

In its use of Lockwood v. Bowles the district court is like the devil

citing scripture. It omits all that supports Weisberg and is relevant to his <sup>argument and</sup> position <sup>substitutes its own words for Lockwood's thereby changing</sup> and it changes what it quotes to thus entirely altering its meaning, <sup>This</sup> an alteration that is heavily accented in ~~pre~~ <sup>and explains why it is</sup> ~~judicial~~ prejudice when considered with what the court ignored.

Where Lockwood is conditional, those words were replaced by the court with its own that not only eliminate the condition but pretend that Lockwood is <sup>absolutely inflexible</sup> ~~rigidly~~ ~~rigid~~. This was not done for space economy because the court's alterations ~~is~~ ~~longer~~

are slightly longer. As quoted by the court, Lockwood states, "Fraud upon the court" within the meaning of Rule 60(b), embraces 'only that species of fraud...' <sup>Lockwood's</sup>

~~actual~~ language is "Fraud ~~is~~ up on the court, we believe, embraces only that species of fraud..." If there was any purpose in making this alteration other than ~~as~~ <sup>is</sup> an abuse of discretion to reach a predetermined conclusion and to indulge prejudice against Weisberg and bias in favor of the defendants, it is not apparent.

No other purpose is apparent for the second such <sup>consecutive</sup> alteration of meaning in the ~~quotation~~ <sup>Lockwood states,</sup> of less than two sentences. As misused by the court, <sup>it reads,</sup>

"Fraud, inter parties (sic), without more [is not] a fraud upon the court." <sup>Lockwood actually</sup> ~~Before~~ <sup>states</sup> alteration, the exact language is, "Fraud, inter partes, should not be a fraud upon the court." <sup>(Emphasis added)</sup>

<sup>is</sup> ~~What the court then eliminates and~~ part of the reason for the use of the conditional is precisely what Weisberg believes is established by this new evidence, what the defendants do not deny and made no effort to refute, to set aside a judgment or order because of fraud upon the court under "rule 60(b) . . . it is necessary to show an unconscionable plan or scheme which is designed to improperly influence the court in its decision... involving a corruption of the judicial process itself."

~~The situation and facts in Lockwood are so different they are inapposite. Rather acting promptly and than presenting new evidence, that court stated, that "most of the facts have been known for to the defendants for more than fourteen years." (62 629)~~

evidence

Q consistent with this

The situation and facts in Lockwood are so different that case is inapposite, ~~as used by the court~~. Rather than acting promptly, as Weisberg did, and thereby ~~causing~~ prejudicing the rights of the opposing party, "plaintiffs have greatly prejudiced by defendants' fourteen year delay "(629) <sup>Lockwood</sup> ~~after~~ voluntarily rejecting <sup>not</sup>

all rights to cross examination, even participation in that litigation (626-7) This <sup>apparent purpose in changing facts is not</sup> ~~and the court's alteration of the meaning as quoted above becomes more apparent in~~ <sup>meaning have added impact</sup> ~~the light of Lockwood's language appearing just before the quotation the district court altered. After referring to the fact that there is authority for (relevance of intrinsic fraud despite the general view that "the fraud alleged must be extrinsic," Lockwood suggests that "the reasoning is that intrinsic fraud is discoverable through the ordinary processes of the trial itself, such as the right to cross-examine - a right forfeited by the defendants in this instant case. (630)~~

Weisberg did seek ~~the~~ trial, which the court ignores in its <sup>Lockwood</sup> ~~memorandum~~, <sup>district also</sup> ~~and that court denied him of the right~~. He went farther, alleging that either he or the defendants ~~has~~ are guilty of serious offenses and that only by trial could fact, <sup>that</sup> ~~truth and justice~~ <sup>be decided and that</sup> ~~the sanctity of the judicial process itself~~ <sup>required this</sup> ~~be tried.~~

Weisberg's ~~new evidence~~ <sup>sub-undoubtedly</sup> ~~undisputed~~ and unrefuted new evidence ~~to~~ "show an unconscionable plan or scheme to <sup>to</sup> properly influence the court in its decision"(631) and because, undeniedly, the defendants presented nothing else to the district court, that "is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform its impartial task of adjudicating." (631)

There thus is "more" than merely "fraud inter partes." ~~There is not a word in the Memorandum citing anything other than what the new evidence establishes was of defendants' fraud, misrepresentation and perjury and there cannot be~~ <sup>Because nothing</sup>

<sup>by the defendants</sup> ~~else was used to procure the discovery order upon which the judgement is based,~~ <sup>only was denied</sup> ~~fraud, perjury and misrepresentation,~~ <sup>There was fraud upon</sup> ~~the court.~~

discovery of facts

fraud, perjury and misrepresentation, There was fraud upon the court.