

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Roanoke Division**

WESLEY C. SMITH  
Plaintiff

v.

CHERI SMITH, et als  
Defendants

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Case No: 7:07-CV-00117

**#7 - MOTION TO AMEND IF NEEDED**

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I agree with the statement of Justice Kennedy that "... The law makes a promise. The promise is neutrality. If that promise is broken, the law ceases to exist. **All that's left is the dictate of a tyrant, or a mob.**" ~Quoted in Dababnah v. West Virginia Bd. Of Medicine, 47 F.Supp.2d 734, 749 (S.D.W.Va. 1999)

1. In the June 1<sup>st</sup> 2007 Supplemental Memorandum filed by James Ingold, he makes various statements claiming that I have not alleged sufficient facts.
2. For example he claims "Plaintiff has not alleged acts that deprive the Judges of judicial immunity." The Plaintiff has indeed alleged facts that deprive the judges of judicial immunity. The Plaintiff has claimed he was never served with Process, claimed that the Judged never had subject matter jurisdiction. The Plaintiff has also alleged that the Judges acted outside of their authority (which would deprive them of jurisdiction). It is well settled that judicial immunity is limited to judicial acts and acts taken without jurisdiction are not covered by judicial immunity.
3. Thus either Mr. Ingol is intentionally making false statements to the court, or he is focusing on only the facts stated in the original complaint and excluding the facts stated in #3 - Plaintiff's Memorandum In Opposition To Attorney General Motion To Dismiss, #5 - Facts, #6 - Reply To Issues Addressed At Hearing, #7 - Some Exhibits

4. It should be noted the reason that many facts were left out of the original complaint was due to a misunderstanding that the complaint had a page limit that would not allow numerous statements about facts to be included.

WHEREFORE the Plaintiff requests that the court consider the facts from all documents the Plaintiff filed, or if unable, in the alternative, to grant the Plaintiff permission to amend the complaint to include the facts there.

**Respectfully Submitted,  
Wesley C. Smith**

June 8<sup>th</sup>, 2007

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