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Fifteen years have passed since holy havoc took hold of the country. For the last 12 or so, I have been convinced that Dick Cheney, Donald Rumsfeld, and others were complicit in the attacks now known as 9/11. I didn't initially think I was in a position to do anything about it, but the more I immersed myself in the facts and the controversy, the more it occurred to me that something should be done and that it was up to me to do it.

In December of 2008, I, and the legal legend and hero, Dennis Cunningham, filed a lawsuit on behalf of a soldier injured at the Pentagon, the amazing and courageous April Gallop, who found herself and her infant son in a pile of rubble after what seemed like an explosion at the Pentagon. In the weeks, months and years that followed she was unable to conform her memory of the event to the story being told in the newspaper and on television, and she personally witnessed manipulative obfuscation by the Secretary of Defense, Donald Rumsfeld, at the 9/11 Commission hearings aided and abetted by the Commission members themselves.

Our lawsuit was dismissed by Federal District Court Judge Denny Chin with the following words: "It is simply not plausible that the Vice President of the United States and other high government officials would conspire to facilitate terrorist attacks that would result in the deaths of thousands of Americans. If anything, the allegations are the product of cynical delusion and fantasy."

When we filed our appeal, I found myself offended by the response of the US Attorney, who simply regurgitated Judge Chin's decision in a letter to the 2nd Circuit Court of Appeals. It wasn't procedurally improper, but a Brief containing serious legal scholarship would have seemed more appropriate given the issues. The following was some of what I had to say at the time, though we ultimately went with Dennis's more finely filed phrases:

"One is tempted to ask, are they [the Government, the Defendants] serious? The accusations are of mass murder and treason. Their response? A Letter Brief; in every significant respect a recapitulation of what appears in the District Court Judge's Decision. Accusations of the scope and kind made by Appellant in her Complaint are the currency of artisans of the

darkest of black humor, the whimsically sick, the thought-disordered, or, the very, very serious among us. Respondents choose to convey the sense that Appellant's lawyers are anything but the latter. They offer not one new case, not one new argument. Barely one of the many ideas articulated in Appellant's Opening Brief is even referred to. Apparently none deserve more than implied derision. Are they serious?

Deadly serious. They pursue a strategy from which they will not deviate. Not only has this strategy found success so far; it is the only possible, theoretical road to victory. How could Respondents (the Defendants) treat seriously the arguments they must claim are the product of fantasy and delusion, by implication, made by psychotics and the deranged? The path set out, and to this point unerringly followed, will be accompanied by whistling, as if past a grave yard. That whistling will attach itself to fervent hope that no one, particularly a judge, will take the time to entertain or conceive of the monstrous nature of that which claws at our innards as a country. Respondents' strategy is all of a piece and has been and will be pursued to the bitterest of ends, but only successfully if the innocent continue to allow themselves to be duped, the responsible evade their responsibilities, and those who have taken oaths leave the tattered evidence of those prior commitments like a pile of dust swept carelessly into a corner.

In another world the 65 pages of affidavits, setting out in detail the intricacies of the crime, its complexities, its unspeakable characteristics, the accompanying arrogance of its perpetrators, and their many apparent gaffe-like miscues that flout what one would assume were vulnerabilities, in another world, would, upon landing on the desk of any but the most sheep-like practitioner with a law degree, have provoked scandalous and subversive conduct. Questions of supervisors would be asked; consciences would be tested to the breaking point, letters of resignation penned and threatened and submitted, in another world.

Instead, readers of this impoverished Letter Brief must recall the works of Louis Carroll and Franz Kafka, maybe the likes of Huxley and Orwell, in order to be guided to a perch from which to see, with some chance of understanding, the premises and underlying strategy of Respondent's letter. In the final analysis and in its essence, that Letter most audaciously declares that the law and power, or someone's interpretation of the former and abuse of the latter, identifies truth, regardless of any fact, or boatload of them.

Certainly, it is not the US Code or any of the US Supreme Court Reports that are required here. But in Carroll and Kafka the law can declare to be true that which positively isn't, and that declaration will be accepted and respected as if nothing is wrong. There the truth is absolutely what power declares, and it is of little matter that facts or evidence may disagree.

And so, Respondents dutifully, and with a certain righteousness, proclaim that the District Court was correct in every respect as it made pretense that most of what was written by Appellant in her Complaint simply did not exist. The agony of April Gallop's psychological victimhood and the abundant reasons for her legal action are evaporated by judicial fiat.

When she sat down at her desk at the Pentagon on September 11th, her two-month-old baby son, Elisha, in his basket beside her, she was incapable of conceiving of evil at the highest levels of American Government. When the District Court Judge asked plaintiff's counsel at the pre-motion conference if the lawsuit that is the subject of this appeal was filed in good faith, a fundamental legal requirement embodied in Rule 11 of the Federal Code of Civil Procedure, it was apparently of a similar disposition.

In spite of reading the contents of the Appendix to Plaintiff's Response to the Motion to Dismiss, which set out in horrifying detail the evidence supporting plaintiff's claim, every page and every paragraph of which the court chose to ignore, it was still no closer to what the Harvard law professor, and discouragingly, Obama-intimate, Cass Sunstein has called a "warped epistemology," one which admits of the possibility of starkly immoral conduct by servants of the American Constitution. The Motion to Dismiss was granted because in the court's view, the claims made there were frivolous and based on "cynical delusion and fantasy."

In the days immediately following the attacks of 9/11, April Gallop became increasingly uncomfortable with the idea that an airplane had crashed into the side of the building. She had seen no evidence of a plane as she made her way out of the destruction. Having regained consciousness and found her baby amongst the ruin, she struggled her way onto the lawn outside of the building, there to collapse, but in the passing hours and days, she could find nothing in her memory that reminded her of the remnants of a crashed airplane. Abominable and manipulative treatment at the hands of officials at the Pentagon, some of whom sought to recruit her to an explanation contrary to the facts as she had experienced them, did nothing to erase her discomfort. Each succeeding year provided more and more reason to question the

government's official story. She attended the hearings before the 9/11 Commission, and witnessed firsthand the sidetracking of the search for answers and the perversion of the search for justice. She was transformed from a mostly quiet and passive victim into a forceful and determined person who asked questions and demanded answers.

It became clear that no official of government and no institution of justice had the slightest interest in the truth of the matter. On December 15, 2008, she filed her lawsuit alleging that Vice President of the United States Dick Cheney, Secretary of Defense Donald Rumsfeld, and Chairman of the Joint Chiefs of Staff, Richard Myers, had conspired to enable and facilitate the attacks which had killed almost 3000 Americans. The U.S. government, through the U. S. Attorney's Office for the Southern District of New York, assumed representation of the three defendants and informed the court that a Motion to Dismiss would be filed. The US District Court set a pre-motion conference that was attended by all counsel for the Plaintiff and an Assistant U.S. Attorney together with a law clerk from that office.

The court, its clerk, a court reporter, and four law clerks assembled in a conference room, and the court inquired of Plaintiff's counsel what this lawsuit was about. Having struggled with the events of 9/11 for 3 years at the time of the conference, Plaintiff's counsel were more than aware of the difficulties that thrust themselves headlong into any conversation on the subject. That the conversation in the court's chambers was dressed in similar attire was surprising, as well as disheartening.

The court wrote in its subsequent decision: "It is simply not plausible that the vice president of the U.S., the Secretary of Defense, and other high-ranking officials conspired to facilitate terrorist attacks that would result in the deaths of thousands of Americans." This lawsuit is, quite simply, the ultimate challenge to the paradigm that encourages those words.

The Court made no effort whatsoever in its decision to undergird, with reference to fact or history, its most pronounced affirmation of American exceptionalism. One must conclude that such an effort is simply unnecessary. The notions are beyond understood, so much so that even to refer to that understanding, is to court blasphemy. Since the Court has sanctioned, by its own use, reference to the pre-motion conference, it might be remarked that the Court was in fact able, for a short time at least, to consider sufficiently the ideas contained in the Complaint to pose a question concerning counsel's beliefs with regard to whether or not Flight 77 actually

hit the Pentagon, the source of considerable and sometimes heated debate within the “Truth” movement. In asking that question one is left to guess if the Court was momentarily able to feel the texture of plausibility beneath the tissue of horror.

Plaintiff, as stated in the Complaint, was well aware of the obstacles to comprehension that would need to be overcome in this titanic emotional, legal, and intellectual battle. Likely the combination of the deaths of thousands of innocents at the hands of governmental officials and the assumed complete emasculation of the establishment of journalism in this country, the idea that we live in a society with a free press that would surely have uncovered such a story if it were true, provided all of the intellectual support needed to maintain the posture of incredulity characterized by the Court’s decision.

If Flight 77 did not fly into the Pentagon, a premise that Plaintiff cannot and does not assert with confidence given the lack of access to the evidence, but which seems best to comport with what is known, what happened to the passengers on that plane? The answer is horrifying: many innocent men and women, in some plane some place, were murdered and their bodies broken and charred in the process, coldly and with intricate, if occasionally flawed calculation. And those murders were integral to the overarching plot that required dead bodies to attest to the dark nature of the evil that had come to the door of America and wreaked its havoc there.

Consideration of these matters inevitably stumbles upon an inconvenient fact, or many of them, but first of note is the existence of autopsy photographs of dead and burned bodies and DNA samples alleged to have come from an airplane that, given what little the government seems to put forward as its remains, did not survive the heat from the explosions that its impact with the walls of the Pentagon created. This lawsuit is at its essence a proclamation in support of Occam’s Razor, because there is only *one* sufficient explanation for the absence of the bulk of a plane, and the presence of body parts and their accompanying DNA, in contrast to the ability of the Plaintiff April Gallop to walk out of a building hit by a 757, her desk sitting squarely in the pathway of the left wing of that supposed 757 traveling at 530 miles an hour. That *one* explanation consists of a conspiracy so unspeakable, so foreign to, and ungraspable by, maybe, the typical American mind as to obstruct rational thought.

There is a second fundamental barrier to the accurate understanding of the powers and forces that expressed themselves in the events of 9/11. It is ignorance of the “false flag.” Human beings are innately familiar with the need or tendency to shift blame because it is a technique employed first by children. The “false flag” is a more sophisticated embodiment of the same mechanism conceived before, rather than after, the event that is likely to lead to accusation. Steps are taken to make it appear that entities or persons other than the perpetrators are responsible for the acts in question.

History is filled with examples. Organized crime has employed patsies throughout its history in order to avoid prosecution for its more public and celebrated crimes. Most historians agree with William Shirer that the Reichstag fire was a Nazi “false flag” operation, and if there were an historical prototype for Plaintiff’s conception of the 9/11 conspiracy, the Reichstag fire would be it. The Nazis learned of the arsonist patsy’s intentions and then set a fire of its own which would more assuredly achieve their consolidation of power.

The Gulf of Tonkin incident served a similar purpose. An event was manufactured or, for some, overblown, to give the U.S. a reason to increase its war efforts in Southeast Asia in 1964. There is a substantial list of apparent “false flag” incidents throughout the world such that no scholar would suggest that governments and individuals do not employ surreptitious means to hide their own involvement in crimes conceived to be in those individuals’ or nations’ interests.

For example:

On September 14, 2005 a number of British soldiers were arrested in Basra, Iraq disguised to look like Middle Eastern men. They were in possession of explosives consistent with the tools of terrorism. Their capture was so significant to British military interests that a force of British soldiers attacked the local police station where the soldiers were being held. There is a famous photograph of a British soldier in flames that was taken during the siege of the police station. The conclusion, that the captured soldiers were arrested while in the process of conducting a “false flag” operation is unavoidable.

Two widely reported news stories demonstrate that the Bush Administration was familiar with the tactic of the “false flag.” At a meeting on January 21, 2003 that included British Prime Minister Tony Blair, President George

Bush suggested that an American U-2 spy plane be painted with the colors of the UN and flown over Iraq hoping that forces under the command of Saddam Hussein would shoot it down, giving the U.S. a reason to begin hostilities. This would have allowed the US to claim that Saddam was the aggressor when the reverse would have been true. In the summer of 2008, according to a report of Seymour Hersh, it was proposed, within the Office of the Vice President, that a number of boats be built to look like Iranian PT boats, that they be filled with Navy SEALs dressed as Iranians, and that they engage in a sea battle with an American ship, thus providing a pretext for war with Iran.

Lastly, the most senior counterterrorist operative in the Bush Administration at the time of 9/11, after Dick Cheney who had been placed in overall charge of counterterrorist operations in May as the warnings of attack rose in pitch, was Richard Clarke. Important is his work of fiction, *The Scorpion's Gate*. On the cover are found the words, "Sometimes you can tell more truth through fiction," and in the story the tactic of the "false flag" is prominently featured. If more of us were familiar with the term, "false flag," and aware of the myriad accusations of its use and a few of the agreed-upon cases, the court would be incapable of writing words which ladled derisive scorn onto the work of dozens of eminent scholars and hundreds of acclaimed thinkers, to say nothing of us, the Plaintiff's lawyers.

There is a final consideration to which this Court should turn before ruling. To be blunt, the investigative agencies of government in this country have been practitioners of distortion and cover-up. The search for truth concerning these events, however, is a long way from over. Independent researchers and scholars continue to study what is already known and learn more about what has been hidden. Most recently, NIST made public, pursuant to a FOIA request, a videotape of an interview with some firemen who had just escaped one of the Towers. It contains references to so-called "secondary explosions," entirely corroborative of Appellant's contention that the three buildings were brought down by preset explosive charges. To those with eyes to see, it is apparent that what history will eventually record will have little in common with government proclamations in 2010, much less 2001, 2004, or 2008, and judged ill will be that institution that turned off the spigot of justice before the water of truth was more than lukewarm.

We each arise in the morning burdened with uncertainty, much of which we barely acknowledge or even realize is there. We follow our routines and in large measure, most of us do the best we can while feeling profoundly

insignificant. The world is so large, history so long, our theoretical influence on the course of any event mostly miniscule. Members of this court are entitled, through achievement and position, to feel more exalted in stature than the rest of us.

Still, even an appellate justice's sense of insignificance in the long reach of history demands that a shorter, closer view be adopted, one where the hope of a helpful ripple in the ocean of existence is what is sought to sustain and give meaning. Once in the lifetime of a handful of people the opportunity and choice presents itself, to do great good or not, to change the course of human events or not, to live the moment of truth or not. It is difficult indeed to imagine larger issues taking shape before a court.

It would seem that the majesty of the simple idea of justice would require both sides of the controversy to give the fight every particle of their available resources in the way of intellect and argument. Respondents have chosen a different path. They have pursued a strategy that belittles and demeans while requiring virtually nothing from its legal executors. It may be well to ask, at what cost to the nation?"

Fifteen years after the events, justice and accountability elude us. *Gallop v. Cheney* ended in dismissal and sanctions imposed upon us lawyers, for filing a frivolous appeal to a frivolous lawsuit, and for demeaning the court with a motion to recuse the panel members, one of whom, Judge John Walker, was the first cousin once removed of the man who chose and appointed the three defendants in the case, President George Bush.

The most important thing to know and understand about our lawsuit is that the principal factual assertions made against the defendants in our Complaint are not referred to in any of the Courts' decisions. It could be argued, given the status of the defendants and the gravity of the allegations, that the failure to accurately set out the facts in their opinions is the worst judicial malfeasance in history. The name Cheney appears nowhere in the body of the opinions, even though we alleged the testimony of Secretary of Transportation Norman Mineta who recounted Cheney's confirming orders with regard to Flight 77 as it flew toward its target, allowing that principal instrumentality of the crime to play its role, whatever that was, in the devastation that followed.

To understand how bold the Court's dishonesty was, it may be compared to the review of a liquor store robbery indictment where mention is not made of the fact that the defendant was seen walking into the store holding a gun. Evidence of Vice President Cheney's guilt is that plain.

No consideration of my role in these matters would be complete without the frank acknowledgement of a significant strategic mistake in the conduct of our lawsuit. We decided to omit reference to the attacks in New York and the events in Pennsylvania in our initial Complaint, intending to amend it at a later time, the right of all federal civil plaintiffs. That choice allowed the Defendants and the Courts to ignore our principal allegations concerning each of the Defendants' actions. That task would have been far more difficult, if not impossible, had the myriad claims concerning Manhattan and Pennsylvania been included. In our defense, in order to have been prepared for what actually took place we would have had to have conceived of duplicity on the parts of the judges of the 2nd Circuit Panel, that was outside all of the years of experience that we collectively possessed. In essence, we were as incapable of imagining Federal Judges shredding their oaths the way they did, as Denny Chin proposed to be incapable of imagining a vice president so manifestly in the thrall of evil.

The community interested in the attacks of 9/11 should be aware of the following: Legal action is possible, and available, that will not be challenged by our evident mistake. Any future court will not have a score or more of factual assertions to ignore, but a thousand. That fact does not guarantee success, but will tax legal imaginations in ways never previously required. Funds, however, need to be raised for a public relations campaign to operate concurrently with the lawsuit. Judges will be less likely to abandon their oaths and integrity if they are aware that the world is watching. I would go so far as to say that a lawsuit without a public relations strategy courts disaster. Our cry should be: 9/11, DON'T LET IT BE ANOTHER JFK. THE PERPETRATORS ARE ALIVE, ON TELEVISION, AND PROVABLY GUILTY.