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**IN THE FRANKLIN COUNTY  
CIRCUIT COURT, Div. 1**

(Judge Phillip Shepherd)

Case No. 12-CR-0038

COPY

COMMONWEALTH OF KENTUCKY, **PLAINTIFF**

- v. **1. NOTICE OF APPEARANCE FOR MOTION HOUR**
- 2. MOTION TO DISMISS THE INSTANT ACTION**

Daniel Cobble (Secured Party), **DEFENDANT**

File / Mail Date: Feb. 29, 2012 | Page 1 of Two  
To Court Clerk by Sig. Confirm.: 2304 1070 0000 5628 2866

\*\*\*\*\*

**1. NOTICE OF APPEARANCE**

Now comes Defendant Daniel Cobble (hereafter as Cobble) to give Notice to the Court that he will appear at Motion Hour on **Friday, Mar. 9, 2012 at 10:00 a.m.** to seek granting of his Jan. 29, 2012-*filed Motion to Dismiss the Instant Action.*

*This Notice is respectfully submitted, as said Motion is set-out below to the Court and Plaintiff:*

\*\*\*\*\*

**2. MOTION TO DISMISS THE INSTANT ACTION**

Cobble Motions the Court to dismiss the instant action due to **A)** failure to state a cause-of-action, and **B)** the Commonwealth has not provided discovery. Hence, these plain matters beg the question as to why the indictment was sought, anyway.

Either of the two foregoing issues is plenary for dismissing the instant action, since a proper indictment cannot withstand either of the deficiencies.

**A) Failure to state a cause-of-action.** The two counts of the indictment do not provide an allegation of a specific criminal act that Cobble is

supposed to have committed. The Counts merely reflect the language of KRS. 434.155, but does not state an alleged wrongful act by Cobble. The indictment is further ambiguously frivolous by specifying Cobble did "something" or "something else." Hence, there is no showing of a specific allegation upon Cobble. There can be no "either / or" statements.

**To wit**, a) if Cobble made a "material misstatement," then what is that alleged misstatement? And b) if Cobble filed a false claim, then what is an alleged false statement within that alleged false claim? Otherwise, the indictment / case must be dismissed, for failure to state a cause-of-action.

**B) The Commonwealth has not provided discovery.** This case is not actionable without discovery. In fact, the matter creates an inherent dilemma for the defunct indictment. Since the indictment does not state a cause-of-action, then no evidence can be provided to support the indictment. Whereby, the Court must dismiss this action.

*This Motion Respectfully submitted,*

*Daniel Cobble* FEB. 29, 2012

Daniel Cobble, Petitioner & Secured Party      DATE  
3401 Lesway Ct., #12 | Louisville, KY 40220 | 502-499-5249

\*\*\*\*\*

**Certificate of Service**

A copy of the forgoing w/ one Attachment has been sent to the following by first-class mail on FEB. 29, 2012 :

- Larry Cleveland, Assist. Commonwealth Attorney  
Commonwealth Attorney Office  
317 W. Main St.  
Frankfort, KY 40601

*D Cobble*