

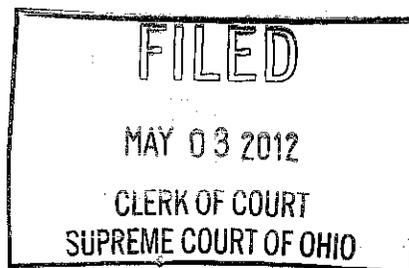
ORIGINAL

IN THE SUPREME COURT OF OHIO

MARY J HUEBENER RAICHYK, PhD  
and MYA LEE RAICHYK  
Individually and MJ Raichyk as  
Personal Representative of  
E MICHAEL RAICHYK, Deceased,  
Plaintiff-Appellant,

12-0775  
Supreme Court Case  
On Appeal from the 12<sup>th</sup> District  
Court of Appeals, Brown County,  
Case No. 2011-11-025

v.  
SHABBIR SABIR, MD,  
and  
DAVID C BECK, MD,  
and  
A X BHASKAR, MD,  
and  
Mercy Hospital Clermont CEO,  
GAYLE HEINTZLEMAN, CEO  
and  
DONNA L PROCTOR, RN,  
and  
MELODY A HAMILTON, RN,  
and  
John Does 1 through 10, inclusive,  
Defendants-Appellees



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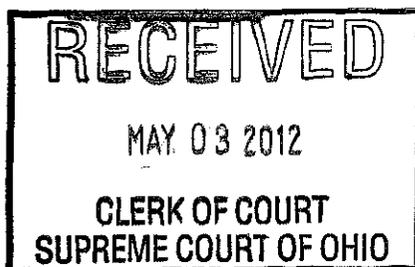
MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANTS, MJH RAICHYK AND MYA LEE RAICHYK,  
PERSONAL REPRESENTATIVE AND NEXT OF KIN OF E MICHAEL RAICHYK

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It is anticipated that Carroll in the hospital's law firm is the lead counsel of record for the Defendants-Appellees in this case, and that Uhl and Lyon are the designated counsels of record for the other Defendants-Appellees.

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## EXPLANATION OF WHY THIS CASE IS OF PUBLIC / GREAT GENERAL INTEREST

These Appellants were denied a hearing on the merits of their appeal – Brown CA 2011 11-025 --by the 12<sup>th</sup> District Appellate Court, on the basis of a Cinderella's Stepmother demand, that the Appellate Court would only grant the hearing of our Brief if we managed, at that stage of the process, to find a lawyer to represent us in short order. This requirement was unreasonable, under the existing circumstances, as we have shown in a memorandum (2012 Feb 2<sup>nd</sup>) but been ignored by the Appellate Judges, inflicting an injustice on top of the wrongful death of my only son.

Lest the Court think that such circumstances of being denied a valid hearing on the merits of the cases of deaths, iatrogenically caused, is not quite an occurrence of significant public interest nor general importance, these Appellants shall point to statistics on the current classification of iatrogenically caused deaths. In the last couple of years the number of such cases SEEKING representation, has DOUBLED, leading to a severe lack of proper servicing of the aggrieved with no comparable improvement in the supply of lawyer servicing. This information is published broadly, in the lawyer marketplace, as seen on the medical malpractice page of the major law firm of Elk & Elk, for example, quoting statistics from the National Academy of Science's Institute of Medicine.

Meanwhile the public is becoming very attuned to the idea that medical malpractice is touching most families because of the statistics being published on iatrogenic caused death being the third leading cause of death in the United States as seen in many exercises of public demands for better care, for competition among hospitals for awards for safety, for example one scale published by Reuters, and such.

Even the science community in the medical journals are studying the courts and lawyers' handling of malpractice cases, as demonstrated by the article in the New England Journal of Medicine, hereby added in the Appendix as summarized in Science News, that reported that the medical assessments of cases showed that it was far more likely that an MD who was guilty was set

free, than the reverse error. Time and effort and expense are not invested in such research without there being considerable public demand for knowing what is happening is well handled.

Hence basing decisions on substantive issues to enable the aggrieved to be heard, would seem to fit the Court's instructions on balancing procedure with merit ideas. And the imbalance in supply and demand has pushed Pro Se efforts into prominence, even in the realm of law text publishing. Nor can lawyers take on such complex projects with impunity because such cases are reported to require an investment of \$135,000 on average by the law firm for likely a multi-year period of risk. Hence there is no desire to overbook even if the lawyers have an idea that they could win the case with due attention to ordinary medical malpractice servicing. Leaving more of the aggrieved to consider Pro Se, and study their own online and library resources to determine the prosecution of their claiming. Instead of recognizing the situation as a challenge to serving Justice, the Appellate Court appears to have chosen to favor erroneous arguing by employment serving Defendants-Appellees' lawyers.

Nor will this sort of situation of Pro Se plaintiffs in wrongful death cases be a diminishing trend, given the demographics of this time period with its aging population, making it more likely that the next of kin will all be adults capable of representing themselves. Nor will the iatrogenic causes of wrongful deaths diminish in an aging population. Nor will these aggrieved citizens be served by the supply of lawyers, EVEN IF the supply of lawyers is increased. Why? Because of the formula that such lawyers use to determine their investment risks in such cases. The formula for determining jury awards for aging victims with no underage dependents is not favorable to making a profit on such cases given the expenses of the current courtroom game of battling medical specialist experts on top of lawyer time expense. Hence the only way such victims will be enabled to prosecute the iatrogenic perpetrators is through Pro Se efforts by the adult children, now the only next of kin.

This current situation is one of those aggrieved Pro Se cases where there was a need and the

righteous next of kin to pursue the case, but where the opposing lawyers are preferring employment servicing over justice serving, using the tactic of renegeing on proper arguing of the cases by pretending that the Law does not support Pro Se. Instead the opposing lawyers insist that these Plaintiffs-Appellants be required to play the role of passive dependents on more lawyers who will guaranteeably play the game the opposing lawyers are prepared to combat. And if that passivity is resisted, then the case shall be demanded to be dropped by the Court, acting to enforce a vacuous entity's need, all to the benefit of the renegeing lawyers AND NO ONE ELSE. NO BENEFIT TO THE PUBLIC AT ALL.

Hence the shameless opposing lawyers do vigorously insist on there being believed to be a Probate entity, however vacuous and already closed, to serve as their trumped-up opportunity to demand Judge's denials of servicing the case's arguing with the aggrieved Pro Se on the basis of the oppositions' pretensions that Justice is not reliably served for that pretended entity and they are required to make charges against the aggrieved plaintiffs as if the aggrieved are practicing law without a license. Yet clearly the charged next of kin are a group of Plaintiffs who are not genuinely in any jeopardy of being mis-represented by some pretended esquire, nor are any kin left out of the prosecution process decisions because all are standing actively Pro Se, taking their own responsibility. There is no public jeopardy, no justice being served by such claiming and charging. Only employment serving motives to eliminate an aggrieved plaintiff and to cheaply produce a fee for such devious servicing.

The current group of Plaintiffs-Appellants represent the entire group of next of kin as well as including the personal representative of the Deceased. These Plaintiffs-Appellants furthermore have some significant experience in other court processes, recently pursuing their own court case in green technology in Brown County, and for that reason, in the absence of any decent legal representation, have chosen to pursue their aggrieved claiming in this Wrongful Death case, Pro Se. The Common Pleas Court in Brown County, where these Plaintiffs-Appellants live and filed

their original case, were not so opposed to Pro Se, but in the Appellate Court of the 12<sup>th</sup> District, and likely elsewhere, such cases as this are being denied a hearing based on employment serving requirements said to be the content of the Law by the 12<sup>th</sup> District Court under the advocacy of the opposing Appellees' lawyers, which content-claim is here disputable.

These Plaintiff-Appellants have seen that the Ohio Supreme Court has set up due process procedures that indicate that the Supreme Court does not consider 'practicing law without a license' to apply to such a case as what these Plaintiff-Appellants are bringing. The Ohio Supreme Court charges the Bar Associations with precise responsibilities of determining whether the public is not being properly served by someone practicing law without a license. Furthermore, the ORC 4705.07 (B)(2) clearly states that ONLY the Supreme Court of Ohio "may make a determination that any person has committed the unauthorized practice of law in violation of division (A)(3) of this section", patently suggesting extremely complex figuring, not to be trusted elsewhere. Yet instead of recognizing the Law as well as the due process Guidance interpretation implied by these presentations of this Supreme Court, as not opposed to these Plaintiffs-Appellants' case, the Appellate Court has obviously swallowed the mistaken idea that there is some mis-representation of valid interests being perpetrated by these Pro Se Plaintiffs-Appellants based on the Appellate Court's obviously demanding that these Pro Se Plaintiffs-Appellants secure lawyer representation or be denied a hearing. The Appellate Court's so-called righteous demand -- that these Pro Se Plaintiffs-Appellants must somehow induce an over-booked market of lawyers to drop their own high-stake projects and take on these Pro Se Plaintiffs-Appellants' case, right now, when that case had already been developed through a prepared appeal having been filed and brief prepared -- ignores the public safeguarding-purpose of demanding proper legal representation for plaintiff servicing.

Furthermore, these Plaintiffs-Appellants have seen that there is a case law being published as serving as an example to support this unreasonable demand, which suggests that this sort of

arguing can be and has been mis-used as well in other cases in general. The case law example was inappropriate to the current Plaintiffs-Appellants because the case cited – namely Williams v Griffith – was an example where the Plaintiffs included individuals that do require representation because they are not capable of acting Pro Se, namely there were children of early age among the kin as possible plaintiffs. Such plaintiffs do have need of proper legal representation in their inability to take their own responsibility for their own decisions. Yet the Appellate Court seemed to ignore such an inappropriate incongruity in the application of the argument from that case to ours. Hence it appears that this Williams v Griffith case is a generally used device that is not examined for valid application, making this current example brought to the Supreme Court by these Plaintiffs-Appellants an important lever to rectify these pitfalls that appear to be waiting for more unwary aggrieved as will be likely coming, only to be denied justice.

### STATEMENT OF THE CASE AND FACTS

#### A. Procedural Posture

The Plaintiffs-Appellants filed Wrongful Death charges (Docketed 04/29/11) well within the timeframe allowable for such filings, against three MDs and associated responsible parties, over events that satisfy no definition as 'medical' but are criminal instead, and though unusual this case has precedent, and the base events transpired beginning May 5th 2010 and concluded in retrospectively unending misery after May 23<sup>rd</sup> 2010, after three weeks in the hospital ICU together with my suffering only son.

After a three week flurry of summons-service excitement -- in which it was discovered that one Defendant-Appellee had skipped town as far as his office billing staff knew since he'd disappeared without notice to his shared staff, and one Defendant tried to avoid service by summarily firing his office assistant (Rosie Partin) while claiming he'd not been served in her 'failure' to perform her duties though that assistant had straightforwardly signed for delivery of the Summons and surely was instrumental in dealing with such malpractice court proceedings since at

that very time that MD was facing trial on those specific charges -- then began the process of lawyers' vacant Answers (Docketed 05/26/11, et al), accompanied by Motions for Dismissal (Docketed 06/08/11, et al), and one substitution of Attorney from one lawyers' group to the other (Docketed 06/09/11) possibly to accommodate the idea that the Defendant being shuffled was likely going to be using as his defense that he was just following the hospital-defendants' requirements since his was shuffled out of the group of nurses being defended by the hospital's law firm.

As a result of these maneuverings the original initial hearing scheduled for July 5th as a formality at filing time, was replaced by a Motion Hearing scheduled for July 27<sup>th</sup> 2011. These Plaintiff-Appellants did timely file Answers to the Dismissal Motions (Docketed 06/24/11, et al), as well as protests to the Defendants-Appellants vacuous so-called Answers, also timely. Not unusually individualistic, though straightforwardly spoken, with favoring the idea of arguing as definitively as possible to make it clear what the ideas were, certainly not the usual sparsely worded filings as these Plaintiffs-Appellants have seen in their researching and experience with Courtroom real world documents. Instead of case law and vague gaming statements with unreadable citation clutter, these Plaintiffs-Appellants favor straightforwardly exploring what has been done and what the Law's consequences do imply with mathematical attention to logical precision in arguing. Brevity is going to be challenging as you may think has been not our choice of operating, yet we have managed that in other Appellate matters with considerable apparent successes. Hence these Plaintiffs-Appellants' ideas may not be quite as unusual as it may be expectable for Pro Se in this Court, as we shall see.

Returning to the narrative. The Plaintiff-Appellant also filed a Motion for Clarification on how to get compliance from the Hospital to supply proper Court-usable copies of medical records (Docketed 07/15/11) to demand they cease Obstruction of Justice, which Motion was never dealt with even though the history of this denial of access to official records was long standing and also eventually involved a fraudulent attempt by the Hospital's outsourced financial staff to seek

insurance funds without Appellant's signature. Such maneuver may have pleased their outsourced leadership without Hospital acknowledgment, though it remains to be seen whether the Hospital's management genuinely is seeking to eliminate the racial prejudice we encountered against Appalachian people who are known to everyone as forming part of the backbone of the United States military.

The lead institutional Appellee's lawyer for the Hospital and the nurses did file the Reply in support of the Defenfants-Appellees' Motion for Dismissal (Docketed 07/22/11) but since ALL the Dismissal arguments are based on JUST ONE PREMISE -- that this is a medical case, not a criminal case and hence should be requiring some expert opinions of merit -- then each and every one of those defending lawyers' arguments is invalidated IF THAT FAULTY PREMISE IS DEFEATED so these employment-serving, not justice- serving Appellees' Lawyers were logically now near-desperate -- rather than face messy charges against them as representing clients as perpetrators of racial hatred, sexual perversion and animosity against patients wanting medical alternatives as are found by internet-knowledgeable patient representatives -- and therefore they throw up obstructions to justice in whatever strategy they could find in their cookie-cutter Case Law. Which faulty case-law-familiar premises the Judge -- under the obviously certain advocacy of these Appellants that this was a criminal case in Civil Court not fitting familiar-case-law -- did consider it to be 'not a foregone conclusion' that familiar-case-law was trustworthy since the Judge did require a lengthy time (almost 3 weeks longer than he had planned per his instructions at the PreTrial 07/27/11) to decide whether to accept the 'foregone conclusion of the Appellees' lawyers and simply use their Proposed Findings Statement as his Judgment Orders (date planned to be decided: 08/10/11). Which he later tentatively did, 08/29/11, while still incorporating another 14 day delay window to allow for objections to arise. Hence decidedly it is not a foregone conclusion that the Common Pleas Judge is so strongly on the side of the Appellees' lawyer's concept of legal 'medical'-ness, as being properly applicable in this criminal case. [A transcript of that Pre-Trial with

its brief argument exchanges, with the setting also of the date for submission of findings by each side, and with the decision date set for August 10th, 2011 was available to the 12<sup>th</sup> District Appellate Court in the Docket they are standardly supplied with from Common Pleas Court's Clerk's Office, though that Clerk's office is in turmoil over their higher managing constantly changing, as we shall see.]

After another and final round of sparring opened up in that 14-day opportunity for Objection (namely, Docketed 09/09/11 Plaintiff's Objection, followed by 09/22/11 Opposition by the Defendants' Attorney and then the 10/19/11 Support for the Objection by the Plaintiff) -- plus also Plaintiff's Answer (Docketed 10/11/11) to another vexatious Motion to Strike (Docketed 10/05/11) by one Attorney claiming his own authority as a vaunted 'member of the Court' to vexatiously usurp the Supreme Court's ORC-granted authority to disqualify Pro Se cases as practicing law without a license -- these Appellants timely filed their Appeal at the 12<sup>th</sup> District Court of Appeals (Docketed 11/07/11) as soon as possible after the official filing of the Judge's Order Entry (Docketed 10/24/11)

Having already had this vexatious claim against Pro Se, rejected twice in Trial Court -- once formally in the 14-day-flurry of activity in disputing the Dismissal Motion during which the pervert's lawyer issued his 'unauthorized practice of law' motion after back-and-forth dismissal action was started, as well as informally in the Motion Pre-trial's opening comments by the lawyers when the Judge shrugged it off as it being up to the Plaintiffs own choices -- these Appellees' lawyers again filed that same disreputable Motion in the Appellate Court process (Docketed 12/13/11) to derail Justice again, leaving the Answering time limitation set for December 23rd 2011, which these Appellants did meet in a timely fashion instead of filing for dilatory delays, unlike one of these Plaintiffs-Appellants' other opponents' lawyers with two teams of lawyers and multitudinous staffs claiming they'd miscalculated their deadline. These Pro Se have just as many projects to work on for their businesses as well as another Court Case at the Common Pleas Trial Court, and Appellate Court, over these Appellants' Green Technology Project's brush with reprobate

retrograde authoritarian miscreants, just as many projects as these Appellees' lawyers' law offices have to deal with in court-time-compatible projects since those vexatious lawyers have instituted likely slowdowns for holidays in office treadmill speed to match Court schedule. "Pro Se" does not translate as "undisciplined and unruly Courtroom opposing party" as some may think. And "Pro Se" favors justice serving, instead of the clearly faulty arguing done in these observed shellgame tactics by certainly expected-to-be-adequately knowledgeable lawyers.

Clearly the Appellees' lawyers, before any exchanges of Appellate Briefs, did present the Appellate Court with a 'strategically' sparse version, omitting the whole history of their lawyer-protecting dispute's proper rejection at Common Pleas in Brown County Ohio, as well as 'mis-stating of facts', as well as pandering the incongruous 'mistaken' applicability of the Williams v Griffith case law, as well as conjuring the methodically disposed of vacuous entity called 'the estate', as well as denying the reality that no beneficiary of the Decedent was not standing as Plaintiff-Appellant, as well as ignoring the Supreme Court's mandated due process route of the Bar's responsibility, as well as ignoring the ORC 4705.07 limiting of judgment to the Supreme Court. All of which does call into question the truthfulness and the honorableness of such shyster vexations as the Appellees' filed as their Dismissal Motion in Appellate Court and compounded in their Reply in Support (Docketed 12/29/11) with its strawman-misrepresenting of these Plaintiffs-Appellants' Answer that came with the real Law and Due Process, the real Probate standing as 'Personal Representative of the Decedent' not representing the vacuous Estate. To which Reply, these Plaintiffs-Appellants filed their Objection (Docketed 1/3/12). The Appellate Court's Administrative Judge ruled to contingently Deny the Dismissal (Docketed 1/13/12) but, accepting the errors, ordered that the dismissal was contingent on these Plaintiffs-Appellants securing legal representation 'for the Estate' within the month. Not only ignoring the reality of lack of supply, the reality of the complicated status at that point, the reality of the Plaintiffs-Appellants appeal basis that this case was not 'medical' and would require a creative minded lawyer capable and eager for

the intensive sleuthing involvement of a criminal case, not cookie cutter case law games of battling experts. Furthermore, this contingent Order arrived within days of these Plaintiffs-Appellants Green Technology case going to trial, which trial in the courtroom ran full day from 12/19/12 to 12/23/12, followed by intense summary writing and arguing for the written closing argument to be due on 12/30/12, followed by back-and-forth exchanges over the opponents' errors, attempts to misrepresent testimony, cite whole chapters of federal law that required in-depth technical clean water act analysis, and finally another hearing on 4/13/12, now pending the Judge's decision once he has the last of the evidence of misperforming bureaucratic bad faith prosecution and has finished his recent murder cases. Meanwhile these Plaintiffs-Appellants were seriously trying to find a way to demonstrate that the Cinderella-conditional denial in this case was not a doable proposition. After demonstrating that the local Bar Associations had no prospects who would take the case, that even major law firms were unwilling to drop into this legal representation role on such a complicated case on such little notice, that some lawyers did not have the financial backing at this time, that even with a dozen intakes in between our green technology work there were no takers even with the Appellate Judge's paltry 2 extra week extension until 3/2/12, all these approached lawyers rejected the Judge's 'opportunity'. Instead of recognizing that the Cinderella-conditional denial was untenable in Justice, the Appellate Court chose to dismiss the Appeal with prejudice, claiming the Appellants had failed to prosecute their Appeal. Unlike reality. It was however so ordered (Docketed 3/23/12). Hence we now see that the Supreme Court is necessary and fits ORC 4705.07 as we shall see with this appeal to the Supreme Court.

#### B. Statement of the Facts for Arguing the Unauthorized Practice of Law Denial.

As stated in the Plaintiffs-Appellants original Affidavit, the Probate Court has ruled that the authority for dealing with the residual claims and rights for the Decedent would reside in the hands of M.J. Raichyk, mother of the Decedent. That Probate document is in this filing's Appendix as well as other documents that support this filing's claim of jurisdiction as commonly substantive in

public interest needs. Among those residual matters left for the Personal Representative, the wrongful death case took shape and obstruction of justice by the Hospital became the obstacle to be overcome because more evidence OF CRIMINALTY was taking shape as we investigated data. Besides the Hospital's 'supposedly' incompetent records handling, there was an attempt to hide the initial perversion perpetrator, by sending him packing possibly with no regard for his employment recruiter's operation – namely one QESI of unknowable contractual relationship -- as well as how the Hospital unexplainably could permit the second perpetrator to hide his own law- mandated records. Using the hospital's 'missing records' claim as an excuse for denial of working records- access to these Plaintiffs-Appellants thereby indefinitely allowing his delay-filing strategy, clearly suggesting guilty avoidance of known medical claim-filing deadlines since, by then, they were alerted to our developing ideas, all of which has added to the struggles of Pro Se. As of April 29, 2011 the lead Plaintiff-Appellant filed the Trial Court Case. The other Plaintiff-Appellant, Mya Lee Raichyk, the only other next of kin, has substantively and materially contributed to developing the investigative project and was fully supporting its courtroom presentation including literary editing. The Probate records will show that these Plaintiff-Appellants are the entire group of beneficiaries of the Decedent and include the Personal Representative of the Decedent who then is also standing before the Court in the Decedent's legendary 'shoes' as his voice in this Court. Hence the Plaintiff-Appellants are the entire and only parties being represented and are representing each their own self's interests, including the Decedent's interests as his own representation because he has testimony that this Probate-authorized member of the Plaintiffs' group is preparing for Court Trial presentation. As we may be thinking, this is definitely not even just the ordinary malpractice case already, which it is not, and will not be. There are significant issues to be explored as the Court shall see if they are patient in exploration with Pro Se, as Pro Se is entitled to make their own case, so as to present their own evidence and conclusions.

ARGUMENT IN SUPPORT OF THE PROPOSITIONS OF LAW

A. Assignment of Error in the Appellate Court's Decision

THE APPELLEE'S DISMISSAL MOTION to the 12<sup>th</sup> District Appellate Court IMPOSES THE IDEA ON THE COURT THAT THERE IS AN ENTITY THAT CONSISTS OF MANY OR AT LEAST MORE NEXT OF KIN WHO ARE BEING REPRESENTED BY THESE PRO SE IN THESE APPELLANTS' COURT CASE.

Proposition 1. All the next of kin as well as the Decedent's Representative are the Plaintiffs seeking Justice, each Pro Se, with no Estate involvement . . . . .

As presented in the Statement of Facts above, the Plaintiffs are not just a single individual acting both individually as well as in the shoes of the Decedent. These Plaintiffs-Appellants would suggest that their questionably-motivated opponent should have kindly consulted the Notice of Appeal before launching a vexatious, delaying, diverting and useless-to-justice, time-wasting Motion for Dismissal at Appellate Court. Unfortunately, neither did the Appellate Court Judges, apparently one and all, do the consideration of the identities of the Plaintiffs-Appellants.

Nor did they check the Probate status of the mythical Estate. Consequently the vexatious lawyers who should know better, even based on the Probate Court record, which presumably they would have access to when denying the evidence presented by these Plaintiffs-Appellants, as easily as any creditor pursuing payment from the Decedent. The Probate Judge specified the role of the mother of the decedent to be the Personal Representative of the Decedent, not some non-existent Estate, which was seeable as vacuous by choices of ownership made by the decedent and his next of kin. Instead the lawyers chose lazy client-billing for dishing cookie cutter Case Law with **INAPPROPRIATE APPLICATION AND STRATEGICALLY VEXATIOUS TIMING** in the Accelerated scheduling at the Appellate Court proceedings, which time-brief requirements were otherwise appropriate for the planned challenge over the single definition of 'medical' as applied to a perverted individual with a medical license.

Furthermore, Answers to these Probate issues were actually put into their hands by Pro Se Plaintiffs during the Trial Court dispute over this same false claim by those same Appellees' lawyers months before Appellate court challenging. Hence why should the lawyers be excused for feigning false knowledge of 'some' next of kin being jeopardized by being mis-represented by these Plaintiffs-Appellants now taking responsibility. Unfortunately, the Judges at the 12<sup>th</sup> District swallowed the Estate fabrication whole, apparently.

Proposition 2: Inappropriate case law was used as universal

In order to make valid application of their Case Law idea, the lawyers should have invested more research to ensure that their pandered Case Law example does match -- AS THEY BOLDLY AND UNTRUTHFULLY CLAIMED -- the current case's application IN SUCH A CRUCIAL POINT AS WHO PRECISELY IS 'Pro Se' FOR THE VALID FIT OF THEIR CASE LAW. This lack of decent research that is displayed in this Motion, is not the first time they have attempted to impose their own faulty ideas on a Court of Law with no decent research.

Contrary to the Defendants-Appellee's lawyers' statement that they had a match for our case with their Case Law using the Williams v. Griffith case, just opens speculation as which faculty of those Appellee's lawyers is missing-in-action, their fact-finding or their logic for matching, since the Plaintiffs in the Williams v Griffith case included a very young child in the next of kin! A representation-tangle unlike in this instance. Hence we immediately consider their entire Case Law pseudo-parallel as invalid in the extreme, considering the inability of minors to serve as Pro Se and other Court difficulties with minors' rights to valid representation.

Proposition 3. Pro Se for this case is in synch with Statutory Law as being all concerned parties

*No person shall be permitted to practice as an attorney and counselor at law, or to commence, conduct, or defend any action or proceeding in which the person is not a party concerned, ... [Emphasis added]*

This is THE ACTUAL ORC 4705.01 LAW'S KEY STATEMENT. Clearly these Appellants ALL ARE PARTIES CONCERNED, as anybody can determine. Hence these Appellants shall

consider this as validating their own requirements to stand Pro Se in this Court, in the Appellate Court or in the Trial Court. Even the Decedent has a role to play in the presentation of his near-death testimony made to his mother, who is formally able to present it as if he were here though questioning is not available since it was long ago by now when he made his presently needed statement, favoring the importance that court rules attach to such testimony. Possession of his idea is unfavorably usually deemed heresy but not in his circumstances at present.

Proposition 4: The Supreme Court has priority in determining complex Pro Se permissibility

Furthermore, these Appellants shall point out that it is the prerogative of the Supreme Court of Ohio to determine and judge whenever there is a charge of unauthorized practice of law. As can be seen in this ORC 4705.07 (B)(2)

*(2) Only the supreme court may make a determination that any person has committed the unauthorized practice of law in violation of division (A)(3) of this section. [Emphasis added]*

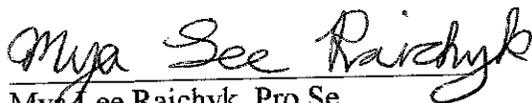
In conclusion, IF Case Law is being used – as it seems in the Appellate Court – for many more cases, the dismissal shows that violations of the actual law's statement – namely, limiting authority to the Supreme Court to determine whether Pro Se activity has become unauthorizable in Wrongful Death cases done as these Plaintiffs have done -- have been committed, in the form of invalidatable dismissals by presumptuous lower Courts AT THE BEHEST OF profession-protecting-instead-of-justice-serving profanity-inspiring lawyers, then it is to the disgrace of those Courtrooms. Each time such presumptions of authority by lower courts of Supreme Court authority are perpetrated against Pro Se, those Courtrooms are making Case Law insupportably incompatible with the ORC. And such lawyers who demand such presumptuous dismissals in their pandering to Courtroom 'drama' at the expense of Law-abiding and Justice- serving, are engaging in invalidly tormenting of valid claiming of Pro Se rights as citizens of this State of Ohio whose law such lawyers are abusing for their own employment-se-rving agenda. If such previous disgraceful uncorrected errors in prior cases exist, they should be here challenged by re-asserting the Law's

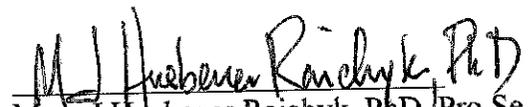
Statement in this current case, even though it's not possible to overturn other past mistakes, than here challenged for Brown-CA2011-11-025, in other Courtrooms. These Plaintiffs make no argument at the moment as to the existence of such 'other' disgraceful ideas as the shyster Appellees' lawyers have imposed, as a generality, on these Pro Se plaintiffs. But these Plaintiffs-Appellants do recognize the undeniably growing frequency of lawyers representing perverts, racial assailants, and other criminals and even killers like the legendary Michael Swango, MD who once practiced his murderous scheming at Ohio State's Medical Center, and that this Case's Supreme Court Decision will have consequences for such iatrogenic miscreants to have continued access to escape justice in this type of Dismissal Motion in the Courtrooms of Ohio.

Consequently, we shall reaffirm our own trust in the Justice of the LAW properly interpreted and administered. That being the only proper way to secure Justice and have it re-established. And we do argue that way, depending on logic and statutory law, not case law .

#### CONCLUSION

These Appellants do petition this Court to rectify the erroneous decision of the Appellate Court which granted those Appellees' dismissal Motion based on illogical fallacious use of inappropriate Case Law and presumed existence of mythical non-pro se next of kin, while presumptuously ignoring the Supreme Court's designated due process and right to judge, on top of their misrepresentation of these Plaintiffs-Appellants approach to Wrongful Death prosecution. Hence their obtained verdict should be denied or rejected or whatever will rectify the injustice.

  
Mya Lee Raichyk, Pro Se  
Appellant

  
Mary J Huebener Raichyk, PhD, Pro Se  
Appellant

1563 Kress Rd  
Mount Orab, Ohio 45154-8209  
(513) 278-3995  
[dectiri@earthlink.net](mailto:dectiri@earthlink.net)

## CERTIFICATE OF SERVICE

We hereby certify that after filing this Memorandum with the Supreme Court, we shall appropriately deliver a required copy of the above to the latest list of Counsels of Record, by email, since they have authorized it that way in the past, instead of by USPS, first class mail to:

Karen A. Carroll, Esq (0039350) -- lead counsel of record  
Christie Jessica Pratt, Esq (0097210)  
Rendigs, Fry, Kiely & Dennis, LLP  
One West Fourth Street, Suite 900  
Cincinnati, Ohio, 45202  
513-381-9200  
[kcarroll@rendigs.com](mailto:kcarroll@rendigs.com) / [jpratt@rendigs.com](mailto:jpratt@rendigs.com)

**Attorney for Defendants: Mercy Clermont** (*whose own records department has reneged on correction of the lying put in the Patient's Record when such lying was protested by ordinary methods after the Hospital's agents (with the exception of their in-house law department records advisor, became aware of the reality of its use in evidence), Donna L. Proctor, RN, and Melody A Hamilton, RN*)

and

Michael F Lyon, Esq (0006749) -- counsel of record  
Bradley McPeck, Esq (0071137)  
Lindhorst & Dreidame  
312 Walnut Street, Suite 3100  
Cincinnati OH 45202  
513 421-6630  
[mlyon@lindhorstlaw.com](mailto:mlyon@lindhorstlaw.com)

**Attorney for Defendant A X Bhaskar, MD** (*who fired his Office Assistant in order to claim he hadn't been timely receiving his Summons since he had been apparently expecting a malpractice deadline and thought he would escape that deadline. And was the likely MD who refused to file his hospital reports for the patient's records to be held up for Patient Representative use in official filing a complaint, FOR OVER 6 MONTHS because he hides his actions as we've recorded, and does this irresponsible tactic with no retribution from overseeing staff MDs or Hospital Administrative Authorities*)

and

Judd R Uhl, Esq (0071370) -- counsel of record  
Kate Kennedy (0079566)  
Mannion & Gray, Co. LPA  
909 Wright's Summit Pkwy, Suite 230  
Ft Wright, KY 41011  
859-663-9830  
[juhl@manniongray.com](mailto:juhl@manniongray.com)

**Attorney for Defendants: Shabbir N Sabir, MD, (who was the pervert hustled away when this case was in preparation after it became known that prosecution was likely) and now David C Beck, MD, and QESI as a potential John Doe.**

on May 4th 2012, within the appropriate deadline.

  
Mya Lee Raichyk, Pro Se  
Appellant

  
Mary J Huebener Raichyk, PhD, Pro Se  
Appellant

1563 Kress Rd  
Mount Orab, Ohio 45154-8209  
(513) 278-3995  
[dectiri@earthlink.net](mailto:dectiri@earthlink.net)

IN THE COURT OF APPEALS OF BROWN COUNTY, OHIO

MARY J. HUEBENER RAICHYK, PhD, : CASE NO. CA2011-11-025  
et al.,  
Appellants,

FILED ENTRY DENYING MOTION TO  
COURT OF APPEALS DISMISS APPEAL AND INSTRUCTING  
APPELLANT TO OBTAIN LEGAL  
vs. REPRESENTATION FOR THE ESTATE  
SHABBIR SABIR, M.D., et al. JAN 13 2012  
v OF E. MICHAEL RAICHYK  
Appellees.

*Michelle Jones*  
BROWN COUNTY CLERK OF COURTS

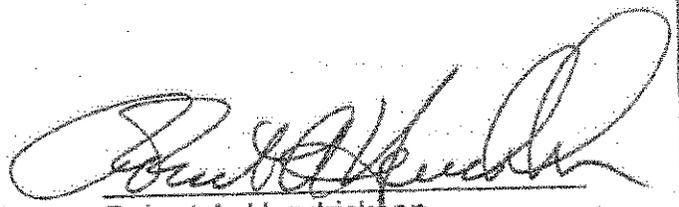
The above cause is before the court pursuant to a motion to dismiss appeal filed by counsel for appellees, Shabbir Sabir, M.D., et al., on December 13, 2011; a memorandum in opposition filed by appellants, Mary J. Huebener Raichyk, PhD, and Mya Lee Raichyk, on December 22, 2011; a joint reply in support of motion to dismiss appeal filed by counsel for appellees on December 29, 2011; and an objection disputing the reply filed by appellants on January 3, 2012.

The basis for the motion to dismiss is that appellant, Mary J. Huebener Raichyk, PhD, is engaging in the unauthorized practice of law by representing the Estate of her son, E. Michael Raichyk, Dec'd., in this appeal. In response, appellants contend that because Mary J. Huebener Raichyk is the personal representative of the Estate of E. Michael Raichyk, she may represent both herself and the Estate in this appeal.

The court agrees with appellees that appellant cannot represent the Estate of her son, and that to do so would be the unauthorized practice of law. *Williams v. Griffith*, Tenth Dist. App. No. 09AP-28, 2009-Ohio-4045. The court further agrees that because a wrongful death action must be brought in one action, appellants cannot proceed separately without including E. Michael Raichyk's Estate. *Id.*

Based upon the foregoing, the court makes the following orders: Appellants are GRANTED 30 days from the date of this entry or on or before **February 13, 2012** to obtain representation for the Estate of E. Michael Raichyk, Dec.'d. The motion to dismiss appeal is DENIED at the present time. If appellants fail to comply with the above order to obtain counsel for the Estate of E. Michael Raichyk by the date specified, the motion to dismiss will be granted as appellants will have no standing to pursue this appeal.

IT IS SO ORDERED.



Robert A. Hendrickson,  
Administrative Judge

IN THE COURT OF APPEALS FOR BROWN COUNTY, OHIO

MARY J. HUEBENER RAICHYK, PhD. :

CASE NO. CA2011-11-025  
REGULAR CALENDAR

Appellant,

FILED  
COURT OF APPEALS

vs.

ENTRY OF DISMISSAL

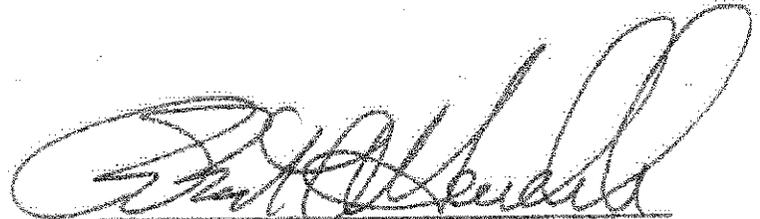
SHABBIR N. SABIR, MD, et al. MAR 21 2012

Appellees.

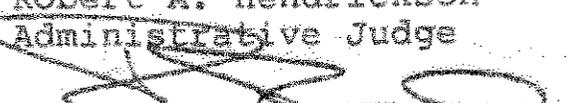
BROWN COUNTY CLERK OF COURTS

The above cause is before the court pursuant to a notice of appeal filed by appellant, Mary J. Huebener Raichyk, PhD., on November 7, 2011. It appearing to the court that the appellant has failed to prosecute the appeal by obtaining representation for the estate of E. Michael Raichyk in a timely manner, IT IS HEREBY ORDERED that the above-captioned matter is DISMISSED with prejudice pursuant to Loc.R. 15(E). Costs shall be taxed to appellant.

IT IS SO ORDERED.



Robert A. Hendrickson  
Administrative Judge



Robert P. Ringland, Judge



Rachel A. Hützel, Judge

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# SCIENCE NEWS

## This Week

### Legal Debate

#### Assumptions on medical malpractice called into question

The notion that many medical-malpractice lawsuits are frivolous and intended to generate undeserved riches for plaintiffs and their lawyers isn't borne out in a new study.

A review of almost 1,500 randomly selected malpractice lawsuits in the United States finds that instances of healthy people successfully suing a doctor for malpractice are exceedingly rare and are far outnumbered by cases in which a patient injured by medical error goes uncompensated, health-policy researchers report in the May 11 *New England Journal of Medicine*.

The Boston researchers who conducted the study acknowledge that doctors pay high malpractice-insurance premiums and that litigation is expensive for all parties. But they find little to suggest that proposed federal laws limiting jury awards to patients would alleviate those costs.

The majority of payments from insurance companies went to people who had been harmed by medical errors, not to people with baseless claims, the data show. That suggests that "moves to combat frivolous litigation will have a limited effect on total costs," the authors say.

Meanwhile, federal legislation to place a \$250,000 limit on jury malpractice awards failed in the Senate this week.

In malpractice lawsuits, both sides consult physicians and other experts to bolster their cases, notes study coauthor David M. Studdert, an attorney and health-policy researcher at the Harvard School of Public Health in Boston. He and his colleagues assigned impartial doctors to review these experts' statements and the patients' medical records. Then, the reviewers assessed whether each patient was injured and whether medical errors were to blame.

In the study, about 85 percent of cases were settled out of court, and plaintiffs lost four-fifths of those that did go to trial.

The reviewers found that 97 percent of the 1,452 patients had indeed suffered harm. In about one-third of these patients, the damage wasn't clearly attributable to negligent medical treatment, a wrong prescription, or a misdiagnosis. Most of those claims were correctly denied compensation, the team reports.

Among the plaintiffs who received compensation were 6 uninjured people and 145 injured individuals whose injuries had not been convincingly linked to medical error. On the other hand, 236 plaintiffs who did suffer an injury from medical error received no compensation.

"This research shows that the problem with medical-malpractice litigation is not that too many undeserving people get paid, but rather that not enough deserving people get paid," says Tom Baker, an attorney at the University of Connecticut in Hartford.

Nevertheless, 73 percent of plaintiffs whose claims had merit received compensation, according to the study. That figure suggests that the fact-finding involved in litigation, although expensive and time-consuming, "does a pretty good job of sorting out valid from invalid claims," says Neil Vidmar, a social psychologist at Duke University in Durham, N.C. "This is as thorough a study as has ever been undertaken of these issues," he adds.

Litigating a malpractice claim through trial can take as long as 6 years.

The new findings indicate that streamlining the process would yield more savings than simply capping payouts, says Studdert. He points out that in New Zealand and some Scandinavian countries, special courts arbitrate medical disputes. —N. SEPPA

### Speed Bump

#### Tip's tricks sort DNA, write at nanoscale

Using an old tool in surprising new ways, scientists in California are making molecules race down the sloping sides of a minuscule silicon spike ordinarily reserved for poking at atoms. The novel role for the spike, which is the tip of an instrument known as an atomic-force microscope, or AFM, could lead to advances in DNA sequencing, nanofabrication of devices, and other technologies, the scientists say.

About 10 micrometers long, an AFM's tip protrudes from the end of a cantilever. Scientists usually drag it or tap it on a surface to discern an object's topography down to the atomic level (*SN*: 2/18/06, p. 101). Now, H. Kumar Wickramasinghe and his colleagues at IBM Almaden Research Center

in San Jose, Calif., have demonstrated that DNA molecules separate according to their lengths as they move along a spike's wetted surface. Moreover, the scientists have used the spike's point to lay down a nanoscale pattern of molecules.

For both feats, the IBM researchers first wired an AFM tip to accept up to 10 volts. The electric fields thus produced then made molecules move up or down the spike's surface inside the thin film of water that forms naturally in humid air.

In their experiments, the scientists showed that a voltage propels a strand of DNA made of 16 chemical building blocks, or bases, more quickly than a strand that's only 5 bases long. In this way, the electrified spike

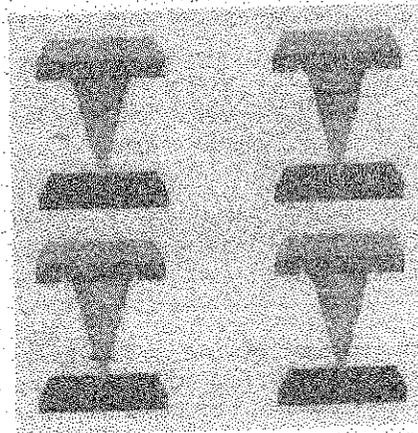
separated the molecules by size and electric charge—a process known as electrophoresis.

Automated machines today decipher the genomes of people and other organisms by carrying out electrophoresis of DNA pieces within fine glass tubes (*SN*: 8/6/05, p. 85). Other systems under development use microchannels etched in glass plates. The AFM-tip procedure could achieve separations 10,000 to 100,000 times as quickly as such capillary systems, the IBM team asserts in the May 1 *Applied Physics Letters*.

For example, a 15-base DNA segment that travels through a microchannel in 170 seconds could traverse an AFM tip in just 5 milliseconds.

The new work offers "a very promising approach for fast electrophoretic differentiation of molecules," comments Narayana R. Aluru of the University of Illinois at Urbana-Champaign.

"It provides a new way to think about



**TRAVEL TIP** Electrically driven molecules of different sizes and charges separate on the way from the base (upper-left image) of an atomic-force microscope tip toward its point (upper right). After some molecules are deposited on a surface (lower left), a voltage reversal drives others upward (lower right) for later deposit.

44 This is as thorough a study as has ever been undertaken of these issues.

K. UNAL ET AL./APPLIED PHYSICS LETTERS

A selection of new and notable books of scientific interest

## A MIND OF ITS OWN

**How Your Brain Distorts and Deceives**  
CORDELIA FINE

The human brain has the amazing capacity to simultaneously perform multiple tasks of perception, emotion, and reasoning, making it the most powerful computational tool in existence. Fine, a psychologist, nevertheless examines a side of our brains that few people focus on: ours can be subtly aware of the side that distorts reality. Our brains do that, Fine explains, to protect our egos from unpleasant truths or to maintain a sense of control and continuity in an otherwise unpredictable world.

Using the latest psychological research but writing in an informal style, she shows readers how greatly emotions, whether or not we are aware of them, can affect our decision making. The author also reveals the great levers to which a person's mind will go to protect its or his sense of self-esteem or belief in a just world. Fine probes what separates everyday delusions, such as the experience of déjà vu or flying hallucinations, from the delusions of madness, and explains why people find it easy to believe what they're told and difficult to doubt it and why brains are so susceptible to the power of suggestion. *Norton, 2006, 243 p., hardcover, \$24.95.*

## OGALLALA BLUE

**Water and Life of the High Plains**

WILLIAM ASHWORTH

Beneath the sprawling, flat expanse of this country lies an underground aquifer called the Ogallala that is large enough to fill Lake Erie nine times over. This water is what makes possible

the area's crops of corn, cotton, wheat, and sorghum. However, Ashworth notes, the store of water is rapidly shrinking. People are pumping water from the Ogallala three times as fast as it renews itself, and snowmelt can replace it. Five trillion gallons of water are pumped from the Ogallala aquifer annually, and if that resource continues up more than \$20 billion worth of food and fiber would be quickly lost from the world market. Ashworth chronicles the history of the aquifer and people's increasingly sophisticated methods of tapping it. The author also details various efforts under way, planned, and proposed for helping natural processes recharge the aquifer. *Norton, 2006, 330 p., hardcover, \$26.95.*

## BIG COAL: The Dirty Secret

**Behind America's Energy Future**

JEFF GODDELL

In support of a homegrown energy source that might lessen this country's reliance on Middle East oil, some politicians have recently touted coal. The Department of Energy estimates that the United States has 270 billion tons of recoverable coal, enough to power U.S. homes, offices, and factories for 250 years. However, Goddell reveals in this book why coal may not be the answer to our energy woes.

already taken on the environment and people's health. He begins with the impact of global climate change on the people who work underground, as evidenced by several recent tragedies. He details how coal-burning turbines contribute to air pollution, producing almost 80 percent of the greenhouse gas carbon dioxide that is released into U.S. air by all sources. People living near power and manufacturing plants operating such turbines are plagued by health problems. Goddell attempts to remove what he claims is a veil of denial about the effects of coal as an energy source. *Houghton Mifflin, 2006, 124 p., hardcover, \$25.95.*

## WHEN A GENE MAKES YOU SMELL LIKE A FISH. And Other Tales about the Genes in Your Body

LISA SEARCHER CHIU

Trimethylaminuria, otherwise known as fish odor syndrome, is a devastating condition whose origin and recently remained mysterious. Sufferers emit a foul smell that no amount of hygiene can remove. The disease's mystery was solved when scientists discovered that mutations in a gene known as FMO3 prevent the body from breaking down a smelly substance found in foods high in protein. The discovery, a direct result of scientists' success in sequencing the human genome, could be the

first step to curing this unusual and embarrassing disease, writes journalist Searcher Chiu. She highlights other unique conditions with recently discovered genetic origins, such as a type of cerebral palsy found disproportionately among the Amish and a condition that makes certain animals and people abnormally sensitive to the sun (and that may account for the madness of King George III). These conditions can be attributed to the workings or malfunctions of specific genes. Searcher Chiu focuses not only on odd genetic effects, but also the many less-dramatic traits attributable to genes. Examples include right- or left-handedness, male pattern baldness, and whether or not we can stomach milk. In telling these stories, the author explains how genetic information controls human traits. *Oxford, 2006, 219 p., B&W illus., hardcover, \$27.00.*

## MANY WORLDS IN ONE

**The Search for Other Universes**

ALEX VLENKIN

Cosmologists have amazing stories to tell about the beginning of the cosmos. Most people are somewhat familiar with the big bang, the theory that the universe emerged from a great eruption of matter and energy 14 billion years ago. In the fascinating book Vlenkin, a professor of physics at Tufts University, outlines some of the more recent cosmological ideas that may be harder for the layperson to accept. He introduces readers to the notion of repulsive gravity and inflation and the idea that these processes will make the universe expand forever. He also outlines a theory that suggests an infinite number of universes exactly identical to our own, populated by duplicates of ourselves who are scattered throughout the universe. *Farrar, Straus, and Giroux, 2006, 235 p., B&W illus., hardcover, \$24.00.*

## First, count all the lawyers

The study in "Legal Debate: Assumptions on medical malpractice called into question" (*SN: 5/13/06, p. 291*) fails to address the more disturbing issue: Most of the insurance money (apparently) goes to lawyers (both sides), and very little to those injured.

PETER WILSON, SIMI VALLEY, CALIF.

The numbers in the story pose a question. First, one reads that "about 85 percent of [1,452] cases were settled out of court, and plaintiffs lost four-fifths of those that did go to trial." This means that about 175 cases went to court and failed. Two paragraphs later, we learn that "236 plaintiffs who did suffer an injury from medical error received no compensation." The question: Did 61 cases settle out of court for no compensation?

FRED RAMSEY, CORVALLIS, ORE.

*According to the study, plaintiffs' attorneys typically received a standard contingency fee of 35 percent of the indemnity (insurance) payment, if one was made. And it's true that 236 plaintiffs who suffered real injury traceable to medical error received no compensation. Of those, 170 plaintiffs lost in court and 66 just dropped their case at some point, the researchers say.* —N. SEPPA

## Aye for an eye

Regarding the "new humanmade version of an insect's compound eye" ("Rounding out an insect-eye view," *SN: 5/20/06, p. 318*), it has been obvious for many years that such structures need not be exceptionally small and need not be extremely like ommatidia to behave like ommatidia. Triads of small light sensors can be arrayed in large, wide, and slightly concave or convex panels and hardwired into networks capable of not only sensing but also of tracking motion—in color. Many practical advantages accrue from the fact that such panels do not resemble "eyes" and are therefore ignored by subjects who would be aware of cameras. I find the suggestion that such devices are extremely high tech and difficult to make somewhat disingenuous.

DAVID C. OSHEL, CEDAR RAPIDS, IOWA

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