

Twenty-two reasons to vacate a Void Judgment

The real issue in void judgments is,

SUBJECT MATTER JURISDICTION!!!!

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties. *Wahl v. Round Valley Bank* 38 Ariz, 411, 300 P. 955(1931), *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146p 203(1914); and *Millken v. Meyer*, 311 U.S. 457, 61 S. CT. 339, 85 L. Ed. 2d 278 (1940).

I can go into void judgments at great length with enough court case cites to make anybody's eyes glaze over but I shall refrain. Let it be said that the really big deal with subject matter jurisdiction is that it can never be presumed, never be waived, and cannot be constructed even by mutual consent of the parties.

Subject matter jurisdiction is two part ;

the statutory or common law authority for the court to hear the case and the appearance and testimony of a competent fact witness, in other words, sufficiency of pleadings.

Even if a court (judge) has or appears to have subject matter jurisdiction, subject matter jurisdiction can be lost.

Major reasons why subject matter jurisdiction is lost:

(1) No petition in the record of the case, *Brown v. VanKeuren*, 340 Ill. 118,122 (1930).

(2) Defective petition filed, Same case as above.

(3) Fraud committed in the procurement of jurisdiction, *Fredman Brothers Furniture v. Dept. of Revenue*, 109 Ill. 2d 202, 486 N.E. 2d 893(1985)

(4) Fraud upon the court, *In re Village of Willowbrook*, 37 Ill, App. 3d 393(1962)

(5) A judge does not follow statutory procedure, *Armstrong v. Obucino*, 300 Ill 140, 143 (1921)

(6) Unlawful activity of a judge, Code of Judicial Conduct.

(7) Violation of due process, *Johnson v. Zerbst*, 304 U.S. 458, 58 S.Ct. 1019; *Pure Oil Co. v. City of Northlake*, 10 Ill.2d 241, 245, 140 N.E. 2d 289 (1956); *Hallberg v Goldblatt Bros.*, 363 Ill 25 (1936);

(8) If the court exceeded it's statutory authority. *Rosenstiel v. Rosenstiel*, 278 F. Supp. 794 (S.D.N.Y. 1967)

- (9) Any acts in violation of 11 U.S.C. 362(a), *IN re Garcia*, 109 B.R. 335 (N.D. Illinois, 1989).
- (10) Where no justiciable issue is presented to the court through proper pleadings, *Ligon v. Williams*, 264 Ill. App. 3d 701, 637 N.E. 2d 633 (1st Dist. 1994)
- (11) Where a complaint states no cognizable cause of action against that party, *Charles v. Gore*, 248 Ill. App. 3d 441, 618 N.E. 2d 554 (1st. Dist. 1993)
- (12) Where any litigant was represented before a court by a person/law firm that is prohibited by law to practice law in that jurisdiction.
- (13) When the judge is involved in a scheme of bribery (the Alemann cases, *Bracey v Warden*, U.S. Supreme Court No. 96-6133 (June 9, 1997)
- (14) Where a summons was not properly issued.
- (15) Where service of process was not made pursuant to statute and Supreme Court Rules, *Janove v. Bacon*, 6 Ill. 2d 245, 249, 218 N.E. 2d 706, 708 (1953)
- (16) When the rules of the Circuit court are not complied with.
- (17) When the local rules of the special court are not complied with. (One Where the judge does not act impartially, *Bracey v. Warden*, U.S. Supreme Court No. 96-6133 (June 9, 1997)
- (18) Where the statute is vague, *People v. Williams*, 638 N.E. 2d 207 (1st Dist. (1994)
- (19) When proper notice is not given to all parties by the movant, *Wilson v. Moore*, 13 Ill. App. 3d 632, 301 N.E. 2d 39 (1st Dist. (1973)
- (20) Where an order/judgment is based on a void order/judgment, *Austin v. Smith*, 312 F 2d 337, 343 (1962); *English v. English*, 72 Ill. App. 3d 736, 393 N.E. 2d 18 (1st Dist. 1979) or
- (21) Where the public policy of the State of Illinois is violated, *Martin-Tregona v Roderick*, 29 Ill. App. 3d 553, 331 N.E. 2d 100 (1st Dist. 1975)

And another that can and should be checked on is does the judge have a copy of his oath of office on file in his chambers? If not, he is not a judge and yes, you can go into his office and demand to see a copy of his oath of office at any time. The laws covering judges and other public officials are to be found at 5 U.S.C. 3331, 28 U.S.C. 543 and 42 U.S.C.

1983 and if the judge has not complied with all of those provisions he is not a judge but a trespasser upon the court. If he is proven a trespasser upon the court (upon the law) not one of his judgments, pronouncements or orders are valid. All are null and void.

In all, there are 22 indices which tell us whether or not a court had subject matter jurisdiction and when examining a judgment one has to know each and every one of them by heart.

If he knows them by heart he can go through a judgment like Sherman going through Georgia and point out all of the errors which might make the case a void judgment, null and void upon its face.

SUMMARY OF THE LAW OF VOIDS

Before a court (judge) can proceed judicially, jurisdiction must be complete consisting of two opposing parties (not their attorneys - although attorneys can enter an appearance on behalf of a party, only the parties can testify and until the plaintiff testifies the court has no basis upon which to rule judicially), and the two halves of subject matter jurisdiction = the statutory or common law authority the action is brought under (the theory of indemnity) and the testimony of a competent fact witness regarding the injury (the cause of action). If there is a jurisdictional failing appearing on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred.

A question which naturally occurs: "If I vacate avoid judgment, can they just come back and try the case again?"

Answer: A new suit must be filed and that can only be done if within the statute of limitations.

"Lack of jurisdiction cannot be corrected by an order nunc pro tunc. The only proper office of a nunc pro tunc order is to correct a mistake in the records; it cannot be used to rewrite history." E.g., *Transamerica Ins. Co. v. South*, 975 F.2d 321, 325-26 (7th Cir. 1992); *United States v. Daniels*, 902 F.2d 1238, 1240 (7th Cir. 1990); *King v. Ionization Int'l, Inc.*, 825 F.2d 1180, 1188 (7th Cir. 1987). And *Central Laborer's Pension and Annuity Funds v. Griffie*, 198 F.3d 642, 644 (7th Cir. 1999).

The number of void judgments on the books in America's courthouses is so great, there is no practical way to estimate how many there are!

IF EVERY VOID JUDGMENT WAS VACATED WITH DAMAGES, IT WOULD REPRESENT THE GREATEST SHIFT IN MATERIAL WEALTH IN THE HISTORY OF