Precinct 4 Place 2, hereinafter referred to as "the state court case."

The Case was filed by Defendant Noack on behalf of Rock Creek.

In this case Rock Creek is claiming to be the assignee of the deficiency balance of a motor vehicle retain installment sales contract between Plaintiff and DPAC Acceptance LTD.

10. According to the State Court Petition the collateral, a vehicle, was repossessed, sold at auction, and the proceeds were applied to the balance due.

Rock Creek filed suit for the deficiency balance.

11. The Plaintiff's Petition fails to identify the original creditor in this case.

12. There is no contract between Rock Creek and Plaintiff.

13. Rock Creek claims to be a holder of this note.

14. Rock Creek admits that the contract that they are suing on a Retail

Installment Contract for a motor vehicle.

15. Upon information and belief, Rock Creek is wholesale buyer of charged off debts.

The debt that is in question for the breach of contract for the purchase of a vehicle. As such it is a Retail Installment Sales Contract as defined by Tex. Fin. Code § 348.001(6).

Rock Creek is therefore a Holder as defined by Tex. Fin. Code § 348.001(3)(B).

As such, Rock Creek is required to have a license with the Texas Office of Consumer Commissioner. See Tex. Fin. Code § 348.501(2).

Upon information and belief, Rock Creek does not possess such a license, and therefore this suit is illegal.

16. It has been held that a debt collection complaint that "fail[s] to identify ... the original creditor, is both deceptive and material under the least sophisticated consumer standard, [and thus] constitutes a violation of § 1692e."

Heathman v. Portfolio Recovery Associates, LLC, 2013 WL 3746111, at *4-5 (S.D. Cal. July 15, 2013)

(recounting examples of the "easy to conceive potential frustration to the least sophisticated consumer [posed by] failure to identify the original creditor");

Thomas v. Portfolio Recovery Associates, Case No. 12CV1188-WQH-WMc, Dkt. No. 35 at 8-9, 11 (S.D. Cal. Aug. 12, 2013)

("The Court finds PRA's failure to identify the original creditor in the State Court Complaint ... constitute[s] a violation of the FDCPA.");

Tourgeman v. Collins Fin. Services, Inc., 2011WL 3176453, at *5 (S.D. Cal. July 26, 2011)

(holding that failure to identify "the original creditor unquestionably could 'frustrate a consumer's ability to intelligently choose his or her response,'" and stating that "the Court can conceive of nary a situation more confusing than receiving a dunning letter identifying an original creditor to whom the consumer never was indebted.");

accord Isham v. Gurstel, Staloch & Chargo, P.A., 738 F.Supp.2d 986, 996 (D. Ariz. 2010)

("To preserve the protections and policies of the FDCPA, it is important to know the proper identity of the creditor. Knowing a creditor's identity allows the 'least sophisticated consumer' to make more informed decisions on how to communicate with the creditor and avoid being misled.");

Wallace v. Washington Mut. Bank, F.A., 683 F.3d 323,327 (6th Cir. 2012)

("District courts have decided, and we agree, that a false representation of the

creditor's name may constitute a false representation ... under Section 1692e" because it may "cause confusion and delay in trying to contract the proper party concerning payment ... and resolution of the problem.") (internal quotation omitted);

Schneider v. TSYS Total Debt Management, Inc., 2006 WL 1982499, at *3 (E.D. Wisc. July 13, 2006)

("without the full and complete name of the creditor ... the unsophisticated debtor would be confused by the collection letter.");

Hepsen v. J.C. Christensen and Associates, Inc., 2009 WL 3064865, at *5 (M.D. Fla. Sept. 22, 2009)

("Imposing liability based on a statement incorrectly identifying the name of a creditor comports with the purposes of the FDCPA.").

17. The foregoing acts and omissions of the Defendants were undertaken by them willfully, intentionally, knowingly, and/or in gross disregard of the rights of the Plaintiffs.

18. The foregoing acts and omissions of the Defendants were undertaken by them indiscriminately and persistently, as part of their regular and routine collection efforts, and without regard to or consideration of the identity or rights of the Plaintiffs.

19. As a proximate result of the foregoing acts and omissions of the Defendants, Plaintiff has suffered actual damages and injury, including but not limited to, stress, humiliation, mental anguish and suffering, and emotional distress, for which Plaintiff should be compensated in an amount to be proven at trial.

20. All of Defendants' actions occurred within one year of the date of this Complaint.

Moreover, the actions made by Defendant in his collection attempts are to be interpreted under the "unsophisticated consumer" standard.

(See, Bartlett v. Heibl, 128 F.3d 497, 500 (7th Cir. 1997);

Chauncey v. JDR, 118 F.3d 516, 519 (7th Cir. 1997);

Avila v. Rubin, 84 F.3d 222, 226 (7th Cir. 1996);

and

Gammon v. GC Services, LTD. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994).

Respondeat Superior Liability

21. The acts and omissions of Defendants, and the other debt collectors employed as agents by Defendants who communicated with Plaintiff as more further described herein, were committed within the time and space limits and within the sphere of their respective employments in their agency relationships with their principal, the Defendants.

22. The acts by Defendants and their agents were incidental to, or of the same general nature as, the responsibilities these agents were authorized to perform by Defendants in collecting consumer debts.

23. By committing these acts against Plaintiff, these agents of Defendants were motivated to benefit their principals, the Defendants.

24. Defendants are therefore liable to Plaintiff through the Doctrine of Respondeat Superior for the intentional, reckless, and negligent acts, errors, and omissions done in violation of state and federal law by his collection employees, including but not limited to violations of the FDCPA and Texas law, in their attempts to collect this debt from Plaintiffs.

COUNT I

Lack of Licensing under Texas Finance Code §348.501

25. The Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs. The Defendants' violations of the Texas Finance Code include, but are not limited to the following:

26. Defendant Rock Creek is in violation of Tex. Fin. Code § 348.501(2).

They are a holder, or at least claim to be, of a Motor Vehicle Retail Installment Sales Contract.

Their standing in the State Court case is in dispute.

They are not a credit union, nor do they possess a license to be a holder of a Motor Vehicle Retail Installment Sales Contract as required by Texas Law.

27. Damages for this are statutorily set forth in Tex. Fin. Code § 349.003.

28. Defendant Noack is a law firm engaged in the business of debt collection. As such they knew, or should have known of the statutory requirement, but chose to file this lawsuit anyway, in the hopes of obtaining either a default judgment or facing an pro se debtor.

29. Plaintiff incurred actual damages in having to spend money for retaining counsel to defend her from an illegally filed state court lawsuits.

COUNT II Violations of Texas Finance Code §392.48.501

30. The Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs. The Defendants' violations of the TDCA include, but are not limited to the following:

31. By threatening, or in this case, actually filing a lawsuit that they did not have the legal capacity to file, Rock Creek and Noack violated Texas Finance Code § 393.301(8).

32. By representing that they had the legal capacity to bring this

suit, Rock Creek and Noack violated Texas Finance Code 392.304(8) and (9).

COUNT III Violations Of The FDCPA

33. The Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs. The Defendants' violations of the FDCPA include, but are not limited to the following:

a. In violation of 15 U.S.C. § 1692d, the Defendants engaged in conduct the natural consequence of which was to harass, oppress, or abuse a person in connection with the collection of a debt, thereby causing the Plaintiff to incur attorney's fees to defend the suit, which failed to properly plead assignment.

b. In violation of 15 U.S.C. § 1692e, 15 U.S.C. § 1692e (2)(a), 15 U.S.C. § 1692e(10), and the "least sophisticated consumer standard," the Defendants used objectively false representations and/or false, deceptive, or misleading representations or means in connection with the collection of a consumer debt.

Specifically, Defendant failed to identify the original creditor by name in the form pleading filed in the State Court Case.

Furthermore, Defendant's misrepresented their legal ability to even bring this lawsuit.

c. In violation of 15 U.S.C. § 1692e(5) and the "least sophisticated consumer standard," the Defendants threatened to take an action (and took such an action) which cannot legally be taken or that is not intended to be taken.

Defendant filed a lawsuit over a contract that it had no legal licensing to be the holder of.

33. Under 15 U.S.C. § 1692k, Defendants' violations of the FDCPA render them jointly and severally liable to Plaintiff for statutory damages, actual damages, costs and reasonable attorney's fees.

34. Under 15 U.S.C. § 1692k, Defendants' violations of the FDCPA render it liable to Plaintiff for statutory damages, actual damages, costs, and reasonable attorney's fees.

COUNT IV Violations of the Texas Deceptive Trades Practices Act

35. The Plaintiff repeat, reallege, and incorporate by reference the foregoing paragraphs.

The Defendants' violations of the DTPA include, but are not limited to the following:

a. Pursuant to Tex. Fin. Code Ann. § 392.404, the Defendant's violations of the TDCA also constitute a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code, ("DTPA") and is actionable under that subchapter.

36. Under Tex. Bus. & Com. Code Ann. § 17.50(b)(2), the Defendants' violations of the DTPA render it liable to Plaintiff for injunctive relief and reasonable

attorney's fees.

JURY DEMAND

37. Plaintiff respectfully requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, Tomeka Lomas, prays that this Court:

1. Declare that Defendants' debt collections practices violated the FDCPA, TDCA and the DTPA;
2. Enjoin the Defendants' actions which violate the TDCA and the DTPA;
3. Enter judgment in favor of Plaintiff and against Defendants for statutory damages, actual damages, treble damages, costs, and reasonable attorney's fees as provided by 15 U.S.C. § 1692k(a), Tex. Fin. Code Ann. § 392.403, and/or Tex. Fin. Code 349.003.
4. Grant such further relief as deemed just.

Respectfully submitted,

/s/ James A. Foley

James A. Foley
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CimentLawFirm.com

ATTORNEY FOR PLAINTIFF

Filed April 4, 2023

Zions Bancorporation Retains Known Rogue Debt Collecting Lawyer to Pursue Expedited Foreclosure

Zions Bancorporation is retaining lawyers and law firms who do not have an active debt collecting surety bond on file with the State of TX.

Read more

Zions Bancorporation Retains Known Rogue Debt Collecting Foreclosure Mill in Expedited Foreclosure

TX Supreme Court has never held corps liable for each other's obligations merely because of centralized control, finances n mutual purposes.

Read more

Frosty Lawyer Bob Kruckemeyer Rejects That He Should Have a Surety Bond to Debt Collect

However, Frost Bank retains other debt collecting law firms, inc. Fridge and Resendez PC who purchased a TX SOS surety bond in October 2022.

Read more

No Bull. Just Real News and Facts.

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Y'all Could Have Won LIT's 'Tony' Award, But Instead, Y'all...

Related Items:**25819 Enchanted Dawn San Antonio TX 78255, active surety bond, Avila v. Rubin, Bartlett v. Heibl, bottled it, Chauncey v. JDR, CimentLawFirm.com, default judgment, district court, Gammon v. GC Services LTD, Harris County Justice of the Peace Court for Precinct 4 Place 2, Heathman v. Portfolio Recovery Associates, Hepsen v. J.C. Christensen and Associates, initial conference, Initial Pretrial and Scheduling Conference, judge hanen, Noack is a law firm engaged in the business of debt collection, Noack Law Firm, Noack Law Firm PLLC, pro se debtor, Rock Creek Capital LLC, Rock Creek Capital LLC v Tameka Lomas, s.d. texas, Schneider v. TSYS Total Debt Management, surety bond, tameka lomas, Tameka v. Rock Creek Capital LLC, Tex. Fin. Code § 348.501(2), Tex. Finance Code § 392.001(1), Tex. Finance Code § 392.001(6), Tex. Finance Code § 392.001(7), texas finance code, Texas Office of Consumer Commissioner, third party debt collector, Thomas v. Portfolio Recovery Associates, tony award, Tourgeman v. Collins Fin. Services, tx occc, U.S. District Judge Andrew Hanen, United States District Court for the Southern District, vehicle repo, Violations of Texas Finance Code, Violations Of The FDCPA, Wallace v. Washington Mut. Bank**

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- **Rembus Nembhard and Sarah McFarquhar of Emmanuel Group LLC v. PHH Mortgage Corp**

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Trinidad and Elsa Delgadillo's Property Warranty Deed Exhibit Restricted for No Good Reason

Magistrate Judge Christina Bryan Dismisses Pro Se With Prejudice and Without Leave to Amend

Laws In Texas first started as an independent investigative blog about the Financial Crisis and how the Banks and Government are colluding against the citizens and homeowners of the State of Texas, relying upon a system of #FakeDocs and post-crisis legal precedents, specially created by the Court of Appeals for the Fifth Circuit to foreclose on homeowners around this great State. We are not lawyers. We do not offer legal advice. That stated, LIT's Blog has grown tremendously during the three or so years it has been operating and our reach is now nationwide as we expand via our micro-blogs in various states. Join us as we strive to bring back justice and honor to our Judiciary and Government employees, paid for by Citizens.

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