

USER AGREEMENT BEFORE ACCESS IS GRANTED

By using this product you, herein known as “User,” agree to all of the following, including our Terms of Service, Disclaimer, Return Policy and Privacy Policy. The User understands this product to be an expression of opinions and not professional, financial or legal advice. All information offered by Private Wealth Academy, herein known as “Provider,” is provided for private educational use only. **Provider’s website(s), downloads, emails and products are published with the understanding that the author, publisher and Provider, jointly and severally, are not engaged in rendering legal, financial, medical, or other professional advice.** Any information provided, whether online, in print or over the phone, constitutes lay opinion and assumes no liability whatsoever for errors, omissions, or contrary interpretation of the subject matter herein.

All decisions made based on the material in this book are ultimately done at the discretion of the User. Whilst every effort has been made to accurately represent, there is no guarantee provided. All information is offered as-is. Examples and samples in these materials are not to be interpreted as a promise or guarantee of anything. User shall adhere to all local, state and federal laws accordingly. Any perceived slights of specific persons, peoples, or organizations are unintentional.

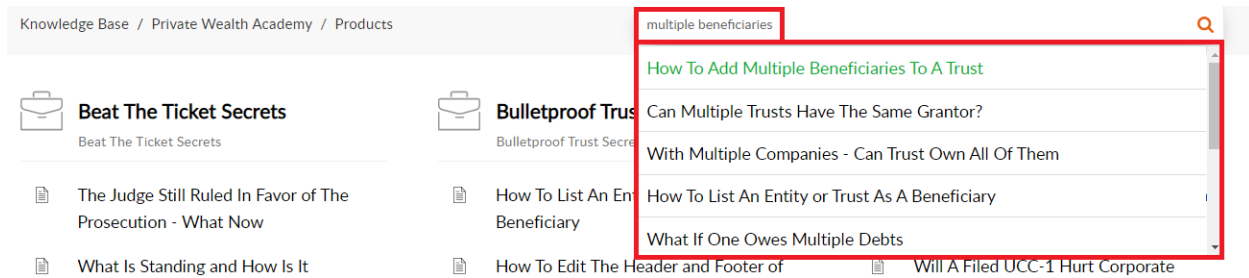
Provider is not responsible for User’s actions. User holds Provider, all members, affiliates, et. al. harmless in any event or claim. User agrees to first notify the Provider of a valid claim in private. If personal resolution attempts fail, parties shall submit the dispute to binding arbitration. Conducted in the county and state of Provider’s incorporation. The arbitration shall be conducted by a single arbitrator, and such arbitrator shall have no authority to add Parties, vary the provisions of this Agreement, award punitive damages, or certify a class. The arbitrator shall be bound by common law. User shall render payment for the arbitrator, to be recompensed by Provider on successful claim. All judgments will be binding and final on both parties. **Verdict may not exceed the product price paid.** Claims necessitating arbitration under this agreement include, but are not limited to: contract claims, tort claims, claims based on federal and state law, and claims based on local laws, ordinances, statutes, taxes or regulations. Users waive any rights they may have to a jury trial in regard to arbitral claims.

Provider is not a licensed financial institution, a debt settlement agency, a credit counseling agency, a credit repair organization, **a law firm, a licensed attorney, a provider of legal services,** a “pre-bankruptcy” counseling service, a tax adviser, a tax preparation service, or similar service.

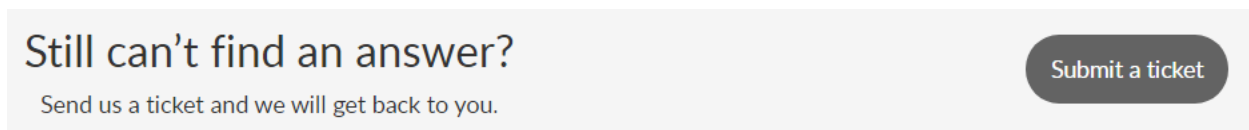
Provider recommends User do independent research before acting on anything. It is suggested that all Users seek services of competent professionals in legal, business, accounting and finance fields. **If the Provider replies to a question, in private or in public, this is not to be construed as advice in any form whatsoever.**

HOW TO USE THE SUPPORT CENTER TO GET QUESTIONS ANSWERED INSTANTLY

Private Wealth Academy has 250+ articles written on virtually every question we've been asked over the years. That's why the best place to get an answer INSTANTLY is to visit our [Knowledge Base](#) and search for 1 or 2 words about the question you have, as seen below:



By entering a “keyword” that has to do with your question you will instantly be suggested 10 of the most relevant articles that can help give an answer instantly. Whether you are requesting “edit access”, looking for phone support or need to know how to use a product – the Knowledge Base has all the answers! **If your question(s) cannot be found then scroll to the bottom of the page to submit a ticket**, as seen below:



After submitting a ticket, **a support agent will typically reply back in 24-36 hours.** If the question requires legal counsel it may take 3-5 business days. Just remember, we would rather give the RIGHT ANSWER slowly than the wrong answer quickly. So please be patient as not every question is equal.

Finally, when a support ticket is created an answer will either be given in the form of a Knowledge Base URL (if the question already has been answered before) or a brand new article will be written to answer the question submitted.

Private Wealth Academy wishes to expand the content for every user, so questions are welcome and will be added instantly for others to see and utilize. But don't worry all personal information will be removed before posting.

The Word document version of this document is available [here](#).

TABLE OF CONTENTS

USER AGREEMENT BEFORE ACCESS IS GRANTED	1
HOW TO USE THE SUPPORT CENTER TO GET QUESTIONS ANSWERED INSTANTLY	2
TABLE OF CONTENTS	3
SECTION 6: COURT PROTECTION SECRETS	5
NATURAL LAW IS ALWAYS RIGHT (EVEN IF RUTHLESS)	8
STEP #0: MAXIMS OF LAW	9
STEP #1: REFUSAL FOR CAUSE (R4C)	26
5 WAYS TO RESPOND TO A PRESENTMENT	33
STEP #2: NOTICE OF SPECIAL APPEARANCE	35
NOTICE OF SPECIAL APPEARANCE IN ALL ACTIONS	39
STEP #3: CHALLENGE PERSONAL JURISDICTION	40
DEFENDANT'S CHALLENGE TO THE JURISDICTION and MOTION TO DISMISS	42
STEP #4: CHALLENGE SUBJECT-MATTER JURISDICTION	45
CHALLENGE TO THE JURISDICTION and MOTION TO STRIKE/DISMISS	47
STEP #5: INVOKE ARTICLE III COURT (VALID TORTS BEWARE)	50
ADMIRALTY IS GOING ON [IN ALL LOWER COURTS]	52
ARTICLE III COURT FILING INSTRUCTIONS	54
LIBEL OF REVIEW	57
SUMMONS FOR RESPONSE IN CIVIL ACTION	63
DEFAULT JUDGMENT	64
ARTICLE III COURT MOTION FOR DEFAULT JUDGMENT	65
DAVID MERRILL'S NOTES ON ARTICLE III COURTS & FILING	66
MOTION A LOWER COURT TO MOVE TO ARTICLE III	67
WRIT TO TRANSFER TO ARTICLE III COURT OF EQUITY	68
STEP #6: GOING TO COURT (CIVIL, CRIMINAL, TAX)	69
SEND A BRADY REQUEST FOR DISCLOSURE	72
MOTION FOR BRADY DISCOVERY REQUEST	73
MOTION TO EXERCISE RIGHT TO JURY TRIAL	76
REQUEST RECORDING FOR TRIAL	78
MOTION TO REQUEST COURT REPORTER OR ELECTRONIC RECORDING OF PROCEEDINGS	79
PHYSICAL APPEARANCE FOR ARRAIGNMENT/PRE-TRIAL	80
GUIDE TO APPEARING IN COURT & QUESTIONS TO ASK	81
QUESTIONS FOR THE JUDGE	81
QUESTIONS FOR THE PROSECUTION	83
QUESTIONS FOR THE WITNESS	84
QUESTIONS FOR CIVIL CASE	84
WHAT TO EXPECT AT THE TRIAL	86
DO YOU EQUATE VIOLENCE WITH FAIRNESS?	88
NOTICE OF APPEAL	97
STEP #7: ALLOCUTION, THE SECOND TRY FOR CRIMINAL CASES	98

CADET CUSTER'S COURT-MARTIAL	99
THE REQUIREMENT TO REVEAL THE NATURE AND CAUSE	105
STEP #8: LACK OF JURISDICTION TO PROSECUTE TITLE 18 CRIMES	107
MEMORANDUM OF LAW IN SUPPORT OF HABEAS CORPUS	109
STEP #9: VACATE DEFAULT JUDGMENT	111
WHY MOST PEOPLE LOSE SUMMARY JUDGMENTS	115
STEP #10: JUDGMENT PROOF ASSETS [BEFORE LAWSUIT]	117
USING PACER.COM TO RESEARCH COURT RECORDS	117
THE "CHEAT SHEET" TO BEAT VICTIMLESS CRIMES	119
SEVEN ELEMENTS OF JURISDICTION AND THE IRS	120
LEGAL RESOURCES	123
TESTIMONIALS & CASE STUDIES	125
COPYRIGHT CLAIM	127

SECTION 6: COURT PROTECTION SECRETS

To begin, this document is only focused as if one were the DEFENDANT. This is about defending yourself (hopefully as Trustee) and the Trust(s) from “alphabet agencies” and statutory (victimless) crimes. **None should wish for a court action.** There will be no focus on bringing suit, e.g. being a Plaintiff. If that is required, seek **Debt Removal Secrets** which covers Private Administrative Justice and how to *not* use the court’s jurisdiction (creating Minimum Contacts), yet obtain the court’s enforcement power over a valid private ruling.

It is wise, if one is the Accoster (Plaintiff), to first privately approach the Accosted (Defendant). Should a compromise not be reached, **the parties shall agree to seek arbitration.** A statement like this should be included in every contract, controlling the contract:

This agreement shall be governed, construed, and interpreted in accordance with Natural Law. Where necessary, a court of common law is demanded as the choice of law. Provider’s principal situs shall serve as location for private arbitration. Each party selects a neutral arbitrator, and the two will select a third to settle a dispute as a party. All judgments will be final and binding on all parties. Claimant shall render payment for arbitrators, the fee to be recompensed by Respondent upon successful claim.

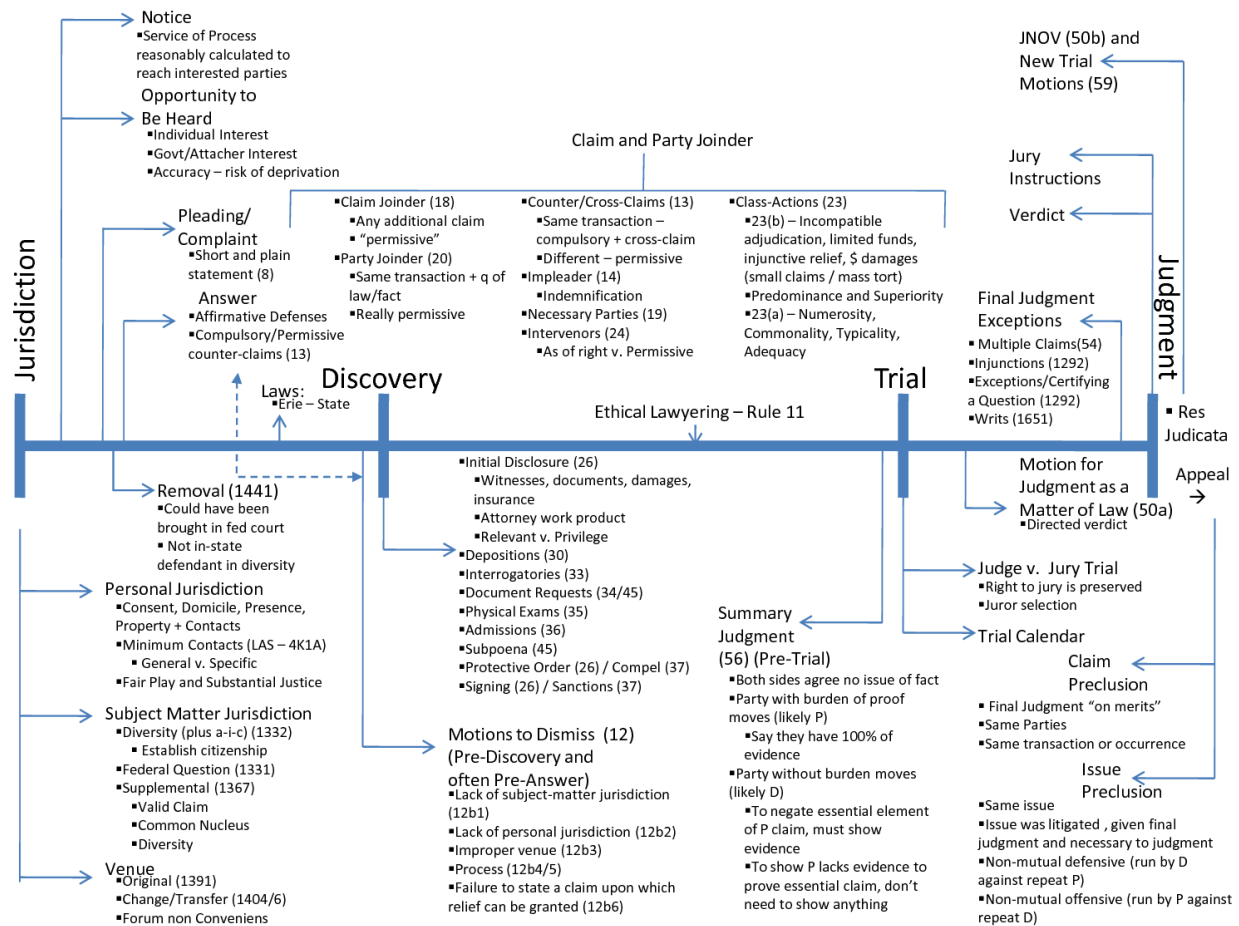
By controlling contracts entered into, one will *never* need to enter a courtroom. Private arbitration will allow fair and speedy common law rulings. If a wrong has been done, it will be recompensed. If no wrong has been done, one may still be dragged into court, but it will end shortly thereafter. In fact, these are the only two instances where one is drawn into court:

1. A valid tort (a wrongful act or infringement of a right leading to liability)
2. A statutory claim (victimless crimes based on mis-assumptions of jurisdiction)

There are multiple jurisdictions and courts which determine the statutes to be followed, like: probate, tax, traffic, juvenile and even bankruptcy. Going to court, no matter the court, will follow a basic procedure, both CIVIL and CRIMINAL:

1. Service of Process [CIVIL] (or) Charging [CRIMINAL]
2. Pre-Trial Hearing [CIVIL] (or) Arraignment [CRIMINAL]
3. Discovery
4. Mediation [CIVIL] (or) Plea Bargaining [CRIMINAL]
5. Preliminary Hearing [CRIMINAL ONLY]
6. Pre-Trial Motions
7. Trial
8. Post-Trial Motions [CRIMINAL ONLY]
9. Judgment (or) Sentencing
10. Appeal

Here’s an expansive outline of Court Procedure for virtually every court case one may encounter:



No matter the court, jurisdiction, civil law or common law - the Maxim of Law holds true in all lands. **One must first learn the basics of law (Natural Law) before hoping to defend oneself.** That is why learning the Maxims is demanded of every great litigant. Once one has learned these principles, the defense of PERSONAL JURISDICTION and SUBJECT-MATTER JURISDICTION will become simple, which can be used in every court system around the world. The challenged jurisdiction is the key to remove oneself from victimless charges of crime and the troubles associated, whether civil or common law is used within the country.

Strategically, one should file **a single motion at a time, never giving away the next defense lying in wait.** There is wait time between replies: Defendant enters reply to court > Plaintiff replies > Defendant files motion for more time to review > Defendant may deliver a Refusal For Cause > **Plaintiff replies > Defendant files motion for more time... the circle goes on!** If criminal proceedings are the worry, one may stay in trial for up to three years before a verdict or ruling is declared with the right paperwork.

Keep in mind, in today's legal system, anyone can sue anyone *frivolously*. Any entity that has at least made ONE provable minimum contact in the public realm (to perfect service of process) is liable to be sued. The Pass-Through Trust can even be sued because it has a contract with the Public Entity. Will the suit hold up in court is another question (*it won't*); on the other hand, the Holding/Master Trust is

insulated and the challenge to jurisdiction will always defeat the opponent of a properly administered trust.

Realize that *true control* is a well-fortified defense. Often the bleeding of time, energy and resources of a Plaintiff is all that is needed to secure a dismissal *even on the most valid of claims*. Lawyers are expensive to hire (\$500 / hr.), so use that to one's advantage.

Finally, if one ends up in Appeals or District Court, all documents will need to be reformatted to fit the following sample. Each line will be broken with 12pt font spacing between lines, numbered on the left-hand side. The Movant's information [party filing the document, you] is placed at the top-left side. The court division will be cited, including the address. **The remaining details are per usual from all other filings: reference Plaintiff/Defendant, cite Case Number, label Motion Name, Signature at bottom (including affidavit of service, but no notary needed).**

1	Russell and Deborah Beverly,	
2	Plaintiffs <i>in Propria Persona</i>	
3	1815 Sydney Street	
4	San Luis Obispo, California 93401	
5	805-544-9709	
6		
7		UNITED STATES DISTRICT COURT
8		
9		CENTRAL DISTRICT, WESTERN DIVISION OF CALIFORNIA
10		
11		350 W 1st St, Ste 4311, LA 90012-4565
12	UNITED STATES OF AMERICA	
13	PLAINTIFF	
14	v.	CASE NO. <u>2:19-cv-10068</u>
15	RUSSELL AND DEBORAH BEVERLY	
16	DEFENDANTS	
17	_____ /	
18	MOTION FOR LEAVE TO APPEAR TELEPHONICALLY	
19	The defendants respectfully request leave to appear telephonically for the reason that	
20	the hearing was unilaterally scheduled without coordinating the date and time with the	

NATURAL LAW IS ALWAYS RIGHT (EVEN IF RUTHLESS)

When Jesus of Nazareth spoke to his accusers, he would justify himself by quoting **Law**. First, he would quote Natural (God's) Law; he would then quote the accuser's law and use that against them as well, "Did ye never read in the **scriptures...**" and turn around and say, "Is it not written in **your law...**" and **quote their own law!** His accusers would have no answer, they could not overcome Him. How could anyone overcome somebody who is obeying both Natural Law and man's law!? If a man-made law is *truly* just, it will be in harmony with Natural Law.

These maxims are the foundation and principles of the laws that man passes today, but wise men have seen Natural Law and synthesized it into statements which can never be false (if so, order is upset). Unfortunately, men enforce their own will more than they enforce natural or even common law. So, this is why, in addition to knowing Natural Law, it is also important to know man's law, because man's law is based upon Natural Law. ***And when accused of "breaking the law," do what Jesus did, and use both Natural Law and man's law to justify lawful acts, for this is the only thing that will excuse.***

It is important to distinguish between commercial law and maxims of law, when quoting from their law. **We should never [when defending a private express trust] quote their codes, rules, regulations, ordinances, statutes, common law (yes, even common law), merchant law, public policies, etc., because these are commercial in nature,** and if we use their commercial law, they can presume we are engaged in commerce (which means we are of the world), which will nullify our witness (because we are not of the world). Maxims of Law are not commercial law, but are based upon scripture and uniform truth.

Many insist on using the "*common law*" to defend themselves, **this should only be done when Torts** (damages against the body or property) **are brought against oneself.** The reason we should not resort to common law first is that as natural living men and women we are to use God's Natural Law as our governing law. Secondly, the common law is a commercial law, created by merchants, influenced by Roman Law, and used for commercial purposes. Only when we have brought injustice to another, shall we be deemed bondservants to another law, other than Natural Law.

STEP #0: MAXIMS OF LAW

The following definitions are taken from “*A Dictionary of Law*, by William C. Anderson, 1893”:

CUSTOM OF MERCHANTS: A system of customs, originating among merchants, and allowed for the benefit of trade as part of the common law. *Page 303.*

LAW-MERCHANT; LAW OF MERCHANTS: The rules applicable to commercial paper were transplanted into the common law from the law merchant. They had their origin in the customs and course of business of merchants and bankers, and are now recognized by the courts because they are demanded by the wants and conveniences of the mercantile world. *Pages 670-671.*

ROMAN LAW: The common law of England has been largely influenced by the Roman law, in several respects:... Through the development of commercial law. *Page 910.*

All of man's laws, except for maxims of law, are commercial in nature. The following are the definitions of “maxims,” and then the relevant maxims of law will be listed.

MAXIM (*Bouvier's Law Dictionary*, 1856): An established principle or proposition. A principle of law universally admitted, as being just and consonant with reason.

2. Maxims in law are somewhat like axioms in geometry. *1 Bl. Com. 68.* They are principles and authorities, and part of the general customs or common law of the land; and are of the same strength as acts of parliament, when the judges have determined what is a maxim; which belongs to the judges and not the jury. *Terms do Ley; Doct. & Stud. Dial. 1, c. 8.* Maxims of the law are holden for law, and all other cases that may be applied to them shall be taken for granted. *1 Inst. 11. 67; 4 Rep. See 1 Com. c. 68; Plowd. 27, b.*

3. The application of the maxim to the case before the court, is generally the only difficulty. The true method of making the application is to ascertain how the maxim arose, and to consider whether the case to which it is applied is of the same character, or whether it is an exception to an apparently general rule.

4. The alterations of any of the maxims of the common law are dangerous. *2 Inst. 210.*

MAXIM (William C. Anderson's *A Dictionary of Law*, (1893), page 666): So, called...because its value is the highest and its authority the most reliable, and because it is accepted by all persons at the very highest.

2. The principles and axioms of law, which are general propositions flowing from abstracted reason, and not accommodated to times or men, are wisely deposited in the breasts of the judges to be applied to such facts as come properly before them.

3. When a principle has been so long practiced and so universally acknowledged as to become a maxim, it is obligatory as part of the law.

MAXIM OF LAW (*Black's Law Dictionary, 3rd Edition, (1933), page 1171*): An established principle of proposition. A principle of law universally admitted as being a correct statement of the law, or as agreeable to reason. Coke defines a maxim to be “a conclusion of reason” *Coke on Littleton, 11a*. He says in another place, “A maxim is a proposition to be of all men confessed and granted without proof, argument, or discourse.” *Coke on Littleton. 67a*.

These maxims are taken directly from law dictionaries and court cases. The following books were used as referenced for this article:

1. Bouvier's Law Dictionary, by John Bouvier, (1856)
2. Legal Maxims, by Broom and Bouvier, (1856)
3. A Dictionary of Law, by William C. Anderson, (1893)
4. Black's Law Dictionary, by Henry Campell Black, (3rd, 4th, 5th, and 6th Editions)
5. Maxims of Law, by Charles A. Weisman, (1990)

Comments in [brackets] are added and not part of the maxim itself

ACCIDENTS AND INJURY

- An act of God does wrong to no one.
- No one is held to answer for the effects of a superior force, or of an accident, unless his own fault has contributed.
- **The execution of law does no injury.**
- An action is not given to one who is not injured.
- He who suffers damage by his own fault, has no right to complain.
- Mistakes, neglect, or misconducts are not to be regarded as accidents.
- **Whoever pays by mistake what he does not owe, may recover it back; but he who pays, knowing he owes nothing; is presumed to give.** [If the IRS accuses you of owing them money, if you want to go to court to dispute it, you must pay them in full what they demand and then sue them to get it back. Which places the burden of proof upon the accused rather than the accuser]
- No man ought to be burdened in consequence of another's act.
- There may be damage or injury inflicted without any act of injustice.
- Not every loss produces an injury.
- A personal injury does not receive satisfaction from a future course of proceeding.
- Wrong is wiped out by reconciliation.
- An injury is extinguished by the forgiveness or reconciliation of the injured party. [Luke 17:3-4, 2 Corinthians 2:7-8]

BENEFITS AND PRIVILEGES

- Benefits from government often carry with them an enhanced measure of regulation.
- **Any one may renounce a law introduced for his own benefit.**

- No one is obliged to accept a benefit against his consent.
- **He who derives a benefit from a thing, ought to feel the disadvantages attending it.**
- He who enjoys the benefit, ought also to bear the burden.
- **A privilege is, as it were, a private law.**
- A privilege is a personal benefit and dies with the person.
- One who avails himself of the benefits conferred by statute cannot deny its validity.
- **What I approve I do not reject. I cannot approve and reject at the same time. I cannot take the benefit of an instrument, and at the same time repudiate it.**

COMMERCE

- **A workman is worthy of his hire.**
- All are equal under the law.
- **In commerce, truth is sovereign.**
- Truth is expressed in the form of an affidavit.
- **An un rebutted affidavit stands as truth in commerce.**
- An un rebutted affidavit becomes the judgment in commerce.
- In commerce for any matter to be resolved, it must be expressed.
- He who leaves the battlefield first loses by default.
- Sacrifice is the measure of credibility.
- **A lien or claim can be satisfied only through rebuttable by affidavit point by point, resolution by jury, or payment; or if the plaintiff does not prove his case, the defendant is absolved.**
- *Caveat emptor* (let the buyer beware).
- Let the purchaser beware.
- Let the seller beware.
- **The payment of the price of a thing is held as a purchase.**
- Goods are worth as much as they can be sold for.
- Mere recommendation of an article does not bind the vendor of it.
- It is settled that there is to be considered the home of each one of us where he may have his habitation and account-books, and where he has made an establishment of his business.
- No rule of law protects a buyer who willfully closes his ears to information, or refuses to make inquiry when circumstances of grave suspicion imperatively demand it.
- Let everyone employ himself in what he knows.
- He at whose risk a thing is done, should receive the profits arising from it.
- Usury is odious in law. [Exodus 22:25, Leviticus 25:36-37, Nehemiah 5:7,10, Proverbs 28:8, Ezekiel 18:8,13,17; 22:12]

COMMON SENSE

- **When you doubt, do not act.**
- It is a fault to meddle with what does not belong to or does not concern you.

- Many men know many things, no one knows everything.
- **One is not present unless he understands.**
- It avails little to know what ought to be done, if you do not know how it is to be done.
- **He who questions well, learns well.**
- Whatever is done in excess is prohibited by law.
- No one is bound to give information about things he is ignorant of, but everyone is bound to know that which he gives information about.
- No one is bound to arm his adversary.

CONSENT AND CONTRACTS

- Consent makes the law: the terms of a contract, lawful in its purpose, constitute the law as between the parties.
- **He who consents cannot receive an injury.**
- Consent removes or obviates a mistake.
- He who mistakes is not considered as consenting.
- **Every consent involves a submission; but a mere submission does not necessarily involve consent.**
- A contract founded on a base and unlawful consideration, or against good morals, is null.
- One who wills a thing to be or to be done cannot complain of that thing as an injury.
- **The contract makes the law.**
- **The agreement of the parties overcomes or prevails against the law.**
- Advice, unless fraudulent, does not create an obligation.
- No action arises on an immoral contract.
- In the agreements of the contracting parties, the rule is to regard the intention rather than the words.
- The right of survivorship does not exist among merchants for the benefit of commerce.
- When two persons are liable on a joint obligation, if one makes default the other must bear the whole.
- **You ought to know with whom you deal.**
- He who contracts, knows, or ought to know, the quality of the person with whom he contracts, otherwise he is not excusable.
- He who approves cannot reject.
- If anything is due to a corporation, it is not due to the individual members of it, nor do the members individually owe what the corporation owes.
- **Agreement takes the place of the law: the express understanding of parties supersedes such understanding as the law would imply.**
- Manner and agreement overrule the law.
- The essence of a contract being assent, there is no contract where assent is wanting.

COURT AND PLEAS

- There can be no plea of that thing of which the dissolution is sought.
- A false plea is the basest of all things.
- There can be no plea against an action which entirely destroys the plea.
- **He who does not deny, admits.** [A well-known rule of pleading]
- No one is believed in court but upon his oath.
- An infamous person is repelled or prevented from taking an oath.
- In law none is credited unless he is sworn. All the facts must, when established by witnesses, be under oath or affirmation.
- The practice of a court is the law of the court.
- It concerns the commonwealth that there be an end to lawsuits.
- It is for the public good that there be an end of litigation.
- A personal action dies with the person. This must be understood as an action for a tort only.
- Equity acts upon the person.
- **No one can sue in the name of another.**

COURT APPEARANCE

- **A General Appearance cures antecedent irregularity of process, a defective service, etc.**
[This is why we should avoid voluntarily appearing in court, except under Special Appearance only.]
- Certain legal consequences are attached to the voluntary act of a person.
- The presence of the body cures the error in the name; the truth of the name cures an error in the description
- An error in the name is immaterial if the body is certain.
- An error in the name is nothing when there is certainty as to the person.
- The truth of the demonstration removes the error of the name.

CRIME AND PUNISHMENT

- A madman is punished by his madness alone.
- The instigator of a crime is worse than he who perpetrates it.
- **They who consent to an act, and they who do it, shall be visited with equal punishment.**
- Acting and consenting parties are liable to the same punishment.
- **No one is punished for merely thinking of a crime.**
- He who has committed iniquity, shall not have equity.
- He who is once a criminal is presumed to be always criminal in the same kind or way.
- Whatever is once bad, is presumed to be so always in the same degree.
- **He who does not forbid a crime while he may, sanctions it.**
- He who does not blame, approves.
- He is clear of blame who knows, but cannot prevent.
- **No one is to be punished for the crime or wrong of another.**

- **No guilt attaches to him who is compelled to obey.**
- Gross negligence is held equivalent to intentional wrong.
- Misconduct binds its own authors. It is a never-failing axiom that everyone is accountable only for his own offense or wrong.
- In offenses, the will and not the consequences are to be looked at.
- It is to the intention that all law applies.
- **The intention of the party is the soul of the instrument.**
- **An act does not make a man a criminal, unless his intention be criminal.**
- An act does not make a person guilty, unless the intention be also guilty. [This maxim applies only to criminal cases; in civil matters it is otherwise.]
- In offenses, the intention is regarded, not the event.
- The intention amounts to nothing unless some effect follows.
- Take away the will, and every action will be indifferent.
- Your motive gives a name to your act.
- Vainly does he who offends against the law, seek the help of the law.
- Drunkenness inflames and produces every crime.
- He who sins when drunk shall be punished when sober.
- Punishment is due if the words of an oath be false.
- **A prison is established not for the sake of punishment, but of detention and guarding.**
- **Those sinning secretly are punished more severely than those sinning openly.**
- **If one falsely accuses another of a crime, the punishment due to that crime should be inflicted upon the perjured informer. [Deuteronomy 19:18]**

CUSTOMS AND USAGES

- **Long time and long use, beyond the memory of man, suffices for right.**
- Custom is the best expounder of the law.
- Custom is another law.
- A prescriptive and legitimate custom overcomes the law.
- **Custom leads the willing, law compels or draws the unwilling.**
- Usage is the best interpreter of things.
- Custom is the best interpreter of laws.
- What is done contrary to the custom of our ancestors, neither pleases nor appears right.
- Where two rights concur, the more ancient shall be preferred.

EXPRESSIONS AND WORDS

- **The meaning of words is the spirit of the law. [Romans 8:2]**
- The propriety of words is the safety of property.
- **It is immaterial whether a man gives his assent by words or by acts and deeds.**
- It matters not whether a revocation be by words or by acts.
- **What is expressed renders what is implied silent.**

- An unequivocal statement prevails over an implication.
- In ambiguous expressions, the intention of the person using them is chiefly to be regarded.
- The expression of those things which are tacitly implied operates nothing.
- The expression of one thing is the exclusion of another.
- A general expression implies nothing certain.
- General words are understood in a general sense.
- **When the words and the mind agree, there is no place for interpretation.**
- Every interpretation either declares, extends or restrains.
- **The best interpretation is made from things preceding and following; i.e., the context.**
- Words are to be interpreted according to the subject-matter.
- He who considers merely the letter of an instrument goes but skin deep into its meaning.
- Frequently where the propriety of words is attended to, the meaning of truth is lost.
- Words are to be taken most strongly against him who uses them.
- Multiplicity and indistinctness produce confusion; and questions, the more-simple they are, the more lucid.
- When two things repugnant to each other are found in a will, the last is to be confirmed.
- Bad or false grammar does not vitiate a deed or grant.
- Many things can be implied from a few expressions.
- **Language is the exponent of the intention.**
- **Words are indicators of the mind or thought.**
- Laws are imposed, not upon words, but upon things.

FICTIONS

- A fiction is a rule of law that assumes something which is or may be false as true.
- **Where truth is, fiction of law does not exist.**
- There is no fiction without law.
- Fictions arise from the law, and not law from fictions
- Fiction is against the truth, but it is to have truth.
- In a fiction of law, equity always subsists.
- **A fiction of law injures no one.**

FRAUD AND DECEIT

- **It is safer to be deceived than to deceive.**
- **A deceiver deals in generals.**
- Fraud lies hidden in general expressions.
- A concealed fault is equal to a deceit.
- Out of fraud no action arises.
- A forestaller is an oppressor of the poor, and a public enemy to the whole community and the country.
- It is a fraud to conceal a fraud.

- Gross negligence is equivalent to fraud.
- Once a fraud, always a fraud.
- **What otherwise is good and just, if it be sought by force and fraud, becomes bad and unjust.**
- He is not deceived who knows himself to be deceived.
- He who does not prevent what he can prevent, is viewed as assenting.
- He who does not forbid, when he might forbid, commands.
- **He who does not repel a wrong when he can, induces it.**
- Often it is the new road, not the old one, which deceives the traveler.
- Deceit is an artifice, since it pretends one thing and does another.

GOD AND RELIGION

- **If ever the law of God and man are at variance, the former are to be obeyed in derogation of the later.** [Acts 5:29]
- That which is against Divine Law is repugnant to society and is void.
- Where the Divinity is insulted the case is unpardonable.
- **Human things never prosper when divine things are neglected.**
- No man is presumed to be forgetful of his eternal welfare, and particularly at the point of death.
- The church does not die.
- That is the highest law which favors religion.
- He who acts badly, hates the light.
- He who does not willingly speak the truth, is a betrayer of the truth.
- **He who does not speak the truth, is a traitor to the truth.**
- The truth that is not sufficiently defended is frequently overpowered; and he who does not disapprove, approves.
- Truth fears nothing but concealment.
- **Truth is the mother of justice.**
- To swear is to call God to witness, and is an act of religion.
- Earlier in time, is stronger in right. First in time, first in right.
- He who is before in time, is preferred in right.
- **What is first is truest; and what comes first in time, is best in law.**
- **The cause of the Church is a public cause.**
- **The Law of God and the law of the land are all one, and both favor and preserve the common good of the land.**

GOVERNMENTS AND JURISDICTION

- **The order of things is confounded if everyone preserves not his jurisdiction.**
- Jurisdiction is a power introduced for the public good, on account of the necessity of dispensing justice.
- **Every jurisdiction has its own bounds.**

- The government cannot confer a favor which occasions injury and loss to others.
- A minor ought not to be guardian of a minor, for he is unfit to govern others who does not know how to govern himself.
- The government is to be subject to the law, for the law makes government.
- The law is not to be violated by those in government.

HEIRS

- Co-heirs are deemed as one body or person, by reason of the unity of right which they possess. [Romans 8:17, Ephesians 5:31-32]
- **No one can be both owner and heir at the same time.**
- An heir is either by right of property, or right of representation.
- 'Heir' is a collective name or noun [so it is not private, and has no private rights].
- The law favors a man's inheritance.
- Heir is a term of law, son one of nature.
- An heir is another self, and a son is a part of the father.

JUDGES AND JUDGMENT

- One who commands lawfully must be obeyed.
- **Whoever does anything by the command of a judge is not reckoned to have done it with an evil intent, because it is necessary to obey.** [Isaiah 33:22, "For the LORD is our judge..."]
- A judgment is always taken as truth.
- If you judge, understand.
- It is the duty of a good judge to remove the cause of litigation. [Acts 18:12-16]
- To a judge who exceeds his office or jurisdiction no obedience is due.
- One who exercises jurisdiction out of his territory is not obeyed with impunity.
- A twisting of language is unworthy of a judge.
- A good judge decides according to justice and right, and prefers equity to strict law.
- Of the credit and duty of a judge, no question can arise; but it is otherwise respecting his knowledge, whether he be mistaken as to the law or fact.
- **That is the best system of law which confides as little as possible to the discretion of the judge.**
- He is the best judge who relies as little as possible on his own discretion.
- Whenever there is a doubt between liberty and slavery, the decision must be in favor of liberty.
- He who spares the guilty, punishes the innocent. [Mark 15:6-15, Luke 23:17-25, John 18:38-40]
- What appears not does not exist, and nothing appears judicially before judgment.
- It is improper to pass an opinion on any part of a sentence, without examining the whole.
- Hasty justice is the step-mother of misfortune.
- No one can be at once judge and party.
- **A judge is to expound, not to make, the law.**
- Definite legal conclusions cannot be arrived at upon hypothetical averments.

- A judge is the law speaking. [the mouth of the law]
- A judge should have two salts: the salt of wisdom, lest he be insipid; and the salt of conscience, lest he be devilish.
- **He who flees judgment confesses his guilt.**
- No man should be condemned unheard.
- The judge is counsel for the prisoner.
- **Everyone is presumed to be innocent until his guilt is established beyond a reasonable doubt.**
- Justice is neither to be denied nor delayed.
- It is the property of a Judge to administer justice, not to give it.

LAW

- A maxim is so called because its dignity is chiefest, and its authority most certain, and because universally approved of all.
- **All law has either been derived from the consent of the people, established by necessity, confirmed by custom, or of Divine Providence.**
- Nothing is so becoming to authority [God] as to live according to the law [of God].
- **He acts prudently who obeys the commands of the Law.** [Ecclesiastes 12:13]
- An argument drawn from a similar case, or analogy, avails in law.
- That which was originally void, does not by lapse of time become valid.
- The law does not seek to compel a man to do that which he cannot possibly perform.
- **The law compels no one to do anything which is useless or impossible.**
- Impossibility excuses the law.
- An act of the law wrongs no man.
- The law never works an injury, or does him a wrong.
- An argument drawn from what is inconvenient is good in law, because the law will not permit any inconvenience.
- Nothing against reason is lawful.
- **The law which governs corporations is the same as that which governs individuals [godless entities].**
- The laws sometimes sleep, but never die.
- The law never suffers anything contrary to truth.
- **It is a miserable slavery where the law is vague or uncertain.**
- Examples illustrate and do not restrict the law.
- The disposition of law is firmer and more powerful than the will of man.
- Law is established for the benefit of man. [Mark 2:27]
- To be able to know is the same as to know. This maxim is applied to the duty of everyone to know the law.
- Ignorance of fact may be an excuse, but not ignorance of law.
- In doubt, the gentler course is to be followed.
- In a deed which may be considered good or bad, the law looks more to the good than to the bad.
- In all affairs, and principally in those which concern the administration of justice, the rules of equity ought to be followed.

- In ambiguous things, such a construction is to be made, that what is inconvenient and absurd is to be avoided.
- Law is the science of what is good and evil.
- **The law punishes falsehood.**
- The reason of the law is the soul of the law.
- The reason ceasing, the law itself ceases.
- In default of the law, the maxim rules.
- **It is a perpetual law that no human or positive law can be perpetual.**
- Where there is no law there is no transgression, as it regards the world. [Romans 4:15]
- Everything is permitted, which is not forbidden by law.
- All rules of law are liable to exceptions. [Matthew 12:1-5]
- What is inconvenient or contrary to reason, is not allowed in law.
- Relief is not given to such as sleep on their rights.
- Legal remedies are for the active and vigilant.
- What is good and equal, is the law of laws.
- Whose right it is to institute, his right it is to abrogate.
- **Laws are abrogated or repealed by the same authority by which they are made.**
- The civil law is what a people establishes for itself. [It is not established by God]
- Many things have been introduced into the common law, with a view to the public good, which are inconsistent with sound reason. [The law of merchants was merged with the common law]
- The people is the greatest master of error.
- **A man may obey the law and yet be neither honest nor a good neighbor.**
- To investigate [inquire into] is the way to know what things are truly lawful. [2 Timothy 2:15]
- Those who do not preserve the law of the land, they justly incur the awesome and indelible brand of infamy.
- An exception to the rule should not destroy the rule.
- Laws should bind their own maker.
- **Necessity overrules the law.**
- Necessity makes that lawful which otherwise is not lawful.
- Things which are tolerated on account of necessity ought not to be drawn into precedents.
- **It has been said, with much truth, "Where the law ends, tyranny begins."**

MARRIAGE

- **Husband and wife are considered one person in law.** [Genesis 2:24]
- The union of a man and a woman is of the law of nature.
- **Consent, and not cohabitation, makes the marriage.**
- Insanity prevents marriage from being contracted, because consent is needed.
- A wife follows the domicile of her husband.
- Husband and wife cannot be a witness for, or against, each other, because of the union of persons that exists.
- Children are the blood of their parents, but the father and mother are not of the blood of the children.

MISCELLANEOUS

- He who has the risk has the dominion or advantage.
- There is no disputing against a man denying principles.
- The immediate, and not the remote cause, is to be considered.
- A consequence ought not to be drawn from another consequence.
- He who takes away the means, destroys the end.
- He who seeks a reason for everything, subverts reason.
- Every exception not watched tends to assume the place of the principle.
- Where there is a right, there is a remedy.
- For every legal right the law provides a remedy.
- All shall have liberty to renounce those things which have been established in their favor.
- Power is not conferred, but for the public good.
- Power ought to follow, not to precede justice.
- To know properly is to know the reason and cause of a thing.
- **The useful by the useless is not destroyed.**
- Where there is no act, there can be no force.
- One may not do an act to himself.
- A thing done cannot be undone.
- No man is bound for the advice he gives.
- He who commands a thing to be done is held to have done it himself.
- **When anything is commanded, everything by which it can be accomplished is also commanded.**
- The principal part of everything is the beginning.
- To refer errors to their origin is to refute them.
- The origin of a thing ought to be inquired into.
- **Human nature does not change with time or environment.**
- Anger is short insanity.
- It is lawful to repel force by force, provided it be done with the moderation of blameless defense, not for the purpose of taking revenge, but to ward off injury.
- **The status of a person is his legal position or condition.**
- The partner of my partner is not my partner.
- Use is the master of things, experience is the mistress of things.
- **Protection draws to it subjection, subjection, protection.**
- Error artfully colored is in many things more probable than naked truth; and frequently error conquers truth and reasoning.

OFFICERS

- **Ignorance of the Law does not excuse misconduct in anyone, least of all a sworn officer of the law.**

- Summonses or citations should not be granted before it is expressed under the circumstances whether the summons ought to be made.
- A delegated power cannot be again delegated. A deputy cannot appoint a deputy.
- An office ought to be injurious to no one.
- A neglected duty often works as much against the interests as a duty wrongfully performed.
- Failure to enforce the law does not change it.
- It is contrary to the Law of Nations to do violence to Ambassadors.
- **An Ambassador fills the place of the king by whom he is sent, and is to be honored as he is whose place he fills.**
- The greatest enemies to peace are force and wrong.
- Force is inimical to the laws.

POSSESSION

- **No one can give what he does not own.**
- One cannot transfer to another a right which he has not.
- He gives nothing who has nothing.
- Two cannot possess one thing each in entirety.
- A gift is rendered complete by the possession of the receiver.
- What is mine cannot be taken away without my consent.
- He that gives never ceases to possess until he that receives begins to possess.
- **A person in possession is not bound to prove that the possessions belong to him.**
- Things taken or captured by pirates and robbers do not change their ownership.
- Things which are taken from enemies immediately become the property of the captors.
- **It is one thing to possess, it is another to be in possession.**
- Possession of the termor, possession of the reversioner.

PROPERTY AND LAND

- Land lying unoccupied is given to the first occupant.
- What belongs to no one, naturally belong to the first occupant.
- Possession is a good title, where no better title appears.
- **Long possession produces the right of possession, and takes away from the true owner his action.**
- When a man has the possession as well as the right of property, he is said to have *jus duplicatum* - a double right, forming a complete title.
- **Rights of dominion are transferred without title or delivery, by prescription, to wit, long and quiet possession.**
- Possessor has right against all men but him who has the very right.
- Enjoy your own property in such a manner as not to injure that of another person.
- He who owns the soil, owns up to the sky.
- **The owner of a piece of land owns everything above and below it to an indefinite extent.**

- Of whom is the land, of him is it also to the sky and to the deepest depths; he who owns the land owns all above and all below the surface.
- Every person has exclusive dominion over the soil which he absolutely owns; hence such an owner of land has the exclusive right of hunting and fishing on his land, and the waters covering it.
- Every man's house is his castle.
- A citizen cannot be taken by force from his house to be conducted before a judge or to prison.
- The habitation of each one is an inviolable asylum for him.
- Whatever is affixed to the soil belongs to it.
- Rivers and ports are public, therefore the right of fishing there is common to all.
- Land comprehends any ground soil, or earth whatsoever; as meadows, pastures, woods, moors, waters, and marshes.

RIGHT AND WRONG

- A right cannot arise from a wrong.
- You are not to do evil that good may come of it.
- **It is not lawful to do evil that good may come of it.**
- That interpretation is to be received, which will not intend a wrong.
- It is better to suffer every wrong or ill, than to consent to it.
- **It is better to recede than to proceed wrongly.**
- To lie is to go against the mind.
- The multitude of those who err is no excuse for error. [Exodus 23:2]
- No one is considered as committing damages, unless he is doing what he has no right to do.
- No man ought to derive any benefit of his own wrong.
- No one ought to gain by another's loss.
- No one can improve his condition by a crime.
- He who uses his legal rights, harms no one.
- **An error not resisted is approved.**
- He who is silent appears to consent.
- Things silent are sometimes considered as expressed.
- To conceal is one thing, to be silent is another.
- **Concealment of the truth is (equivalent to) a statement of what is false.**
- Suppression of fact, which should be disclosed, is the same in effect as willful misrepresentation.
- Evil is not presumed.
- It is safer to err on the side of mercy.

SCRIPTURAL

- **Unequal things ought not to be joined.** [2 Corinthians 6:14]
- Things unite with similar things.
- The law is no respecter of persons. [Acts 10:34]

- Time runs against the slothful and those who neglect their rights. [Proverbs 24:30-31]
- Debts follow the person of the debtor.
- **The most favorable construction is made in restitutions.** [Exodus 22:5-6,12]
- Where damages are given, the losing party should pay the costs of the victor.
- **In many counselors there is safety.** [Proverbs 11:14; 15:22; 24:6]
- **Remove the foundation, the structure or work fall.** [Luke 6:48-49]
- A legacy is confirmed by the death of the testator, in the same manner as a gift from a living person is by delivery alone. [Hebrews 9:16]
- The will of a testator is ambulatory (alterable, revocable) up to his death. [Hebrews 9:16-17]
- Every will is completed at death. A will speaks from the time of death only. [Hebrews 9:16-17]
- The last will of a testator is to be fulfilled according to his real intention.
- To insult the deity is an unpardonable offense. [Matthew 12:31]
- Women are excluded from all civil and public charges or offices. [1 Timothy 2:12, 1 Corinthians 14:34].
- He who is in the womb, is considered as born, whenever it is for his benefit. [Job 31:15, Isaiah 49:1,5, Jeremiah 1:5]
- He who first offends, causes the strife. [Matthew 5:22]
- He who pays tardily, pays less than he ought. [Leviticus 19:13, Deuteronomy 24:14-15]
- **The beaten path is the safe path; the old way is the safe way.** [Jeremiah 6:16]

SERVANTS AND SLAVES

- Whatever is acquired by the servant, is acquired for the master.
- **A slave is not a person.**
- **A slave, and everything a slave has, belongs to his master.**
- He who acts by or through another, acts for himself.
- He who does anything through another, is considered as doing it himself.
- The master is liable for injury done by his servant.
- **He is not presumed to consent who obeys the orders of his father or his master.**

WISDOM AND KNOWLEDGE

- If you do not know the names of things, the knowledge of things themselves perishes; and if you lose the names, the distinction of the things is certainly lost.
- Names are mutable, but things are immutable.
- Names of things ought to be understood according to common usage, not according to the opinions of individuals.
- A name is not sufficient if a thing or subject for it does not exist by law or by fact.
- Not to believe rashly is the nerve of wisdom.
- Reason is a ray of the Divine Light. [Isaiah 1:18]
- Abundant caution does no harm.
- External acts indicate undisclosed thoughts.

- External actions show internal secrets.
- **Outward acts evince the inward purpose.**
- **You will perceive many things more easily by practice than by rules.**
- Remove the cause and the effect will cease.
- **Give the things which are yours whilst they are yours; after death they are not yours.**

WITNESSES AND PROOF

- A witness is a person who is present at and observes a transaction. [Not a video tape, audio tape, computer printout, etc. that are used as witnesses by the government.]
- **The answer of one witness shall not be heard.** [Deuteronomy 19:15]
- The testimony of one witness, unsupported, may not be enough to convict; for there may then be merely oath against oath.
- This is a maxim of civil law, where everything must be proved by two witnesses. [Matthew 18:16, 2 Corinthians 13:1]
- In law, none is credited unless he is sworn. All facts must, when established by witnesses, be under oath or affirmation.
- **A confession made in court is of greater effect than any proof.**
- No man is bound to produce writings against himself.
- No one can be made to testify against himself or betray himself.
- No one is bound to accuse himself.
- No one ought to accuse himself, unless before God.
- One making a voluntary confession, is to be dealt with more mercifully.
- He ought not to be heard who advances a proposition contrary to the rules of law.
- False in one (particular), false in all.
- Deliberate falsehood in one matter will be imputed to related matters.
- **He who alleges contradictory things is not to be listened to.**
- Proofs are to be weighed not numbered; that is, the more worthy or credible are to be believed.
- **A presumption will stand good until the contrary is proved.**
- The presumption is always in favor of the one who denies.
- All things are presumed to be lawfully done and duly performed until the contrary is proved.
- When the plaintiff does not prove his case, the defendant is absolved.
- When opinions are equal, a defendant is acquitted.
- **An act done by me against my will is not my act.**
- The faculty or right of offering proof is not to be narrowed.
- The latter decisions are stronger in law.
- No one is restrained from using several defenses.
- No one is bound to inform about a thing he knows not, but he who gives information is bound to know what he says.
- No one is bound to expose himself to misfortune and dangers.
- Plain truths need not be proved.
- What is clearly apparent need not be proved.
- One eye witness is better than ten ear ones.
- An eye witness outweighs others.

- It is in the nature of things, that he who denies a fact is not bound to prove it.
- The burden of proof lies upon him who affirms, not on him who denies.
- The claimant is always bound to prove: the burden of proof lies on him.
- **Upon the one alleging, not upon him denying, rests the duty of proving.**
- Upon the plaintiff rests the proving – the burden of proof.
- The necessity of proving lies with him who makes the charge.
- When the law presumes the affirmative, the negative is to be proved.
- When the proof of facts is present, what need is there for words.
- **It is vain to prove that which if proved would not aid the matter in question.**
- Facts are more powerful than words.
- Negative facts are not proof.
- Witnesses cannot testify to a negative; they must testify to an affirmative.
- Better is the condition of the defendant, than that of the plaintiff.
- **What is not proved and what does not exist are the same; it is not a defect of the law, but of proof.**
- There is no reasoning of principles.
- All things are presumed to have been done in due and solemn form.

Once one has learned and even memorized the Maxims of Law, one will have gained a wealth of wisdom that is rarely taught in schools. **These principles are the foundation of all life, commerce and movement in the Universe.** Of course, there are many undiscovered (to you) principles that remain, but as implemented, one will see how mind and life are taken to new heights.

STEP #1: REFUSAL FOR CAUSE (R4C)

Refusal for Cause (R4C) is the way to stop *presentments* from developing into *collectible bills* per UCC 3-501. One might have noticed that when a solution or payment plan is proposed, it might be rejected in three days of arrival to the recipient, and mailed back in response. The Uniform Commercial Code (UCC) says to make it “conspicuous” so often it is written BIG RED LETTERS at a 45° angle. To seal the process, one can even publish it through the USDC Clerk of Court on PACER. It might feel a bit silly, but it is what attorneys understand.

The *right of refusal* is well understood by any attorney. So, it is more a matter of convincing the attorney or judge that you understand it. Often by forming a published record on PACER. **The Presentment should timely be marked conspicuously “Refusal for Cause” and returned to the Presenter.** If one have has an evidence repository, with the Clerk of Court, then deliver a copy of the Presentment *refused for cause* with instructions to file. A copy of the clerk's instruction goes to the Presenter. Service to the agent is service to the principal and vice versa. **A *refusal for cause* can be used on evidence, summons, requests and more!**

If one executes a *Refuse for Cause* timely, there is never any need to explain the cause. That is reserved for a later hearing (Rule E(4)(f)).

E(4)(f) Procedure for Release From Arrest or Attachment. *Whenever property is arrested or attached, any person claiming an interest in it shall be entitled to a prompt hearing at which the plaintiff shall be required to show why the arrest or attachment should not be vacated or other relief granted consistent with these rules. This subdivision shall have no application to suits for seamen's wages when process is issued upon a certification of sufficient cause filed pursuant to Title 46, U.S. Code § 603 and 604 or to actions by the United States for forfeitures for violation of any statute of the United States.*

El Paso County Court
270 S. Tejon
Colorado Springs CO 80901 United States

██████████ BOULEVARD
COLORADO SPRINGS CO 80917

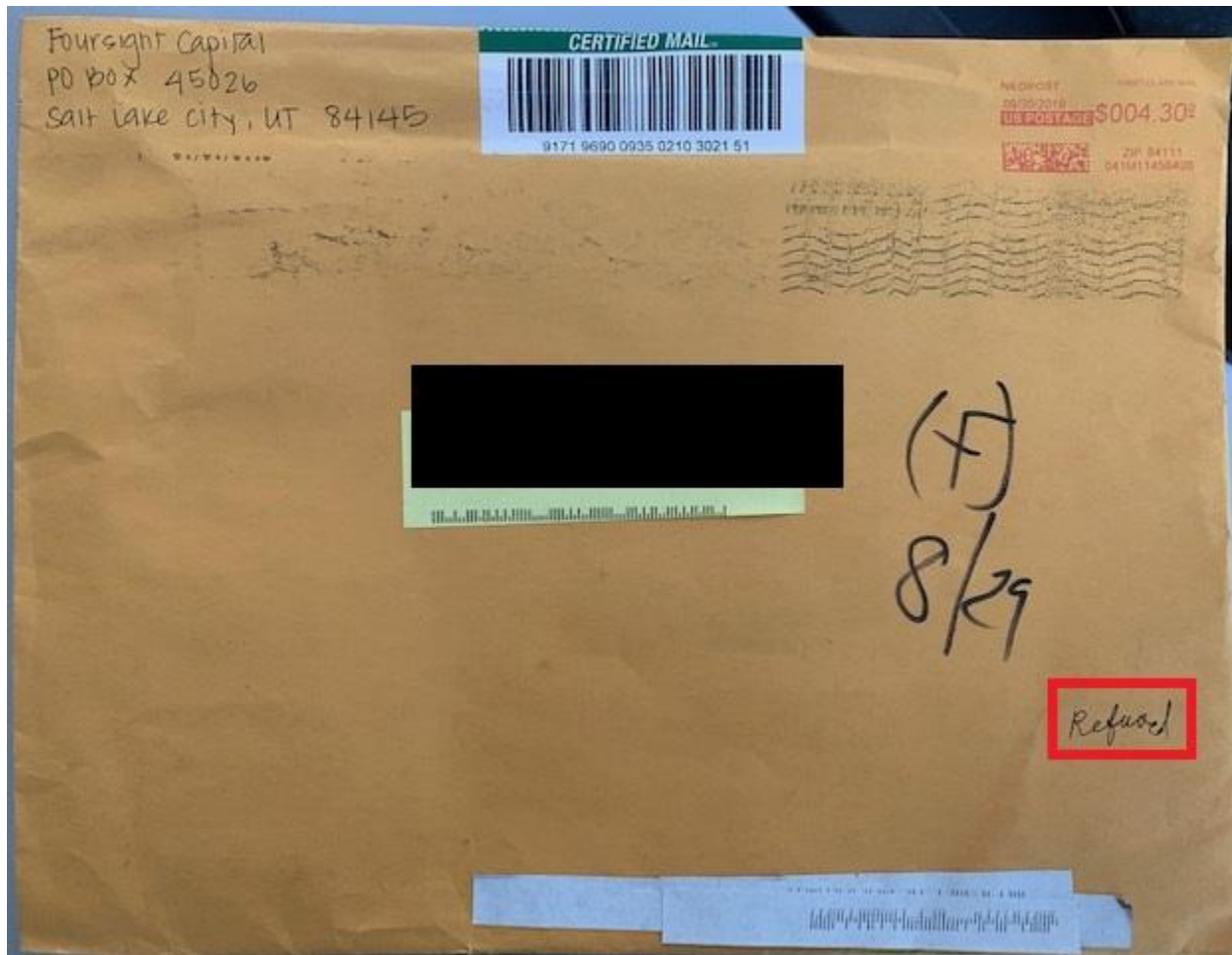
To: ██████████

Subject: Service of documents in 2015CV31641.

You are being served with documents filed electronically through the Integrated Colorado Courts E-Filing System (ICCES). Please review the following details concerning this service.

- Court Location: El Paso County
- Case Number: 2015CV31641
- Filing ID: N/A
- Filed Document Title(s):
 - Order: RESPONSE TO REPLY TO RESPONSE TO MOTION FOR FORTHWITH PELIMINARY INJUNCTION
- Submitted on Date/Time: Thu Oct 01 18:30:24 MDT 2015
- Submitted by Authorizing Organization:
- Submitted by Authorizing Attorney: El Paso County Court

If you have a question about the above listed case, please contact the court.
Information for all Colorado court locations is listed on the Colorado Judicial Branch website <http://www.courts.state.co.us/Index.cfm>.



And the one case that made me a believer in Refusal For Cause was the case of USA v. INTERNET RESEARCH AGENCY LLC (2020). For those who are unaware of American politics (good riddance to that puppet show), there was an apparent forceful use of propaganda by The Bank of Russia and Russian Oligarch Yevgeniy Prigozhin, nicknamed “Putin’s Chef” during the 2016 US Presidential elections.

There were a number of issues on its face, showing a definitive use of propaganda to destabilize a country’s election process (*allegedly*). And when the entire force of the USA and Robert Mueller, (now-former) Special Counsel for the United States Department of Justice comes after your butt - you better believe an “ace up the sleeve” is what is required to escape unscathed!

Frankly, if one goes through [the entire case](#), they will see a “circus of show” that is the US Justice system, *admiralty-law wise*. Since the “crime” was essentially equated to holding out the world’s biggest sign about a belief one has, which is the 1st Amendment Freedom of Speech. If onlookers choose to believe the speech, they have given their consent to do so. Essentially, Russia’s (*successful?*) propaganda campaign was a victimless crime. Who was to establish subject-matter jurisdiction by pleading as a fact-witness? Hillary Clinton, individual members of the DNC - there was no one! This prosecution was a political show for a multitude of reasons, but let us not connect dots here. Let it simply be said that as of March 16, 2020 the case has been terminated with not one individual in jail and

not one financial penalty levied! The excuse for their failure? They only gave one word/reason:
“security”

We can see the Russian’s foundational understanding of *contract law* in its use of Refusal For Cause. The USA on 3/3/2018 sent a summons (presumably overnight mail) to a long list of thirteen plaintiffs and a few corporations. The Plaintiff(s) waited the maximum ten days allowable by Uniform Commercial Code to reply. The summons was given a *Refusal For Cause* on 3/14/2018 and sent back same-day-service, but the Russian Federation waited exactly one year + to file it in the court [maximum UCC and common law allowance].

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America)

v.)

Internet Research Agency LLC)

Case No. 1:18-cr-032)

SAVUSHKINA STREET, Bldg. 53-)
ST. PETERSBURG, RUSSIA 197183)
Defendant)

SUMMONS IN A CRIMINAL CASE

YOU ARE SUMMONED to appear before the United States district court at the time, date, and place set forth below to answer to one or more offenses or violations based on the following document filed with the court:

- ☒ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of Court

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
 Place: U.S. Courthouse
 333 Constitution Avenue, N.W.
 Washington, D.C. 20001

Courtroom No.: 7

Date and Time: 3/20/18 1:45 pm

This offense is briefly described as follows:

- 18 U.S.C. 371 (Conspiracy to Defraud the United States)
 18 U.S.C. 1349 (Conspiracy to Commit Wire Fraud and Bank Fraud)
 18 U.S.C. 1028A (Aggravated Identity Theft)
 18 U.S.C. 2 (Aiding and Abetting)

Date: 02/16/2018

U.S. District Courts
District of ColumbiaTRUE COPY
J. D. CAUSAR, Clerk

Deputy Clerk

Issuing officer's signature

U.S. Magistrate Judge G. Michael Harvey

Printed name and title

I declare under penalty of perjury that I have:

☒ Executed and returned this summons☐ Returned this summons unexecuted

Date: 3/14/2018

Server's signature

ERIC J. REESE, ASSISTANT LEGAL ATTACHE

Printed name and title

Case No. 1:18-cr-032

This second page contains personal identifiers and therefore should
not be filed in court with the summons unless under seal.
(Not for Public Disclosure)

INFORMATION FOR SERVICE

Name of defendant/offender: Internet Research Agency LLC
Last known residence: ul. VERNUSTI Bldg. 2, Room 1-N, ST. PETERSBURG, RUSSIA, 195220
Usual place of abode (if different from residence address): PR. PALJUSTRAUSKIY Bldg. 31 LITIER # ROOM 1-N, ST. PETERSBURG, RUSSIA 195221
If the defendant is an organization, name(s) and address(es) of officer(s) or agent(s) legally authorized to receive service of process: _____

If the defendant is an organization, last known address within the district or principal place of business elsewhere in the United States: _____

PROOF OF SERVICE

This summons was received by me on (date) 3/13/2018

- ☐ I personally served the summons on this defendant _____ at (place) _____ on (date) _____; or
- ☐ On (date) _____ I left the summons at the individual's residence or usual place of abode with (name) _____, a person of suitable age and discretion who resides there, and I mailed a copy to the individual's last known address; or
- ☒ I delivered a copy of the summons to (name of individual) SERGEI PTOV who is authorized to receive service of process on behalf of (name of organization) RUSSIAN FEDERATION'S OFFICE OF THE RUSSIAN FEDERATION on (date) _____ and I mailed a copy to the organizations's last known address within the district or to its principal place of business elsewhere in the United States; or
- ☐ The summons was returned unexecuted because _____

I declare under penalty of perjury that this information is true.

Date returned: 3/14/2018

Server's signature

ERIC J. REESE, ASSISTANT LEGAL ATTACHE
Printed name and title

Remarks:

Then twenty-nine days later [thirty is maximum allowed by UCC and common law], on 4/12/2019, the *Refusal For Cause* on the original summons was filed officially in PACER (and officially for judicial record) with a note of its 3/14/2018 refusal date. Four days later, the US

Department of Justice announced a Withdrawal of Appearance and the news began reporting the case as breaking down and failing instrumentally... *hmmm I wonder why?*

In layman's terms, the case was unable to obtain personal jurisdiction over the Plaintiffs (service of process) and therefore had no power to bring forward the case. It was a mere show of force much like a low-land gorilla charging and stopping feet from its “prey”. *And that should show the power of Refusal For Cause!*

ECF		Query	Reports	Utilities	Logout
		by 7/3/2019. (zcdw) (Entered: 04/14/2019)			
04/11/2019		MINUTE ORDER. It is ORDERED that the hearing scheduled for May 10, 2019 is VACATED. Signed by Judge Dabney L. Friedrich on April 11, 2019. (lclfl) (Entered: 04/11/2019)			
04/12/2019	124	Summons Returned Executed on 3/14/2018 as to INTERNET RESEARCH AGENCY LLC. (REFUSED on 3/14/2018) (hsj) (Entered: 04/16/2019)			
04/12/2019	125	Summons Returned Executed on 3/14/2018 as to CONCORD CATERING. (REFUSED ON 3/14/2018. (hsj) (Entered: 04/16/2019)			
04/12/2019	126	Summons Returned Executed on 3/14/2018 as to CONCORD MANAGEMENT AND CONSULTING LLC. (REFUSED ON 3/14/2018) (hsj) (Entered: 04/16/2019)			
04/16/2019	127	NOTICE of Withdrawal of Appearance by USA as to INTERNET RESEARCH AGENCY LLC, CONCORD MANAGEMENT AND CONSULTING LLC, CONCORD CATERING, YEVGENIY VIKTOROVICH PRIGOZHIN, MIKHAIL IVANOVICH BYSTROV, MIKHAIL LEONIDOVICH BURCHIK, ALEKSANDRA YURYEVNA KRYLOVA, ANNA VLADISLAVOVNA BOGACHEVA, SERGEY PAVLOVICH POLOZOV, MARIA ANATOLYEVNA BOVDA, ROBERT SERGEYEVICH BOVDA, DZHEYKHUN NASIMI OGLY ASLANOV, VADIM VLADIMIROVICH PODKOPAEV, GLEB IGOREVICH VASILCHENKO, IRINA VIKTOROVNA KAVERZINA, VLADIMIR VENKOV (Rhee, Jeannie) (Entered: 04/16/2019)			

PACER Service Center			
Transaction Receipt			
04/19/2019 21:54:42			
PACER Login:		Client Code:	
Description:	Docket Report	Search Criteria:	1:18-cr-00032-DLF
Billable Pages:	24	Cost:	2.40

Research news articles in archive.org from this time, and one will find the networks began reporting that the Indictment was “falling apart” all of a sudden. There is a method of waiting. Now Russia is prosecuting (Order to Show Cause) the Department of Justice for trial/witness tampering.

Further, if this works for federal prosecution, of course it works for traffic tickets! Many have simply asked the officer, “What will happen if I don’t sign the ticket?” To which the reply is, “You go to jail.” and that is a valid reason (as evidenced in their own recordings which one may obtain for a few dollars and an Online Open Orders Request to the local police department for the dash AND bodycam footage) that one is forced to sign the ticket/contract under threat of imprisonment.

When receiving the ticket, sign “Under Duress” and no name. If the officer doesn’t accept that signature, sign “Under Duress, [signature]” in brackets as shown. Anything placed in “[]” is considered “non-existent; only for reference” in legal and English terms. **If the officer is corrupt and still won’t accept the writing under duress, write “V.C. [signature]”** which means Vi Coactus (V.C.) and is a Latin term meaning “having been forced” or “having been compelled.” Most officers are classically trained in Latin, so it’ll go over their head.

If one is reading this after the event and already accepted the ticket, but it was received within the last seventy-two (72) hours, one still has the ability to rescind by invoking UCC Section 2-608: Reasonable Time for Revocation of Acceptance. The accepted time for revocability is exactly seventy-two hours from the contract’s time stamp. If no time stamp exists, an acceptance at 8:00AM Monday will finalize 12:00PM Wednesday (not 8:00AM). All one needs to do is send a letter Certified Mail that cites UCC Section 2-608 stating “the signature is hereby rescinded”, politely demand the

contract [ticket] be revoked. If one is still summoned to court, there are multiple defenses now to rely on.

Without a signature, the courts have no verified complaint. They have no one consenting to answer to the charge laid against their *legal person*, nor have the courts established *in personam* jurisdiction. One may have the *driver's license*, but so long as one states "*I do not consent to the stop*", and are not presenting it for identification, but for competency. Then one has given everything they need.

The court case gets dismissed and it's all over. Of course, if an ignorant judge wishes to proceed, simply file challenges to the jurisdiction by Special Appearance and it should be the last heard on that matter.

The Refusal For Cause is per UCC 3-501, which covers honor and dishonor in commercial law. In short, one must always stay honorable. To dishonor, in the highest courts, is met with the harshest penalties (death). Of course, in admiralty the penalties are much lower, but the idea of honor remains nevertheless.

5 WAYS TO RESPOND TO A PRESENTMENT

1. **ACCEPTANCE (HONOR):** Accept and carry out performance of the presentment. (e.g. The IRS says "You owe \$20,000," so one pays it.)
2. **CONDITIONAL ACCEPTANCE (HONOR):** Accept upon party meeting conditions and re-draft. (e.g. the conditional acceptance for value and the negative averment says "Sure, I'll pay, upon proof of claim!")
3. **REFUSAL FOR CAUSE (WITHOUT DISHONOR):** No Dishonor. Erroneous claim refused for cause. No liability evidenced. [Pursuant to UCC 3-501 and Calif Comm Code 3501]
4. **ARGUMENT (DISHONOR):** Argue the issues. (e.g. who are you, what's your authority, I don't owe that much, or arguing the stated issue.)
5. **REFUSAL (DISHONOR):** Default by remaining silent.

INCLINE JUSTICE

State of Nevada

Citation #

Event #

No

TRAFFIC

W

SR28 W OF LAKESHORE BLVD

CLEAR

08/20/2014 2349

DRIVER

DRY

08/20/2014 2349

Front/Moving

LIGHT

W

M

602

13

BRO

HAZ

No

NV

Restrictions/Compliance

Endorsements

No

No

NV

2000

EXPLORER

SU

TAN

No

484B.600.1A

53849

35

49

45

NRS BASIC SPEED 1-10 MPH OVER POSTED LIMIT

49 IN 35 ZONE

53

45

13

7

118

482.545.1

53656

NRS OPER UNREG VEH/TRAILER/SEMI

NO REGISTRATION

93

65

15

7

178

70.3851

54749

WCC OPER-PROOF OF INS REQ

NO PROOF

603

120

13

7

743

X

484

6025

X

Issued

3025

X

INCLINE JUSTICE COURT

Phone: 775-832-4100

865 Tahoe Blvd #301; Incline Village, NV 89451

Same as Physical

10/07/2014 at 0830

1039

STEP #2: NOTICE OF SPECIAL APPEARANCE

When a court action has been brought, there is one line of thought to keep: Challenge to Jurisdiction. **Even the Supreme Court has been forced to reverse its decision upon a post-judgment claim of subject-matter jurisdiction.** That is because *subject-matter jurisdiction can never be waived or lost*. Upon receiving Service of Process of a court action, one must reply informally by Notice of Special Appearance and Challenge to the Jurisdiction filed with the court.

When appearing *physically* or *in documents* in court, **always** come via Special Appearance, never by General Appearance. Worst yet, one who fails to appear in court will have the un-rebutted facts entered into records as true and correct. Pertaining to trusts, the judge will rule over ANY absent trust as a “constructive trust” allowing the judge to say who is grantor, trustee and beneficiary, *which is never to one’s benefit!* Therefore, **one MUST APPEAR before the court once properly served.**

“[Appearance] in practice. A coming into court as party to a suit, whether as plaintiff or defendant. The formal proceeding by which a defendant submits himself to the jurisdiction of the court.” Flint v. Comly, 97 Me. 251, 49 Atl. 1044; Crawford v. Vinton, 102 Mich. 83, 62 N.W. 988.

*“An appearance may be either General or **Special**; the former is **a simple unqualified or unrestricted submission to the jurisdiction of the court**, the latter a submission to the jurisdiction for some specific purpose only, not for all the purposes of the suit.”* National Furnace Co. v. Moline Mallebale Iron Work (cc.), 18 Fed. 864. Black’s Law Dictionary, 2d Ed. (1910), p.89, Title “Appearance”.

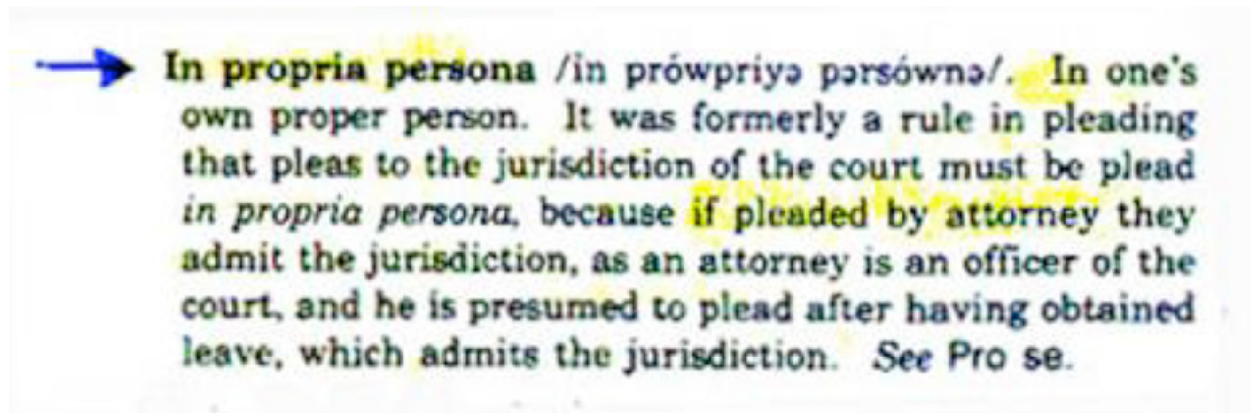
“A Special Appearance is an appearance solely for the purpose of testing the jurisdiction.” Bailey v. Schrada, 34 Ind. 261; Huff v. Shepard, 58 Mo. 246. Also see Black’s Law Dictionary, 6th Ed. (1990), p. 97, title: “Appearance”.

When pleading lack of venue, jurisdiction, etc. must be by “Special Appearance” **from the first instance** or the personal jurisdiction argument will be deemed waived for all intents and purposes, **and** one must appear by “Special Appearance” **continually** until a determination of venue and jurisdiction is rendered. Even then, one must continue the objections made on “Special Appearance” if one wishes to challenge jurisdiction in Appeals.

The limited purpose of “Special Appearance” is to contest whether personal jurisdiction exists. And if the merits of a case (or lack thereof) are addressed at any time before a determination of venue and personal jurisdiction is made then this will constitute a waiver and cause the court to rule against the party contesting venue and personal jurisdiction.

However, one may appear in court and assert they “...***come by Special Appearance, in propria persona***, to contest the venue of the process and whether the court has personal jurisdiction.” Anything else will result in making a General Appearance and submitting to the jurisdiction of the court. The issues would be moot from this point on.

It is a rule that actions to challenge personal jurisdiction **MUST be done in propria persona**, because, if pleaded by an attorney, they admit the jurisdiction, as an attorney is an officer of the court and is presumed to plead after obtaining leave. § 4 ATTORNEY & CLIENT 7 C.J.S.



PROPRIA PERSONA (PRO PER): In his own person.

PRO SE: For himself; in his own behalf; in person.

Those definitions are found in *Black's Law Dictionary, 5th Ed. (1979), p. 712, Title "In propria persona"; p. 1099, Title "Pro se."* Notice the difference in the definition of "pro se" and "in propria persona." First, the definition of "pro se" makes no reference to "Special Appearances" or "pleas to the jurisdiction" whatsoever; second, **if one appears pro se they appear "for yourself" not "as yourself."** When appearing *in propria persona*, one appears "in your own proper person," and is not assuming a second character as counsel for self. **To appear pro se also creates the same dilemma concerning leave of court.**

The definition of "pro se" indicates that one assumes two characters: one as the litigant, and two as counsel for the litigant, even though you are the only body appearing. As counsel for oneself, one is deemed to have leave of the court to proceed.

We have found that statutory tribunals continually try to confound the matter by referring to a party who is appearing *in propria persona* as a "*pro se* litigant." We cannot acquiesce in this mislabeling and it must be denied by affidavit whenever it happens.

Labeling someone a "*pro se* litigant" when making a Special Appearance is merely an attempt by the tribunal to evade the issue by establishing a record that one has obtained leave of the court. **If not objected to being labeled pro se (whether verbally or in writing), then one will be deemed to have admitted that status by tacit acquiescence (agreement by silence).**

Clearly, the reason we must appear *in propria persona* is because no leave of court is necessary to appear in such a manner. If we were to appear *pro se* or by an attorney, court appointed or otherwise, we would waive any arguments against venue and personal jurisdiction because to appear *pro se* or by attorney we must obtain leave of the court.

LEAVE OF COURT. Permission obtained from a court to take some action which, without such permission, would not be allowable; as, to receive an extension of time to answer a complaint. *Fed. R. Civil P. 6. Black's Law Dictionary, 5th Ed. (1979), p. 801, Title "Leave of court"*.

If the court grants such leave, it has given a remedy that it must have jurisdiction *in personam* to give. This is done by acquiring some form of waiver or acquiescence from the accused party which acts as an estoppel against any argument against the venue of the process or the personal jurisdiction of the tribunal. Even if the court does not expressly give leave on the record, it will be deemed given when the question arises in a higher court.

Most of the things that a court does, is to assure that personal jurisdiction will not be in contest later at the arraignment. At arraignment, the court asks if the defendant wants a court-appointed attorney or if he will use his own attorney (both require leave of the court), and asks the defendant to enter a plea to the charges. They may grant a "set over" for the purpose of acquiring an attorney or for entry of a plea. Any one of these can destroy any arguments against venue and personal jurisdiction in the future. No plea should be entered because jurisdiction has not been yet proven! One may simply state "*By special appearance I must state that jurisdiction has not yet been established, therefore I cannot enter a plea.*"

If one has been forced into the court by some form of process, duress or compulsion, this process must be contested in the **first instance**. If we make any appearance, even under duress, without having contested the process, we will be making what is known as a voluntary or General Appearance, and if we make such an appearance we acquiesce jurisdiction of our person to the court and waive the issue of venue.

*"Within the meaning of a General Appearance comes any motion which calls into action the powers of the court for any purpose except to decide upon its own jurisdiction: Wood v. Young, 38 Iowa 106; Cropsey v. Wiggernhorn, 3 Neb. 116; that is to say, any motion which asks for relief which can only be granted on the hypothesis **that the court has jurisdiction** of the cause and of the person."* Coad v. Coad, 41 Wis. 26.

SUI JURIS: Lat. Of his own right; possessing full social and civil rights; not under any legal disability, or the power of another, or guardianship. Having capacity to manage one's own affairs; not under legal disability to act for one's self. Story, Ag. § 2. Black's Law Dictionary, 2d Ed. (1910), p. 1121, Title "Sui Juris." Also, Black's Law Dictionary, 6th Ed. (1990), p. 1434, title: "Sui Juris".

Also, when appearing to challenge the venue of the process and the jurisdiction of the court, that is jurisdiction of our person, we appear "sui juris." This implies that we appear specially as a matter of our own right without consent or leave from the court or anyone else, that we are not under disability of any legislative act, State or Federal, such as Social Security, Driver's License, etc., that would void sui juris status, so that we can properly raise the necessary issues at a later time. By appearing *sui juris*, we were able to show, as a matter of record, that we did not request nor obtain leave of the court to appear specially to challenge the court when trying to obtain personal jurisdiction. **To maintain the position on venue and personal jurisdiction, we must be consistent. Any waiver can cause an estoppel and our position is lost having been made void by our own waiver.**

NOTE: Depending on the district court's regulations, one may be required to *answer* (to the complaint) before submitting a Motion for Dismissal. Upon answer (giving personal jurisdiction, but only to dismiss) one would submit what is called a Motion for Summary Judgment (use any template online) to dismiss the case.

NOTICE OF SPECIAL APPEARANCE INSTRUCTIONS

1. One must **send this Notice of Special Appearance within 21 days of being served**, we suggest 15 days to prevent accidental default.
2. **A Notice of Special Appearance will prevent a default** but does not give away strategy and has no potential to harm one's case. An answer, if not done properly, may waive certain defenses or give away strategy or make admissions that cannot be unmade. It is always wiser to send a Notice of Special Appearance instead of an answer.
3. **Fill out each blank line.**
 - a. County (look to the caption of the complaint served)
 - b. Plaintiff Name (look to the caption of the complaint served)
 - c. Defendant Name (look to the caption of the complaint served)
 - d. Case Number (look to the caption of the complaint served)
 - e. Footer – fill out name, address, and phone on each page
4. Always **send a copy to Opposing Counsel and the Court** if there is a case number
 - a. Opposing attorney's contact info is on the bottom right footer of complaint
5. **Print two copies of the completed notice of appearance & keep original for the record**
 - a. Send one copy to the attorney certified
 - b. Send one copy first class mail to the court (regular stamp)

See the sample letter below:

IN THE SUPERIOR COURT OF THE STATE OF _____
IN AND FOR _____ COUNTY

Name: _____,	}	CASE NO.: _____
Plaintiff(s),	}	
v.	}	NOTICE OF <u>SPECIAL APPEARANCE</u> OF
	}	DEFENDANTS RESERVING ISSUES OF
Name: _____,	}	SUBJECT-MATTER JURISDICTION AND
Defendant(s).	}	PERSONAL JURISDICTION, VENUE,
	}	INSUFFICIENT AND DEFECTIVE PROCESS
	}	AND SERVICE, JOINDER.

NOTICE OF SPECIAL APPEARANCE IN ALL ACTIONS

COMES NOW _____, and makes their appearance and shall henceforth be referred to as 'defendant'. Substantial issues are presented which dramatically affect standing, service and sufficiency of process, subject-matter jurisdiction, joinder, venue, and other strictly procedural and jurisdictional defenses. Affirmative Defenses may be offered at the appropriate time, but are not advanced in this Special Appearance. These issues are not waived, and are expressly reserved for writs, pleadings, motions, briefings and actions expedited consistent with orderly procedure, as appropriate. This appearance is intended to give notice that the process is under way to either attempt to retain an attorney, legal counsel or in the alternative proceed in propria persona in the same. Defendant requests reasonable time for this purpose and this process will not require unreasonable time to resolve. **Please take no default herein without advance written notice pursuant to relevant law and procedure.** Forward all documents, notices, writs, pleadings, and/or communication to the below mailing address:

by: _____

Date: _____

Printed Name: _____

Phone Number: _____

STEP #3: CHALLENGE PERSONAL JURISDICTION

Within Day 30, after one has been served, file a “Challenge to the Jurisdiction” pursuant to Federal Rules of Civil Procedure Rule 12 (b) 2, lack of *in personam jurisdiction*. **All challenges to jurisdiction can be submitted to the court *without answering or PLEAding***, i.e. without giving jurisdiction to the court by submitting a Motion. And unless the opposition can prove MINIMUM CONTACTS within the aforementioned jurisdiction, the case will be dismissed.

“Once JURISDICTION is challenged, it must be proven.” Hagans v. Lavine., 415 U.S. 528 (1974)

“JURISDICTION can be challenged at any time, even on final determination.” Basso vs. Utah Power & Light Co., 495 F. 2nd 906 at 910 (1974)

Generally, the trial court is a statutory court (tribunal) of limited or special jurisdiction, and summarily determines to have jurisdiction without the plaintiff proving jurisdiction on the face of the record until such venue and jurisdiction is challenged. Once challenged, the venue of the process and jurisdiction of the person has to be proven upon the court record to exist.

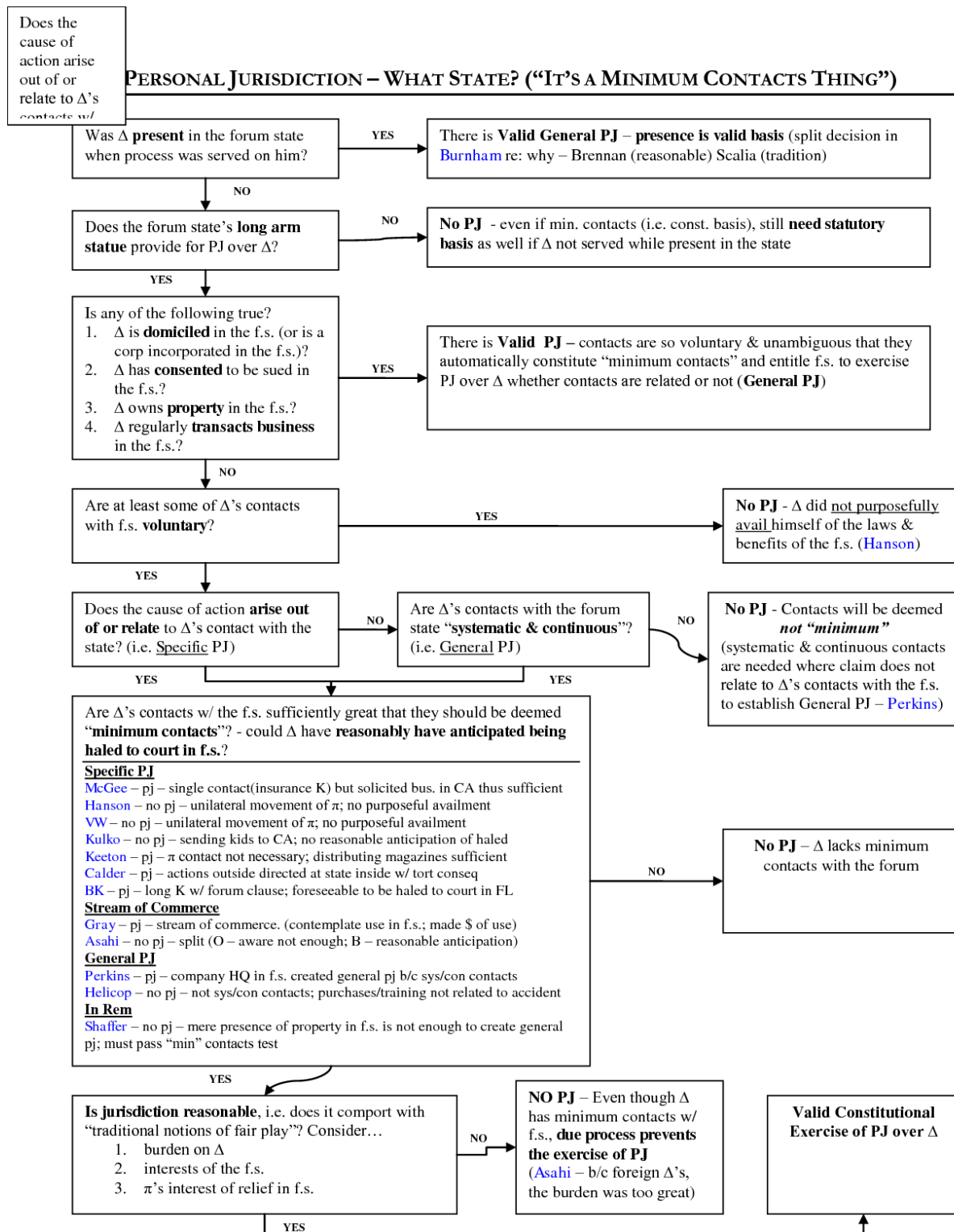
That's why Randy Geiszler, when charged with statutory charges and forced to appear before a statutory tribunal to defend against said charges, has appeared specially (Notice of Special Appearance) in the 6 traffic cases wherein venue and jurisdiction have been challenged. Just like the **tax case** of *U.S., et al. v. Barclay*, (1991), U.S. Dist. Ct., Northern Division of Texas, Amarillo Division, civil action no. CA 2-91-0059 wherein Troy Barclay appeared specially to challenge the venue and jurisdiction of the statutory charge. Said case was **dismissed by the opposing party**.

Just like the **legal process case** of *State of Illinois v. Wesselman*, (1997), Effington County Circuit Court, No. 97-CM-118 wherein Mr. Wesselman appeared specially to challenge venue and jurisdiction against said charge. Said case was **dismissed by the opposing party**.

Just like the **traffic case** of *Commonwealth of Kentucky v. Pummer*, (1995), Graves County District Court, No. 95-M-00373 wherein Mr. Pummer appeared specially to challenge venue and jurisdiction against said statutory charge. Said case was **dismissed by the opposing party**.

Just like the **traffic case** of *State of Utah v. Romney*, (1998), Kane County Justice Court, No. TR981396 wherein Mr. Romney appeared specially to challenge the venue of the process and jurisdiction of the person against said statutory charges. Said case was **dismissed by the opposing party**.

Just like the **tax case for criminal contempt** in *U.S. v. Simpson*, (1994), U.S. Dist. Ct., Denver, Colorado, No. 94-CR-230 wherein Mr. Simpson appeared specially to challenge venue and jurisdiction against said charge. **Said case was dismissed by an ACQUITTAL** from the Chief Judge of the U.S. Dist. Ct., Denver, Colorado.



See the sample letter below:

IN THE SUPERIOR COURT OF THE STATE OF _____
IN AND FOR _____ COUNTY

Name: _____,	}	CASE NO.: _____
Plaintiff(s),	}	
v.	}	
	}	NOTICE OF <u>SPECIAL APPEARANCE</u> OF
	}	DEFENDANTS RESERVING ISSUES OF
Name: _____,	}	SUBJECT-MATTER JURISDICTION AND
Defendant(s).	}	PERSONAL JURISDICTION, VENUE,
	}	INSUFFICIENT AND DEFECTIVE PROCESS
	}	AND SERVICE, JOINDER.

DEFENDANT'S CHALLENGE TO THE JURISDICTION and MOTION TO DISMISS

To The Honorable Judge of This Court:

COMES NOW _____, in his official capacity, and files his challenge to the jurisdiction and shows the Court as follows:

I. CHALLENGE TO THE JURISDICTION

The Plaintiff(s) in this lawsuit have not shown sufficient Minimum Contacts within the forum “...*such that the maintenance of does not offend traditional notions of fair play and substantial justice.*” International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945).

Such an analysis requires the court to “*evaluate according to the following [five] factors: (1) the burden on the defendant [of litigating in the forum state]; (2) the interests of the forum state [in deciding the action]; (3) the interests of the plaintiff in choosing the forum [for obtaining relief]; (4) the efficiency concerns [of the interstate judicial system’s interest in obtaining the most efficient resolution of controversies]; and (5) [the shared interest of the several states in furthering fundamental substantive] social policy interests.*” Asahi Metal Indus. Co., Ltd. v. Superior Ct. of California, 480 U.S. 102, 113 (1987)

The Defendant maintains a principal situs without federal jurisdiction and not as a citizen of the United States, but as a citizen of the several states. “*an individual can be a Citizen of one of the several states without being a citizen of the United States,*” U.S. v. Anthony, 24 Fed. Cas. 829, 830 And to further remark on the natural and inherent rights afforded a citizen of the several states: “*Both before and after the Fourteenth Amendment to the federal Constitution, it has not been necessary for a person to be a citizen of the United States in order to be a citizen of his state. [citing U.S. v. Cruikshank, supra.]*” Crosse v. Bd. of Supervisors, 221 A.2d 431 (1966)

Defendant has not availed itself of the privilege of conducting activities within the forum state, thereby invoking the protection of those laws while at the same time creating the reasonable expectation that it

could be hailed into court to answer to them. *"The foreseeability that is critical to due process analysis is not the mere likelihood that a product will find its way into the forum State, but rather is that the defendant's conduct and connection with the forum are such that he should reasonably anticipate being hailed into court there. Nor can jurisdiction be supported on the theory that petitioners earn substantial revenue from goods used in [the forum state]."* World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980).

Further, Defendant(s) have rescinded any benefits and/or privileges known and unknown within the forum state; this has been recorded in affidavit, witnessed by two private individuals or a notary serving in a private capacity. Said affidavit can be produced or reaffirmed for the court. As the maxim of law states, *"An un rebutted affidavit becomes the judgment in commerce."*

The purpose of the minimum contacts standard is to give individuals *"fair warning that a particular activity may subject [them] to the jurisdiction of a foreign [state],"* Shaffer v. Heitner, 433 U.S. 186, 218 (1977) and to give a *"degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit."* World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980). It is a fact that *"the mere unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum state."* (Ibid.)

"Where a forum seeks to assert specific jurisdiction over an out-of-state defendant who has not consented to suit there, this "fair warning" requirement is satisfied if the defendant has "purposefully directed" his activities at residents of the forum. Keeton v. Hustler Magazine, Inc., 465 U.S. 770, 774 (1984)" Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472 (1985). In order to establish requisite minimum contacts, the defendant must have received "benefits legally from the protection provided by the laws of the forum state for its products, as well as economically from indirect sales to forum residents." DeJames v. Magnificence Carriers, Inc. (3d Cir. 1981) 654 F.2d 280, 285.

Justice Sandra Day O'Connor delivered the unanimous opinion of the Court in Asahi Metals v Superior Ct. of California (1987). The Court held that the state must show that the defendant purposefully established "minimum contacts" by directing products toward a particular state. Although the defendant placed its products in a stream of commerce that eventually led to [forum state], there was no evidence that the company marketed or in any way anticipated sales in [forum state].

"...liberalization of the minimum contacts rule has not proceeded unabated. Shortly after McGee was decided, the Supreme Court warned that the state courts' jurisdiction over nonresidents is not limited solely by the inconvenience of litigating in a foreign tribunal. In addition to protecting defendants from the burdens of "distant litigation," the jurisdictional limits imposed by the due process clause "are a consequence of the territorial limitations on the power of the respective States." (Hanson v. Denckla (1958) 357 U.S. 235, 251 [2 L.Ed.2d 1283, 1296, 78 S. Ct. 1228].) Therefore, even when a nonresident defendant would suffer only minor inconvenience as a result of the exercise of jurisdiction, "minimal contacts" with the forum are constitutionally required. (Ibid.) The Hanson court did not define the "minimal contacts" requirement except to hold that "it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." (Id., at p. 253 [2 L.Ed.2d at p. 1298].)" Asahi Metal Indus. Co., Ltd. v. Superior Ct. of California, 480 U.S. 102, 113 (1987)

Notably, a defendant's mere awareness that the stream of commerce may or will sweep the product into the forum state does not convert the act of placing a product in the stream of commerce into an act purposefully directed towards the forum state. (Ibid.) "...mere purchases [made in the forum state], even if occurring at regular intervals, are not enough to warrant a state's assertion of [general] jurisdiction over a nonresident corporation in a cause of action not related to those purchase transactions." *Helicopteros Nacionales v. Hall*, 466 U.S. 408 (1984), further "transient contact such as attendance at trade shows, advertising and mere solicitation has been rejected as a jurisdictional basis" and found that it "is insufficient to establish general jurisdiction [on a doing business standard]." *Spartan Motors, Inc. v. Lube Power, Inc.*, 337 Ill.App.3d 556, 562 (2nd Dist. 2003.)

II. MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION

All contracts with Defendant(s) stipulate mediation and finally private arbitration in cases of disagreement for all parties active in mutual private-commerce. If there is no original wet-ink signed contract to show and there has been no harm under equity that gives rise to a tort, the forum is deemed unacceptable. Because Plaintiff(s) fail to allege (and cannot assert) a lawfully redressable injury, the Court lacks jurisdiction and should dismiss the case with prejudice.

III. CONCLUSION AND PRAYER

Defendant(s) respectfully requests that the Court dismiss Plaintiff's Petition, with prejudice; that Plaintiffs take nothing by reason of this suit, as well as such further and other relief, at law or in equity, to which Defendant(s) may be justly entitled.

CERTIFICATE OF SERVICE

Plaintiff(s) or Plaintiff(s) Attorney Name / Address / Phone

Defendant(s) or Defendant(s) Attorney Name / Address / Phone

I CERTIFY that I mailed / delivered a copy of this MOTION and AFFIDAVIT to:

☐ Plaintiff at the above address or ☐ Plaintiff's attorney ☐ Defendant at the above address or ☐ Defendant's attorney

by: _____
Defendant

Date: _____

Printed Name: _____

STEP #4: CHALLENGE SUBJECT-MATTER JURISDICTION

Should *in personam jurisdiction* be obtained, one will then challenge *subject-matter jurisdiction*. Further, one may bring forward the pertinent challenges that can be raised under the Federal Rules of Civil Procedure Rule 12(b)(1 *through* 7); especially pay heed to FRCP 12(b)(6) and the fact that **the accusation(s) must be made under penalty of perjury**. But even if a form or testimony were given under penalty of perjury by the [world's dumbest] bureaucrat who works in a "cover your ass" environment, it's still all about *subject-matter*!

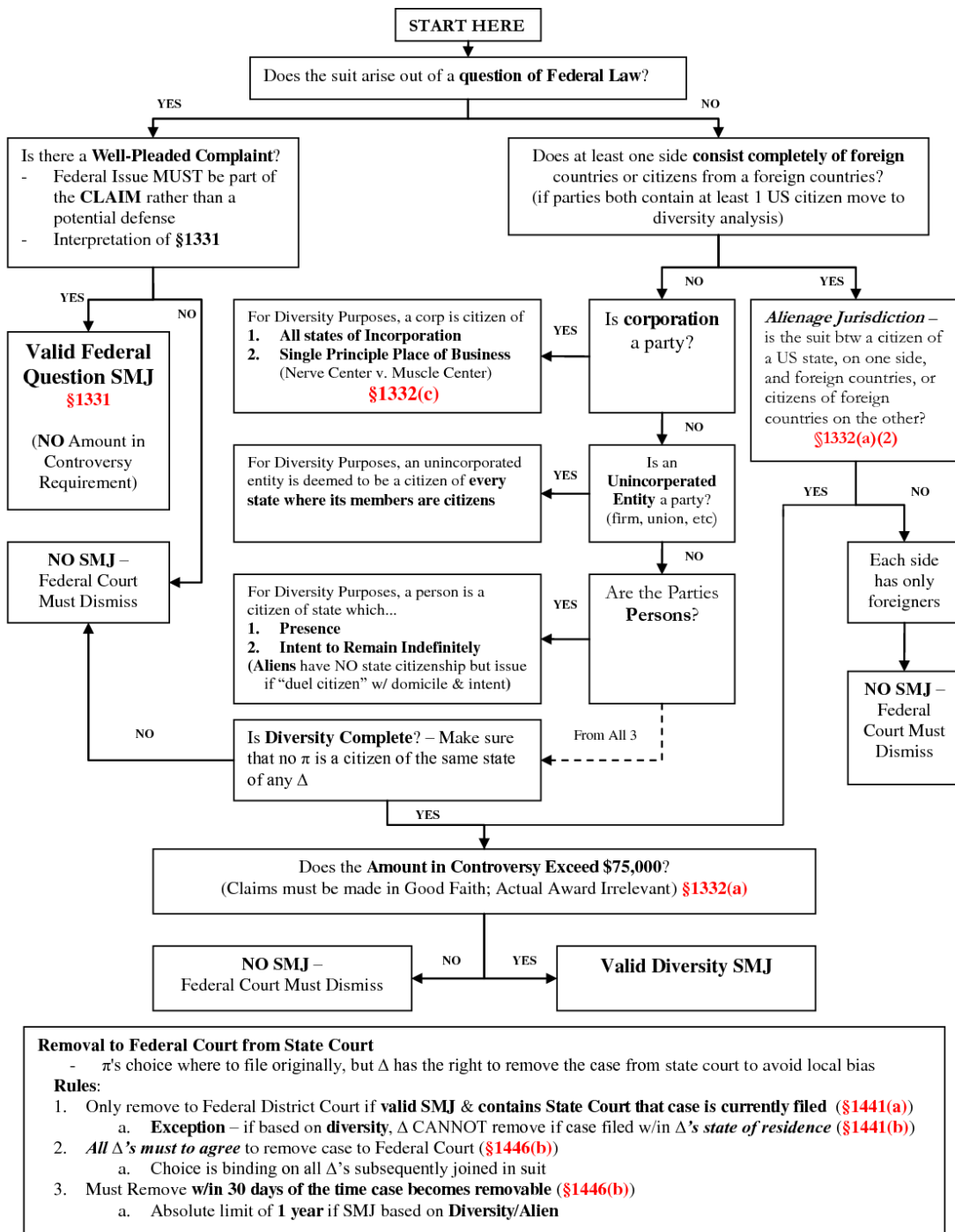
As Carl Weiss so concisely stated "Subject-matter jurisdiction is like the hub around which the wheel turns: without the hub, the wheel cannot turn with any real credibility." **Subject-matter consists of two parts: 1) the statutory or common-law authority of the court to hear the case and the appearance and 2) testimony of a competent fact-witness** (i.e., sufficiency of pleadings). It can never be waived, and it cannot be obtained by lapse of time, consent of the parties, or any event other than the sufficiency of pleadings by the party bringing the suit (i.e., the plaintiff must sufficiently show beyond reasonable doubt that the court has jurisdiction to hear the cause). However, although it may have been established by the pleadings, subject-matter can still be lost due to, *inter alia*—

- Fraud upon the court;
- The judge's failure to follow proper procedure;
- The unlawful activity or undisclosed conflict of interest of the judge (e.g., involvement in a scheme of bribery);
- The court exceeding its statutory authority;
- Violation of due process;
- Improper representation of a party before the court, improper issuance of a summons, or defective service of process;
- Proper notice not being given to all parties by the movant;
- The court basing its order or judgment upon a void order or judgment; and
- Violation of public policy.

"The law provides that once State and Federal jurisdiction has been challenged, it must be proven." Main vs. Thiboutot., 100 S Ct. 2502 (1980).

"Where there is absence of proof of jurisdiction, all administrative and judicial proceedings are nullity, and confer no right, offer no protection, and afford no justification, and may be rejected upon strict collateral attack." Thompson vs. Tolmie., 2 Pet. 157., 7 L. Ed. 381. Griffith vs. Frazier., 8 Cr. 9., 3 L. Ed. 471.

SUBJECT MATTER JURISDICTION – WHICH COURT? (“IT’S A CITIZENSHIP THING”)



See the sample letter below:

IN THE SUPERIOR COURT OF THE STATE OF _____

IN AND FOR _____ COUNTY

Name: _____,	}	CASE/CITATION NO.: _____
<i>Alleged Plaintiff(s),</i>	}	
v.	}	CHALLENGE TO THE JURISDICTION
	}	AND MOTION TO STRIKE/DISMISS
Name: _____,	}	FOR LACK OF STANDING, COMES BY
<i>Alleged Defendant(s) in error.</i>	}	SPECIAL APPEARANCE
	}	

CHALLENGE TO THE JURISDICTION and MOTION TO STRIKE/DISMISS

To The Honorable Judge of this Court, comes now the alleged Defendant in error who by special appearance, moves this Court to strike/dismiss the complaint for lack of ratification of commencement, no *corpus delicti*, no plaintiff, lack of *in personam* and *subject-matter jurisdiction*, and shows the Court as follows:

I. LACK OF RATIFICATION OF COMMENCEMENT or LACK OF CLAIM

FEDERAL AND STATE RULES OF CIVIL PROCEDURE > RULE 17(a) Real Parties in Interest:

“Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in that person’s own name without joining the party for whose benefit the action is brought; and when a statute of the United States so provides, an action for the use or benefit of another shall be brought in the name of the United States. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.”

FEDERAL RULES OF CIVIL PROCEDURE (F.R.C.P.), RULE 1:

“There is one form of action – the civil action.”

There is neither an injured party nor trespass. As all crimes are commercial, (27 CFR 72.11) and every alleged crime has to have “nature and cause”, and be prosecuted in the name of the people of the state.

There is no corpus delicti. Crime is a breach of laws or governing authority. While this alleged “offense” or “infraction” was a violation of the “law” it was not a crime. As my limited understanding permits, these matters are criminal. Notwithstanding, proof of the corpus delicti is required in all criminal matters:

“Proof of the corpus delicti is required in all criminal cases...There are three basic elements in the proof of a crime: (1) the occurrence of loss or injury, (2) criminal causation of that loss or injury and (3) the identity of the defendant as the perpetrator of the crime. However, it is firmly established in this State that the term corpus delicti embraces only the first two of these elements-loss or injury and criminal causation.” State v. Hill, 221 A.2d 725, 728.

*“It is true that the above are all cases of felonious homicide, but the doctrine [of corpus delicti] is in no-wise peculiar to such cases; **it is equally applicable to all criminal cases.**”* State v. Gelzeiler, 128 A. 240

There is no plaintiff. This is an adversarial proceeding, and as it is to the alleged defendant’s limited understanding, adversarial proceedings require *real* adversaries:

*“Properly understood the general principle is sound, for courts only adjudicate justiciable controversies... **courts must look behind names that symbolize the parties** to determine whether a justiciable case or controversy is presented.”* United States v. Interstate Commerce Commission, 337 U.S. 426 (1949).

II. CHALLENGE TO THE SUBJECT-MATTER JURISDICTION

The Plaintiff(s) has not brought competent fact-witness(es) for a sufficiency of pleadings. A fact-witness being one who has personal knowledge of events pertaining to the case and can testify as to things they have personally observed or witnessed. May it be formally recognized now and here forth that expert witness or non-fact-witness testimony is rejected for sufficiency of pleading against the Defendant(s).

“For a crime to exist, there must be an injured party (Corpus Delicti). There can be no sanction or penalty imposed on one because of this Constitutional right.” Sherer v. Cullen 481 F. 945.

“A plea to the jurisdiction challenges the court’s authority to determine the subject matter of the controversy.” Bland Independent Sch. Dist. v. Blue, 34 S.W.3d 547, 553-54 (2000).

The purpose of a challenge to the jurisdiction is to *“defeat a cause of action without regard to whether the claims asserted have merit.”* Id. at 554. As an initial matter, the plaintiff must *“allege facts that affirmatively demonstrate the court’s jurisdiction to hear the cause.”* Texas Association of Bus. v. Texas Air Control Bd., 852 S.W.2d 440, 446 (1993).

“Whether a plaintiff has alleged facts that affirmatively establish subject-matter jurisdiction, and whether undisputed evidence of jurisdictional facts establish a trial court’s jurisdiction, are both questions of law for the trial court to decide.” Texas Department of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 226 (2004).

“When a defendant’s plea to the jurisdiction challenges the plaintiff’s pleadings, the court determines whether the plaintiff alleged facts that affirmatively demonstrate subject-matter jurisdiction.” Id.; City of El Paso v. Heinrich, 284 S.W.3d 366, 378 (2009).

“If the pleadings do not contain sufficient facts to affirmatively demonstrate the trial court’s jurisdiction, but do not affirmatively demonstrate incurable defects in jurisdiction, the issue is one of pleading sufficiency and the plaintiffs should be afforded the opportunity to amend.” Miranda, 133 S.W.3d at 226-27. However, *“if the pleadings affirmatively negate the existence of jurisdiction, then a plea to the jurisdiction should be granted without allowing the plaintiffs an opportunity to amend.”* Id. at 227; Creedmoor-Maha, 307 S.W.3d 505, 513.

If any tribunal (court) finds absence of proof of jurisdiction over a person and subject matter, the case must be dismissed. Louisville v. Motley 2111 US 149, 29S. CT 42. *“The accuser bears the burden of proof beyond a reasonable doubt.”*

“Lack of Federal Jurisdiction can not be waived or overcome by agreement of parties.” Griffin v. Matthews, 310 F supra 341, 342 (1969): and *“Want of jurisdiction may not be cured by consent of parties.”* Industrial Addition Association v.C.I.R., 323 US 310, 313.

III. MOTION TO STRIKE/DISMISS

Because Plaintiff(s) fail to show standing, personal jurisdiction, competent fact-witness(es) and cannot assert a lawfully redressable injury in equity, the Court lacks jurisdiction and should dismiss the case with prejudice. Further, it is asked that Plaintiff redress Defendant with proper equity for time and expenses spent.

CONCLUSION AND PRAYER

Defendant(s) respectfully requests that the Court dismiss Plaintiff's Petition, with prejudice; that Plaintiffs take nothing by reason of this suit, as well as such further and other relief, at law or in equity, to which Defendant(s) may be justly entitled.

CERTIFICATE OF SERVICE

Plaintiff(s) or Plaintiff(s) Attorney Name / Address / Phone

Defendant(s) or Defendant(s) Attorney Name / Address / Phone

I CERTIFY that I mailed / delivered a copy of this MOTION and AFFIDAVIT to:

☐ Plaintiff at the above address or ☐ Plaintiff’s attorney ☐ Defendant at the above address or ☐ Defendant’s attorney

by: _____

Alleged Defendant in error, *in propria persona*

Date: _____

Printed Name: _____

STEP #5: INVOKE ARTICLE III COURT (VALID TORTS BEWARE)

The first challenges are to jurisdiction, which means that the court has the authority to decide the legal issues which affect the rights of the parties in the case. **Now we need to challenge the venue, which decides whether the court is in the best location to hear the case.** When using a private express trust, there is absolute protection as trustee under a correctly written indenture. Therefore, court actions should not trouble the prepared trustee(s). **Only when there is an action brought against the person or the threat of imprisonment** that one should take due caution and **invoke a common law court, known as an *Article III Court* - but only when a valid tort/injury has occurred!** All victimless crimes simply need to have subject-matter jurisdiction challenged to be defeated (unless *ultra vires* occurs).

"The United States District Court is not a true United States Court, established under Article 3 of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article 4, 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts, in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court." Albrecht v. U.S. Balzac v. People of Puerto Rico, 258 U.S. 298 (1922)

If damages to a person, property or loss can be shown, it is in one's best interest to settle all matters privately via mediation and then private arbitration (private court where an adjudicator is the judge). **If a settlement cannot be reached privately and a lawsuit will proceed, if it is a commercial matter and/or damages can be shown, a court of Admiralty is competent enough to obtain jurisdiction.**

When defending against a statutory or victimless crime, **file a *Libel of Recording under Miscellaneous Recording*** to obtain remedy within a court of common law in equity - these courts are known as Article III courts (Appellate courts). 21 days later the opponent will incur a Default Judgment and that may be used to deliver an Administrative Remedy; either they drop the current case OR one will need to file a new case in the higher court for ruling in equity.

Believe it or not, one may be their own judge in victimless/statutory crimes, issuing a Notice of Default and entering judgment onto the record; however, in cases of real damage or injury a judge must rule because there will be controverted facts between the Defendant and Plaintiff who obtains sufficiency of pleadings with a fact-witness. Neither party will be able to appeal the judgment, and **it will not be based on statutes, but on the facts.** This results in a ruling that gives fair compensatory damages, rather than statutory and punitive damages.

When equity is understood, it will become clear that nothing will hold lower court judges responsible for the crimes they commit *except* a ruling from an Article III Court. This is a true common law court that only hears evidence and rules on *that evidence*. Many have simply used the court for recording and sealing power of their own orders via Administrative Default.

Very few District court hearings are heard in this original jurisdiction. *Why?* Because **without lawful money, one cannot access an Article III Court.** One does this by "filing" the reservation of rights on an original contract with a restricted endorsement, like so:

By: [First Middle Name], [Trustee (if using a Trust)] Without Prejudice

When one uses a reservation of rights per UCC 1-308/1-207 or 12 U.S. Code § 411 it is ONLY because those parts in their law are for remedy and reservation of rights to be expressed, not because one is a party to the UCC. There are other parts of the UCC where remedy is expressed, such as “Refusal for Cause” and “72-Hour Rule of Refusal,” but if filing UCC based legal arguments, the courts will run a Defendant over with it. Remember, there is no middle of the road, **you control the contracts and know the remedy or you get run over.**

The remedy provided in the 1879 “saving to suitors” clause extends to ALL CASES where common law is able to provide remedy, but **the court to access that remedy is the exclusive jurisdiction of the District Courts.**

“... saving to suitors, in all cases the right of a common law remedy where the common law is competent to give it, and [the district courts] shall also have exclusive original cognizance [and culpability of the United States to protect your property rights] of all seizures on land...”
First Judiciary Act; chapter 20, page 77. September 24, 1789.”

There is the “black letter” of the law. Further, if one looks at the seal of the US Treasury on any US Dollar today. One will see the date on the seal is 1789 because the remedy to the elastic debt note is “demand by a suitor to a common law remedy” to the contractual and commercial status of the legal tender note. **If there is a remedy in common law, only a suitor has the right to that remedy.**

If the subject-matter is one (real, presumed or assumed) **of contract** (law of the sea), and it is statutory or commercial in nature, **the remedy must be held in the civil courts.** But only if there has been no use of lawful money, no reservation of rights, and no restriction of endorsements on commercial agreements. That would leave one as a *legis persona* (peon), which does not have any property (no lawful money = no allodial title). There is no “common law remedy” and the case’s jurisdiction is within that of the lower courts. **One only has the right to the common law remedy if one has met the *lawful (money) requirements* to do so.** Thus, no filing as a “Suitor” in any State or Federal Commercial courts.

After a full reservation of rights by a living man or woman on all commercial agreements, and they demand and redemption for lawful money, then **one has RIGHT to a common law remedy where the common law is able to provide it.** That “where” has always been the District Courts. The District Courts of today can be Article III courts the same way Federal Reserve notes can be “lawful money” and the same way the United States Postal Service (USPS) can be the United States Post Office (USPO). Everything is hidden in plain view, by deception, they make war.

Although a court action may *begin* against one in a lower court, it can be brought into the higher court through a Miscellaneous Recording. **Think of it as an Appeals Process in reverse.** The Higher court nullifies the lower court’s *presumed* jurisdiction or ruling(s). **The State and lower territorial courts never have been, nor will be, the venue to access a common law remedy.**

ADMIRALTY IS GOING ON [IN ALL LOWER COURTS]

In terms of Admiralty jurisdiction a.k.a. Maritime Law being in play during *most* court proceedings, it is quite an open secret at this point in US history. This procedure of law renders the ability to utilize double-speak where a word with one accepted definition may have an alternative, and even occult, meaning. **At no time should legal definitions and common definitions be assumed to match.** Legalese is its own language. And legalese is used exclusively in Maritime Law cases.

Never forget that all judges, state and federal, operate under the presumption of maritime/admiralty jurisdiction (which is legal suicide except when suing the federal government under Admiralty to defeat their claim to sovereign immunity).

“In the admiralty, the state waives its immunity seven different ways, through the Suits in Admiralty Act (three ways), through the Bills of Lading Act, through the Admiralty Extension Act, through the Foreign Sovereign Immunity Act, and through the Public Vessels Act. 2[2] To place a pleading within the admiralty, the jurisdictional statement needs to reference 28 U.S. Code § 1333 or 1337. Tax Cases need to reference 28 U.S.C. 2461 and 2463, since all tax revenue cases are done through the admiralty, and are disguised as civil proceedings. Additionally, in the caption of the suit a reference such as “within the admiralty” is required to hold the court accountable. The courts in the United States have always been open since 1789 to receive admiralty documents, and are still required to do so by authorization of 5: Stat. 516, Ch. 188, § 5 with the enactment date of 08/23/1842, with the authority of the act of the 09/24/1789 Chapter 20.” Why We Are In The Admiralty Jurisdiction

A Federal Judge cannot even act as an Article III judge without a Suitor demanding it no matter what venue (local) the case is filed in. **Do not make the mistake that you know what they are saying**, if anything, make them clarify every single word that comes out of their mouth on the record. This is why so many Defendants end up with their “clocks cleaned” when they walk out of the courtroom, feeling like another world just took place before their eyes.

“The general system of maritime law which was familiar to the lawyers and statesmen of the country when the Constitution was adopted, was most certainly intended and referred to when it was declared in that instrument that the judicial power of the United States shall extend ‘to all cases of admiralty and maritime jurisdiction.’ ... The savings clause in that Act under which a state court may entertain actions by suitors seeking a common-law remedy preserves to the state tribunals the right to hear actions at law where a common-law remedy or a new remedy analogous to a common-law remedy exists.” Article III § 2 Clause 1 Cases of Admiralty and Maritime Jurisdiction and Admiralty Proceedings

Under these provisions the state courts are excluded from taking jurisdiction of civil maritime cases where common law remedies are claimed from savings to suitors. The Constitutional protections of common law remedy is only for one who acts as a suitor. And the court of jurisdiction for such a man is the District court(s) of the United States, as written in Article III of the Constitution. Many defendants or plaintiffs have taken cases into all courts and jurisdictions and tried to claim they were “a XYZ and not subject to the jurisdiction of _____” (insert IRS, the State, the County, etc.).

If one goes into an Admiralty court and claims “suitor status” and believes a lower court is going to “agree” with an argument that they cannot deliver remedy for, they are in for a world of disappointment.

“The principal subjects of admiralty Jurisdiction are maritime contracts and maritime torts.”
The Belfast, 7 Wall 637

“As the grant of admiralty jurisdiction to the district courts allows embraces all subjects which from their nature belong to the admiralty, and is exclusive in its general character, it follows that the Federal and the State courts of common law have no other jurisdiction over the same subjects than that which is conferred by the saving clause of the ninth section of the act of 1789, which is in the words, ‘saving to suitors in all cases the right of a common-law remedy, where the common law is competent to give it.’ and it is important to observe that the privilege is a personal one to suitors.” Steamboat Company v. Chase (1853)

Face the truth that one will probably not get the ruling “wanted” in a lower court, but in Appellate/Article III court one can get one based on the facts entered into the record. Many have tried filing an infinitude of papers at the County or State level, only to have an attorney step on their papers like they mean nothing. *And they should!* Because it’s the wrong venue for a living man (suitor) to file. One cannot cry foul because “*their rights have been violated*” only because they played “ball” in the wrong “court”!

ARTICLE III COURT FILING INSTRUCTIONS

One does not need to open a case, which costs ~\$350. **Start with the Libel of Review. It must be filed before a lower court trial has commenced. It can be filed with the US District court clerk as a “Miscellaneous Filing” for ~\$35.00, pay for it in lawful money.** That allows one to OWN that file as a suitor. **Pay all filing fees in lawful money, which would be Federal Reserve notes with an endorsement that it is being converted into lawful money and make the clerk note on the receipt.**

When one properly claims Original Jurisdiction (Article III under Rule 17.1) the clerk of court will make a note that the case should not be used by citation as a precedent, within the appellate jurisdiction of the court. **Some clerks refer to it as an “Article III Jacket” when filing. What it means in common law, is that these judges are bound by “authority,” meaning case law (*stare decisis*).** They must rule only by the opinions, decrees, orders and judgments that the appealing parties bring before the appellate court. Thus, personal opinions are injected into a ruling or decision or extremely limited.

This opens a remedy for an Article III court of the US District court. **The higher court then serves the lower court**, giving access to the common law court by reservation of rights or use of lawful money. **If someone from a lower court files a claim in a lower court, one can drag them up to the Higher court by filing a \$350 claim in Common law.** Typically, most just provide opposing attorneys with the Court filing number (the Miscellaneous Filing that has all the EVIDENCE in it) and they can access that file and choose if they want to go to court.

There is no reason to even have a judge hear the case unless the other party has a controversy and can prove fraud or actual injury to their body or property. If they do not have proof of those things, they lose. The court, in short, is YOURS, you make the law as the Sovereign (suitor), the District court Clerk seals the records, filings, notices, evidence and any responses (or lack thereof) by the respondents (other men and women, not corporate persons/judges/cops/attorneys whatever) there is no immunity for injury, theft or fraud because of a legal title.

One can put anything they want inside the Miscellaneous Filing because it is not a “case” per se, but a file outright owned. A Judge tells the Court Clerk what to put into the official file of any case. You, as a Suitor, have to think like a Judge. What would you want to put into an open file, sealed by the court and in *your true name*, not the “Corporate Trust name owned by the US Government”? Keep a copy of every application or registration, agreement or paper signed with a restricted indorsement. Take a picture of it on a smartphone and save it digitally for printing at a future date.

The clerk then records the findings (and rulings) and then serves the documents to the other parties, all in accordance with rules and regulations of the court. One can then have them file any document evidence into it and the District Court clerk will mark it “FILED” and return a Certified copy back to the NON-Domestic address, since one is suing in the original union of the States and not the foreign state of the District of Columbia, e.g.:

NON-DOMESTIC
John Alfred Doe
c/o 123 Main Street Apartment 12
New York, New York

The Libel of Review (LOR) is a basic signed and notarized document that states one's status in relation to a variety of issues. These cases are opened under the “saving to suitors” clause, which basically creates a court of common law. Since there are no judges that can function under common law, you and the case then become the court of record. Libel of Review's main purpose is to get the facts on the record. An affidavit is a sworn statement. **Do not make sworn statements, make an affirmation.** That may mean striking through the word “~~AFFIDAVIT~~” on a form and replacing it with “AFFIRMATION” or editing documents beforehand to an affirmation.

Multiple Libel of Review cases have been filed by those redeeming lawful money, it is “the court of record and competent jurisdiction” (Article III Court). Once opened in the District courts, **they can be used as a secure, recognizable record of one's standing** and preemptive notice to the District of Columbia of the facts of one's standing, rights and demands for lawful money.

RELATED NOTE: The IRS has not filed a case (that any of us know about) after the demand for lawful money has been made. Some have been redeeming lawful money for decades. There have been “filing frivolous return” offers from the IRS to a very select few redeemers, but those that have stopped with a recorded “Refusal For Cause” and “Libel of Review” which stopped any further offers from the IRS.

A standard Libel of Review would contain information like:

1. Proof of lawful money demands and use per 12 U.S. Code § 411.
2. That if known, I would have demanded and used lawful money from the first paycheck I ever worked for.
3. The limiting of Maritime Jurisdiction to Constitutional assigned courts (district courts, not local city, state or lower courts without proper contract) for me and my house. Revoking any jurisdiction presumed or assumed by the District of Columbia or any State(s), Territory, or possession(s) thereof, real or Incorporated, without express consent, in writing and sealed as described herein.
4. The exclusion of Statutory/Maritime/Commercial/Federal Reserve employees of the District of Columbia power to be held faultless and not liable for their unlawful actions against me in their “official” role as debt collectors for the US debt.
5. Reservation of all remedies from the Foreign US District of Columbia and its agents without an actual living or dead victim or property damage.
6. Revocation of any power of attorney, real, presumed or assumed from the recording of this affirmation without my signature, seal and 2 eyewitness signatures. The seal is my right thumbprint in red ink: [put it here]
7. All Government papers (Birth Certificates, Driver's License, EINs, TINs, SSNs, etc.) are based on hearsay or presumptions and have no personal eyewitness of their being true or factual and I object to hearsay evidence being used against me.

8. Notice to the principal is notice to the agent. Notice to the agent is notice to the principal.
Reservation of all rights and ability to change any or all of this affirmation without prejudice and without notice.
9. Add more proof so as to create a lawful evidence repository for the above facts.

See the sample letter below [much thanks to David Merrill]:

**In the United States District Court
for the District of [STATE]**

Name: _____, Petitioner(s), v. Name: _____, Respondent(s).	} } } } } } } }	CASE NO.: _____ - common law counterclaim in admiralty - - notice lis pendens - Re: God-given unalienable rights in original estate - Art. III; Constitution
--	--------------------------------------	--

Comes now Petitioner, of the [YOUR LAST NAME] family, making a special visitation by absolute ministerial right to the District Court, “restricted appearance” under Rule E (8). Respondent has been making false claims and this counterclaim and notice lis pendens are now in the “exclusive original cognizance” of the United States through the District Court - see the First Judiciary Act of September 24, 1789, Chapter 20, page 77.

I. FOR REVIEW OF PAST, PRESENT AND FUTURE LIBEL

Jurisdiction: In international law and according to the law of the land, agents of a foreign principal are required to file any pretended claim in the appropriate District Court prior to exercising rights to that claim. The District Courts have “exclusive original cognizance” of all inland seizures and this includes vessels in rem (Rule C (3)) such as trust organizations and legal names (abbreviated names, Mr. or Mrs. [YOUR LAST NAME], PETITIONER [YOUR ALL-CAPS LAST NAME], Respondent, [RESPONDENT NAMES], etc.)

“...the United States, ... within their respective districts, as well as upon the high seas; (a) saving to suitors, in all cases, the right of a common law remedy, where the common law is competent to give it; and shall also have exclusive original cognizance of all seizures on land...” **The First Judiciary Act**; September 24, 1789; Chapter 20, page 77. **The Constitution of the United States of America, Article III, §2, Cl. 1 Diversity of Citizenship**, U.S. Government Printing Office document 99-16, p. 741.

This fact of protocol - filing a claim in District Court according to international law - is beyond dispute and extends into antiquity:

“Meanwhile those who seized the wreck ashore without a grant from the Crown did so at their peril.” **Select Pleas in the Court of Admiralty**, Volume II, A.D. 1547-1602; Introduction - Prohibitions, Note as to the early Law of Wreck, Selden Society, p. xl, 1897.

Even the IRS recognizes the protocol:

“Place for filing notice; form. Place for filing. The notice referred to in subsection (a) shall be filed -- with the clerk of the District Court. In the office of the clerk of the United States District Court for the judicial district in which the property subject to the lien is situated...” **Title 26 U.S.**

Code § 6323 [emphasis added]

Respondent, acting as “[RESPONDENT TITLE HERE]” for the *city* of Washington, *District* of Columbia is agent of a foreign principal, a “foreign state” defined at Title 28 of the United States Codes § 1603, and Title 22 U.S. Code § 611 the **Division of Enforcement** for the **Department of Revenue**. The *Department of Revenue* of course being the execution of bankruptcy proceedings against the citizens of the United States since 1933 currently formed “International Monetary Fund” and “World Bank” etc. - the State, City municipal and police powers under United Nations charter law - protected by the same alleged positive law jural society (international treaty) by exemptions of home rule.

The District Court has acquired exclusive original cognizance of this counterclaim for the United States because this is a federal question - a Constitutional matter involving a man on the land complaining about theft and kidnap - Title 18 U.S. Code § 661 and 1201 respectively and irregular extradition from the asylum state into the United States custody, treason - Constitution, Article III § 3 and Title 18 U.S. Code § 2381 by an agent of a foreign principal, creating diversity of citizenship - Title 28 U.S. Code § 1331 and 1333 respectively. The presentments (notification) are arbitrary and capricious clearly implying that if Petitioner fails to comply with the suggested terms there will be “law enforcement” actions by way of inland seizure. Speaking historically, the districts, formed in 1790 for handling the financial obligations of the United States, could not come into existence until after formal expression of remedy in the “saving to suitors” clause (1789) quoted above and **codified at Title 28 U.S. Code § 1333. The law is paraphrased in the Internal Revenue Codes:**

*“Form. The form and content of the notice referred to in subsection (a) shall be prescribed by the Secretary. Such notice **shall be valid notwithstanding any other provision of law** regarding the form or content of a notice of lien.” Title 26 U.S. Code § 6323(F)(3) [emphasis added]*

The only excuse for the discretionary authority granted administrative agencies is the judicial oversight demonstrated in this invocation of an Article III court.

II. CAUSE OF ACTION

[CAUSE OF ACTION HERE]. This presumption is erroneous and based upon endorsements of private credit from the Federal Reserve that have never been made in good faith. The subjection to Special Drawing Rights (Paper Gold) is one thing but presuming endorsement of fractional lending practiced outside the scope of lawful money is unlawful and such presumption is defeated by law herein, *nunc pro tunc*. See Title 12 U.S. Code § 411; Petitioner is and always would have exercised the right to handle lawful money had the option ever been presented in good faith. Any contract based on endorsement is naked and void of any consideration; therefore, it is invalid. The subject presentment utilized for the claim was regular enough but Petitioner wishes to invoke judicial review “any other provision of law” and nullify any justification for any further such theft action - manifest in actual or threatened kidnap. The presentment(s) upon which the theft is based has been refused for cause timely (considering preparation of proper remedy) and the red ink original refusal for cause has been returned to Respondent in his copy of the counterclaim and summons. All other copies and the original counterclaim filed with the court have black ink (copy) refusals for cause on the presentment(s).

III. VERIFIED STATEMENT OF RIGHT

Petitioner owns the house, all property and land free and clear located at geophysical coordinates XXXX by XXXXX by XXXXX. [Insert a digital photograph of the house here].

IV. STIPULATION OF ACCEPTABLE ANSWER

The issue is simple. Agents of a foreign principal are required to file their complaint in the appropriate District Court prior to exercising any claim against a man on the land. This is international and common law. Respondent must directly address the validity of the (telephone) certificate of search that clearly shows there have been no claims filed against "Petitioner" or any pseudonym through which Petitioner may be engaged in contract. The court clerk obfuscated the remedy by denying proper certificates so Respondent and anyone else for that matter can easily research case history against Petitioner or any legal name.

Respondent may call to conduct searches and of course the Article III judge can research cases in chambers. It is however reasonable to say that if the Respondent is moving on a valid claim and judgment in the District Court then the Respondent knows what case that is.

The United States is not a party in interest to this action. Any registered attorney responding for Respondent cannot be a citizen of the United States due to the *de jure* Thirteenth Amendment of the Constitution. A certified copy is attached and fully incorporated into this counterclaim. Addressing the certificate of search is the only response that will be considered an answer to this counterclaim. Failure to answer will be met with default judgment for Petitioner according to the notice on the face of the summons.

V. STIPULATION OF REMEDY

The recourse sought is immediate exclusive original cognizance of the United States through the District Court. This case is a repository for evidence for injunctive relief from any future presentments and theft or kidnap actions from *any* foreign agents or principals. Petitioner's common law spouse may use this evidence repository for any future refusals for cause as well. Though the theft/kidnap could be justified by notice and sophistry under the color of law of municipal structure, the proceedings have obviously been under the pretended authority of unconscionable contract and the recourse requested is proper.

There is no excuse for the arbitrary and capricious attorney actions - **debt action in assumpsit** - that have confronted good men and women since the Banker's Holiday. Roosevelt implemented a "*voluntary compliance*" national debt (upon the States by Governor's Convention) but utilized the 1917 Trading with the Enemy Act to compel citizens of the United States to comply. The substitution of citizen of the United States for the German nationals on this land was against *Stoehr v. Wallace*, 255 U.S. 239 (1921) where the Court clearly expresses "*The Trading with the Enemy Act, originally and as amended, is strictly a war measure...*" - directly citing the Constitution Article I, §8, clause 11. The war on the Great Depression 1) does not count and 2) would only last the duration of the emergency if it did. Presentments will be treated as described by the following example of clerk instruction:

[-----SAMPLE BEGIN-----]
[PETITIONER NAME]
[ADDRESS]
[CITY], [STATE FULLY SPELLED] [ZIP]

Registered Mail # RA XXX XXX XXX US sent to USDC for the District of [STATE]

Dear clerk,

Please file this refusal for cause in the case jacket of Article III case [XX-XXXX]. This is evidence if this presenter claims I have obligations to perform or makes false claims against me in the future. A copy of this instruction has been sent with the original refusal for cause back to the presenter in a timely fashion.

CERTIFICATE OF MAILING

My signature below expresses that I have mailed a copy of the presentment, refused for cause with the original clerk instruction to the District Court and the original presentment, refused for cause in red ink and a copy of this clerk instruction sent registered mail as indicated back to the presenter within a few days of presentment.

(signature), without prejudice
Petitioner

[-----SAMPLE END-----]

Respondents and all principals and agents are hereby properly notified. There is no governmental immunity to cover “law enforcement officers” who choose to interfere with our rights to the land and violators will be arrested by the U.S. Marshal according to Rule C of the *Supplemental Rules for Certain Admiralty and Maritime Claims*. Respondent and all principals and agents are left with their remedy:

COURTS OF THE UNITED STATES ... 136. *“When a seizure has been voluntarily abandoned, it loses its validity, and no jurisdiction attaches to any court, unless there be a new seizure.”* **10 Wheat. 325; 1 Mason, 361.** First Judiciary Act, September 24, 1789. Bouvier's Law Dictionary 1856.

Upon offense by hostile presentment after the inevitable default by Respondent (including all agents, principals and any and all offensive presentments), after fair notice by refusal for cause like the above clerk instruction a certificate of exigent circumstances will be issued pursuant to Rule C(3)(a)(ii)(B) *Arrest Warrant* and the clerk will immediately issue an arrest warrant for Respondent or named agent or principal to be taken into custody for the violations of law. Presentments of any kind from Respondent or any agent acting for the bankruptcy of the United States through the District may be considered a hostile threat of seizure.

VI. STIPULATION REGARDING CHARACTER AND RESIDENTIAL ADDRESS

The use of a residential address is by right. All “privileges” associated with postal delivery are

compensated, usually prepaid in honestly won U.S. currency. Petitioner is not Pro Se and is not representing himself. The clerk shall not change the name of this suit on the docket from the name on the filing fee receipt. Petitioner retains the unalienable right to hold the District Court clerk to the obligations to perform as file clerk for the United States working in the United States Courthouse. This includes the expectation that if and when this cause reaches default judgment against the Respondent, the default judgment will be filed in full cognizance of the United States and will appear on the docket as "Default judgment for the plaintiff." Petitioner is authorized by fidelity bond to file default judgment in lieu of District Court action. Any such judgment will stand on the truth for validity. Any character assassination will activate Instrumentality Rule and pierce the corporate veil of the United States and all agencies. Usage of residential address is non-assumpsit and changes Petitioner's character not in the least:

*"The privilege against self-incrimination is neither accorded to the passive resistant, nor the person who is ignorant of his rights, nor to one indifferent thereto. It is a fighting clause. Its benefits can be retained only by sustained combat. **It cannot be claimed by an attorney or solicitor.** It is valid only when insisted upon by a belligerent claimant in person."* **Federal Judge Lee in United States v. Johnson et al.** No. 11400, Middle District of Pennsylvania, 76 R. Supp. 538; 1947 U.S. Dist. LEXIS 3057, February 26, 1947. [emphasis added]

The highlighted bold sentence in the above quote admonishes against any clerk action that falsely brands Petitioner Pro Se - to imply that Petitioner is representing himself before the District Court. Petitioner is a responsible asylum state visiting his judiciary under Rule E (8). If an Article I (active attorney) "judge" is assigned this case or the Article III judge chooses to protect the fiduciary interests of the Bank and Fund, to act as an attorney under Article I, maintain silence. The cash filing fee is fully paid in public money and not in private credit (US notes in the form of Federal Reserve notes). The funds were redeemed lawful money according to the US Supreme Court's interpretation of the Congress' definition:

In the exercise of that power Congress has declared that Federal Reserve Notes are legal tender and are redeemable in lawful money. **US v Rickman; 638 F.2d 182**

United States notes shall be lawful money, and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt. **US v Ware; 608 F.2d 400**

Any presumptions made about the funds for this filing fee are that Petitioner has already exercised entitlement to redeem any Federal Reserve Bank notes tendered as legal tender for all debts public and private. Furthermore, any and all funds discussed have been in redemption of Federal Reserve Bank notes, not endorsement thereof:

"BANKRUPTCY. 1. The state or condition of a bankruptcy. 2. Bankrupt laws are an encroachment upon the common law. The first in England was ..." **Bouvier's Law Dictionary 1856**

All testimony will be without immunity - **piercing the corporate veil and Instrumentality Rule.** Petitioner is a man with God-given unalienable rights, one living and regenerate entity of sound mind and body. For some realistic perspective the Credit River Money Decision is attached and fully

incorporated into this counterclaim. Respondent is clearly the debtor and Petitioner is clearly creditor. Petitioner is framing the accusation of fraud by omission in that if Petitioner had known about redeeming lawful money in good faith Petitioner would have been doing so since Petitioner's first paycheck ever!

VII. NO MAGISTRATES

No one may handle this case but an Article III judge. The nature of this cause is injunctive relief, even if albeit preemptive. Title 28 U.S. Code § 636(b)(1)(A) cannot ensue, “...*except a motion for injunctive relief...*”

Attachments fully incorporated:

1. Certificate of search on “Petitioner” from the clerk of the District Court is exempted due to falsifications by District Court clerk [CLERK NAME] on such certificates. Respondent is provided with information to check for case histories.
2. Presentment from Respondent on or around XX/XX/XX refused for cause. The red ink original refusal is in the counterclaim served upon Respondent. The original counterclaim filed in the District Court has a copy of each refusal.
3. A certified copy of Title 12 U.S. Code § 411 published at El Paso County Clerk and Recorder Reception #207015932.
4. A certified copy of the *de jure* Thirteenth Amendment to the Constitution published at El Paso County Clerk and Recorder Reception #95110459.
5. A certified copy of the Credit River Money Decision published at the El Paso County Clerk and Recorder Reception #203290555.
6. A certified copy of bank Withdrawal Slip(s) and/or Signature Card(s) associated with the US court filing fee has been attached.

Petitioner

NOTICE TO THE FOLLOWING ADDRESSES

United States District Court (XXX) XXX-XXXX

USDC for the District of [STATE]

[ADDRESS]

[CITY], [STATE] [ZIP]

Petitioner (XXX) XXX-XXXX

[ADDRESS]

[CITY], [STATE] [ZIP]

Respondent (XXX) XXX-XXXX

[ADDRESS]
[CITY], [STATE] [ZIP]

**United States District Court
for the District of [STATE]**

Name: _____,	}	CIVIL ACTION FILE NO.: _____
Plaintiff(s),	}	
v.	}	SUMMONS
	}	
Name: _____,	}	
Defendant(s).	}	
	}	

SUMMONS FOR RESPONSE IN CIVIL ACTION

To the above-named Defendant(s):

[DEFENDANT NAME]
[ADDRESS]
[CITY], [STATE] [ZIP]

You are hereby summoned and required to serve upon Plaintiff:

[YOUR NAME]
[ADDRESS]
[CITY], [STATE] [ZIP]

AND FILE WITH THE CLERK OF THE COURT an answer to the complaint which is herewith served upon you, within 30 days of service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Deputy Clerk

(Seal of Court)

Date

This summons is issued pursuant to Federal Rules of Civil Procedure (FRCP) Rule 4.

DEFAULT JUDGMENT

After 30 days, by tacit acquiescence, there will be a Default Judgment. **When the other side is served and does not respond in the allotted time, one may make their own ruling and file it with the clerk, who serves the judgment on the other party involved.** One must serve this on the other party to complete the judgment. If they do not comply with the order of *the default judgment*, the Federal Government (Marshall) is used to enforce the order. Often the fatal flaw most think is they need a Judge (of any status) to agree, when in reality, one only needs to be competent in their own court and the District Court clerk will agree, as bound by laws to do. ***That which has been lawfully entered into a court of record, unrebutted, stands as fact.*** That is the power of the people, served, recorded, noticed, sealed and adjudicated with prejudice.

If there is a case in a lower court where they tell you (the Defendant) to be there, you (in personal capacity) file a case in an Article III court, with lawful money and evidence that you have reserved the right to be heard in that court. Then motion the lower court to move to the Article III court, where their statutes and codes do not apply (they are law of the sea, remember?) and make them prove their case by showing *actual* damages caused.

See the sample letter below [much thanks to David Merrill]:

**United States District Court
for the District of [STATE]**

Re: XX-XXXX

DEFAULT JUDGMENT

Respondent has failed to assert any claim to Petitioner by proving the certificate of search in the District Court to be faulty or fraudulent within the thirty days stipulated. As stipulated on the summons properly formed and served;

You are hereby summoned and required to serve upon Plaintiff, whose address is:

[YOUR NAME]
[ADDRESS]
[CITY], [STATE] [ZIP]

AND FILE WITH THE CLERK OF THE COURT an answer to the complaint which is herewith served upon you, within thirty days of service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Default judgment is hereby entered and the injunctive relief sought in the counterclaim is awarded to Petitioner. Respondent is by law to forfeit seizure upon Petitioner's property and person. If Respondent fails to do so, a certificate of exigent circumstances will issue calling for Respondent's arrest into the cognizance of the State Department.

[ADDRESS]
[CITY], [STATE] [ZIP]

The round-date and certificate of mailing testify that certified copies of this default judgment were posted as follows:

Registered Mail # RA XXX XXX XXX US

United States District Court
for the District of [STATE]
[ADDRESS]
[CITY], [STATE] [ZIP]

Registered Mail # RA XXX XXX XXX US

[YOUR NAME]
[ADDRESS]
[CITY], [STATE] [ZIP]

DAVID MERRILL'S NOTES ON ARTICLE III COURTS & FILING

The case is for one primary purpose - to establish an evidence repository for refusals for cause on future presentments. Therefore, stay focused on the court which has, at worst, concurrent jurisdiction with the federal judiciary. The moment the federal judge says anything in favor of the defendant(s) this is recusal and full authority is conveyed to the state - which in light of the 1933 bankruptcy, is **you**. The authority is in the man or woman who publishes opinions, rulings and judgments on the County level through the county clerk and the U.S. Courthouse serves conduit for information and notices to the foreign agents in admiralty. **There are three major steps:**

1. **FILING.** The agents of a foreign principal have been making *false claims* because they (if one requires it) are required to file their claim in the appropriate District Court prior to exercising any such claim against a man or woman in this land. Therefore, one is filing a counterclaim, albeit an original action in the District Court. If the clerk is confused, explain that it is *because there has been no action in the District Court* that one has the right to make a counterclaim. [Note: a \$35 Miscellaneous filing will accomplish the objective of creating an evidence repository, but the suitor will forfeit the published default judgment of the lower court and thus the ability to convince bankers, employers and credit reporting agencies that the opposition is proceeding on a false claim; garnishments, levies, etc.]
2. **SERVICE.** At filing one will receive the summons(es) with authorization of the United States seal. Take this to a professional private process server. The United States Marshal or local sheriff can also handle this but not if one is suing a prominent official (like the Sheriff or City Manager). A private professional process server is preferred. Remember to file the Proof of Service with the USDC promptly.
3. **DEFAULT JUDGMENT.** After 21 days the issue is ripe for default judgment. There is a bill of exchange on file with Richard Grasso NYSE since August 13, 2001 for all the money in the world to back the judgment by fidelity bond (secured confidence.) However, it is preferable to simply rely on the truth - that **the defendant never filed in the appropriate District Court prior to exercising a claim.** Compared to the truth, the bill is only ink on paper; a representation of the Bible's original estate belonging to the rightful heirs. Nobody has challenged the bill to date but confidence in the truth goes a lot further and requires no citing the bill.

Following and during the ripening of one's judgment, one must be careful to understand that all mail material, including the envelopes are suits. Do not open anything from the defendant or District Court (including no return address) that is to any other name than the name on the summons. Mark it "Return to Sender. Not residing here"

A favorite attorney trick is to not lick the flap and instead use a little transparent tape. This way, the attorney may assert that one had the opportunity to read the material before returning it - thus received notice. If this happens, do not open it, but instead on the back of the envelope write "*Arrived Unsealed and Taped. Returned Unopened and Unread.*" Then take it to a notary public to sign the statement, put the notary seal on the back of the envelope. Scan the letter for the record and take it along with the copy to the post office. Have the clerk round-date the copy for evidence that it was returned to the sender. Now one has evidence of unopened return.

MOTION A LOWER COURT TO MOVE TO ARTICLE III

In the event of any further court action, enter a **Motion to Transfer to Common Law Article III Court of Equity (US District Court). The motion must be filed before the trial has begun.**

A writ is a form of written command in the name of a court or other legal authority to act [sovereign], or abstain from acting, in some way. A writ is a private and sovereign action; whereas, a plea is made by one who is subject to authority/the crown. According to Black's Law *a plea is a formal statement by or on behalf of a defendant or prisoner*, stating guilt or innocence in response to a charge, offering an allegation of fact, or claiming that a point of law should apply.

Once again it must be stated, if one is guilty of harm, injury or loss, they will be judged guilty. Equity demands performance. Plead forgiveness where harm has been committed. One who is absolved of harm, should enter the motion below to request a fair judgment based on the facts and the facts alone.

See the sample letter below:

IN THE SUPERIOR COURT OF THE STATE OF _____

IN AND FOR _____ COUNTY

Name: _____,	}	CASE NO.: _____
Plaintiff(s),	}	
v.	}	NOTICE OF <u>SPECIAL APPEARANCE</u> OF
	}	DEFENDANTS RESERVING ISSUES OF
Name: _____,	}	SUBJECT-MATTER JURISDICTION AND
Defendant(s).	}	PERSONAL JURISDICTION, VENUE,
	}	INSUFFICIENT AND DEFECTIVE PROCESS
	}	AND SERVICE, JOINDER.

WRIT TO TRANSFER TO ARTICLE III COURT OF EQUITY

I am the defendant in this action. I move for a change of venue under an Article III court of equity as remedy reserved by the “saving to suitors” clause from the First Judiciary Act of 1789.

“... saving to suitors, in all cases the right of a common law remedy where the common law is competent to give it, and [the district courts] shall also have exclusive original cognizance [and culpability of the United States to protect property rights] of all seizures on land...” First Judiciary Act; chapter 20, page 77. September 24, 1789.

This motion is timely and is made before the expiration of the time allowed to answer herein. An affidavit is made a part of this motion. The court in this action is improper. It is believed a court of equity, not of admiralty, will offer more fair judgment of controversy. A motion to transfer to a common law Article III court of equity [US District Court] is requested. I affirm the foregoing is true and correct.

CERTIFICATE OF SERVICE

_____	_____
_____	_____
_____	_____
_____	_____
Plaintiff(s) or Plaintiff(s) Attorney Name / Address / Phone	Defendant(s) or Defendant(s) Attorney Name / Address / Phone

I CERTIFY that I mailed / delivered a copy of this MOTION and AFFIDAVIT to:

☐ Plaintiff at the above address or ☐ Plaintiff's attorney ☐ Defendant at the above address or ☐ Defendant's attorney

Date: _____ by: _____
Defendant

Printed Name: _____

TO PLAINTIFF: You have five days after service of this motion to controvert the defendant's affidavit if you wish to do so. If no response is given, the Court will order the action transferred to the proper precinct and assess the associated costs of transfer against you.

STEP #6: GOING TO COURT (CIVIL, CRIMINAL, TAX)

There are a multitude of reasons one may be in trouble with another party. Should mediation not settle the dispute (and arbitration wasn't agreed upon in the contract); and if one has caused harm, restitution must be paid. If valid damages can be shown, a court *will* establish jurisdiction, there *will* be proceeding(s) *and a judgment against*. Therefore, **one should obtain sound legal STANDBY counsel.**

However, it should be noted per the Corpus Juris Secundum (CJS), Volume 7, Section 4, Attorney & Client: ***"The attorney's first duty is to the courts and the public, not to the client, and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter."*** Clients are also called **"wards"** of the court in regard to their relationship with their attorneys. One may read the foregoing and ask the attorney to see a copy of *"Regarding Lawyer Discipline & Other Rules,"* including Canons 1 through 9 for more.

§ 4 ATTORNEY & CLIENT

7 C. J. S.

→ His first duty is to the courts and the public, not to the client,⁵⁵ and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter.⁵⁶

The office of attorney is indispensable to the administration of justice and is intimate and

peculiar in its relation to, and vital to the well-being of, the court.⁵⁷ An attorney has a duty to aid the court in seeing that actions and proceedings in which he is engaged as counsel are conducted in a dignified and orderly manner, free from passion and personal animosities, and that all causes brought to an issue are tried and decided on their merits only;⁵⁸ to aid the court

→ **Wards of court.** Infants and persons of unsound mind placed by the court under the care of a guardian. *Davis' Committee v. Loney*, 290 Ky. 644, 162 S.W.2d 189, 190. Their rights must be guarded jealously. *Montgomery v. Erie R. Co.*, C.C.A.N.J., 97 F.2d 289, 292. See *Guardianship*.

Corpus Juris Secundum assumes courts will operate in a lawful manner. If the accused makes this assumption, he may learn, to his detriment, through experience, that certain questions of law, including the question of personal jurisdiction, may never be raised and addressed, especially when the accused is represented by the bar. **Sometimes licensed counsel appears to take on the characteristics of a fox guarding the hen house.**

The essential elements of self-representation were spelled out in *McKaskle v. Wiggins*, a case involving the self-represented defendant's rights vis-a-vis "standby counsel" appointed by the trial court. The "core of the Faretta right" is that the defendant "is entitled to preserve actual control over the case he chooses to present to the jury," and consequently, standby counsel's participation "should not be allowed to destroy the jury's perception that the defendant is representing himself." But participation of standby (advisory) counsel even in the jury's presence and over the defendant's objection does not violate the defendant's Sixth Amendment rights when serving the basic purpose

of aiding the defendant in complying with routine courtroom procedures and protocols and thereby relieving the trial judge of these tasks. Any place where the legal counsel confers to the court that they are *representing* - should be refuted at the earliest date possible, on the record.

§§ 2-3 ATTORNEY & CLIENT

7 C. J. S.

and the term is synonymous with "attorney."¹⁴ Therefore, anyone advertising himself as a lawyer holds himself out to be an attorney, an attorney at law, or counselor at law.¹⁵

If one appears before any court in the interest of another and moves the court to action with respect to any matter before it of a legal nature, such person appears as an "advocate", as that term is generally understood.¹⁶ The phrase "as an advocate in a representative capacity," as used in the statute regulating the practice of law, implies a representation distinct from officer or other regular administrative corporate employee representation.¹⁷

In England and her colonies a "barrister" is a person entitled to practice as an advocate or counsel in the superior courts.¹⁸ A "solicitor" is a person whose business it is to be employed in the care and management of suits depending in courts of chancery.¹⁹ In the great majority of the states of the Union, where law and equity are both administered by the same court, it has naturally come about that the two offices of attorney at law and solicitor in chancery have practically been consolidated, although in the federal equity practice the term "solicitor" is in

general use; but in some states the office of solicitor in chancery is a distinct and separate office from that of attorney at law.²⁰

→ A client is one who applies to a lawyer or counselor for advice and direction in a question of law, or commits his cause to his management in prosecuting a claim or defending against a suit in a court of justice;²¹ one who retains the attorney, is responsible to him for his fees, and to whom the attorney is responsible for the management of the suit;²² one who communicates facts to an attorney expecting professional advice.²³ Clients are also called "wards of the court" in regard to their relationship with their attorneys.²⁴

ward
of
court

§ 3. Nature of Right to Practice

While it has been broadly stated that the right to practice law is not a natural or constitutional right, but is in the nature of a privilege or franchise, the practice of law is not a matter of grace but of right for one who is qualified by his learning and moral character.

Library References

Attorney and Client ⇐14.

The right to practice law is not a natural or constitutional right.²⁵ Nor is the right to practice

DO NOT BUTT HEADS WITH LOWER COURT JUDGES (ATTORNEYS IN ROBES)

Some "unscrupulous legal scholars" demand a copy of the judge's bond or oath of office, in the hopes that failure to produce such evidence will result in a case being thrown out or postponed, or a conviction overturned. In general, the judges are not required to post a performance bond. Judges are required to take an oath of office and a judge must then transmit a certificate of oath to the municipal Court Clerk and to the Supreme Court.

Judge's certificates of oath are available through a public records request, and "*have no bearing on the proceedings on the court's docket. A party wishing to challenge the authority of a judge may not do so by collateral attack in another proceeding.*" State v. Hill, 2d Dist.

"*Those challenges must instead be made in an original action in quo warranto to determine whether the judge had a valid title to [the judge's] office.*" Stieess v. State, 103 Ohio St. 33, 41, 132 N.E. 85 (1921)

Furthermore, “*an irregularity in the appointment of a judge does not render [the] judicial actions void. A judge having ‘colorable’ authority is deemed a de facto judge with all the power and authority of a proper de jure judge.*” State ex rel. Evans v. Shoemaker, 10th Dist.

In other words, don’t try to attack a lower court judge’s oath of office (even though they are all invalid), but look to obtain a verdict in the Appellate/District Court. Appellate judges have taught the best way to do an *appellate brief* is to state the facts, state the issues (assignments of error), and then state the case law supporting the argument. They love it when one does it this way.

SEND A BRADY REQUEST FOR DISCLOSURE

So what is a Brady Request and how is it different from the “open file” discovery process most courts and attorneys have become accustomed to?

Under the open file system, the defense is permitted to look at the State’s file on the case, and the prosecution’s discovery obligations are then satisfied. This sounds good in theory, though, every defense lawyer knows that “open file” discovery doesn’t work anything like it is supposed to. The files we are shown often do not contain some police reports, witness statements, and other crucial documents.

Materials that contradict the State’s case or support a defense are frequently missing. Evidence that corroborates the defendant’s story is mysteriously absent. Items that would impeach the police are nowhere to be found.

No trial is complete without the prosecutor producing a “surprise” witness, statement, or piece of evidence that never made it into their “open file” discovery. While customary it does not make it good or even legal, but because “that’s the way it’s always been done” - it is accepted. Many judges and prosecutors even assume that because it has been around so long, it must be legally required. This is, of course, completely wrong. In fact, **the U.S. Supreme Court**, in *Strickler v. Greene*, 527 U.S. 263, 283, 119 S.Ct. 1936, 1949 (1999), **explicitly held that a prosecutor’s open file discovery policy in no way substitutes for** or diminishes the State’s obligation to turn over all exculpatory evidence pursuant to a **Brady Requests for Discovery**.

The primary idea behind a Brady Request (and it must be cited as such to qualify as that type of request) is **The Constitution is concerned with only one aspect of discovery – prior to trial, the prosecution must turn over to the defense all exculpatory evidence in its actual or constructive possession.** Failure to do so is a violation of Due Process Clauses of the Fifth and Fourteenth Amendments.

Youngblood v. West Virginia, U.S., 126 S.Ct. 2188 (2006) is the latest pronouncement of the U.S. Supreme Court on Brady/Kyles issues. In addition to reaffirming the rulings in Brady and Kyles, it explicitly orders the courts to stop avoiding some of the most important provisions of Brady and Kyles. Thus it can be cited for the proposition that state court efforts to dilute the due process protections concerning disclosure of exculpatory evidence by casting them in terms of state evidentiary law will not be tolerated.

Further, the Brady process is not just for pre-trial. In *Strickler v. Greene*, 527 U.S. 263, 119 S.Ct. 1936, 1949 (1999), the U.S. Supreme Court held that when a defendant files a successor habeas under Brady, if he proves that the State withheld evidence, that will constitute cause for not presenting the claim earlier. **This means that demanding Brady material is something we should be doing throughout the case.** Please read [the Brady Handout](#) and [Kyles v. Whitley case summary](#) before making a Brady demand.

See the sample letter below:

IN THE SUPERIOR COURT OF THE STATE OF _____
IN AND FOR _____ COUNTY

Name: _____, <i>Alleged Plaintiff(s),</i>	} } } } } } }	CASE/CITATION NO.: _____ BRADY REQUEST FOR DISCOVERY PER BRADY DISCLOSURE LAW DIVISION: <input type="checkbox"/> Criminal <input type="checkbox"/> Traffic <input type="checkbox"/> Other
v.		
Name: _____, <i>Alleged Defendant(s) in error.</i>		

MOTION FOR BRADY DISCOVERY REQUEST

COMES NOW the Defendant, in the above-entitled action hereby requests all evidence, facts and findings be turned over to the defense within 30 calendar days of receipt as established in the Supreme Court cases Brady v. Maryland, 373 U.S. 83 (1963) Kyles v. Whitley, 514 U.S. 419 (1995) Strickler v. Greene, 527 U.S. 263 (1999). The Defendant(s) hereby demand the following materials, but shall not be limited to:

PROSECUTION WITNESSES: Any and all information bearing on the truthfulness, bad character or bad reputation of State's witnesses, including but not limited to: complete adult criminal record; complete juvenile record; any contempt citations issued against the witness; any past instances of dishonesty, fraud, lying or violence on the part of the witness that is known to the State or its agents; any history of mental illness."

SPECIFIC DOCUMENTS: The name, address and telephone number of any witness who at any time identified someone other than the defendant as the person who committed the robbery charged in this case; any and all reports that mention in any way that a witness, whether named or unnamed, identified someone other than the defendant as the person who committed the robbery charged in this case; the name, address and telephone number of any witness who at any time stated that the defendant was not the person who committed the robbery charged in this case; any and all reports that mention in any way that a witness, whether named or unnamed, stated that the defendant was not the person who committed the robbery charged in this case.

SPECIFIC EVIDENCE: Any medical or scientific records (including but not limited to the results of any tests and the complete raw data upon which those test results were based) that indicate that the defendant was not the person who committed the crimes charged. This request is intended to encompass, but not be limited to all blood testing, DNA testing, serology testing, fingerprint testing, hair sample testing, etc.

ADDITIONAL EVIDENCE: The requirement and request for Brady material is not limited to things that are within the actual knowledge or possession of the prosecutor. All of the following, but not limited to, are included:

- Anything actually known to or in the possession of anyone in the prosecutor's office.
- Anything actually known to or in the possession of the police, even if the prosecutor doesn't know about it.
- Anything actually known to or in the possession of anyone else acting on behalf of the State, even if the prosecutor doesn't know about it.
- All future exculpatory materials or evidence must be turned over, whenever it is found. *Imbler v. Pachtman*, 424 U.S. 409, 427, n.25, 96 S.Ct. 984 (1976), held that "*after a conviction the prosecutor also is bound by the ethics of his office to inform the appropriate authority of after-acquired or other information that casts doubt upon the correctness of the conviction.*"
- Inconsistent descriptions by different witnesses of the criminal.
- Inconsistent descriptions by different witnesses of the crime.
- The fact that some of the witness's descriptions of the criminal matched the police informant.
- That there were pending charges against the police informant.
- That there was an ongoing investigation of the police informant concerning other crimes.
- That the police informant made inconsistent statements to the police about the crime and about his accusation of the defendant.
- That the police had other leads and information that they failed to follow up on or investigate, that could have pointed the finger at someone other than the defendant.
- Before accusing the defendant, one of the witnesses previously said that she had not actually seen the crime.
- That a witness's description of the crime and/or the criminal became more "accurate" and more certain after the witness met with police and/or prosecutors, or after the witness testified at a first hearing or trial.
- That a witness's prior statements omit significant details or facts that the witness "remembered" at trial.
- That a witness's trial testimony omitted significant details or facts that the witness mentioned in prior statements.
- That a witness or informant made statements that incriminated himself in the crime charged against the defendant.

The prosecutor is therefore prohibited from hiding behind the excuse that "*I didn't know about that.*" If the material was within the knowledge or possession of anyone working on behalf of the prosecution, the State is considered to have constructive knowledge or possession of that material, and must obtain and turn it over to the defense pursuant to Brady. *Kyles v. Whitley*, 514 U.S. 419 (1995) allowed the U.S. Supreme Court to explicitly refute virtually every excuse prosecutors have traditionally used to avoid turning over Brady material at trial, and to avoid reversals on appeal and habeas corpus when caught in a Brady violation. The U.S. Supreme Court explicitly said that the individual prosecutor has an affirmative duty to learn of any favorable evidence known to the other people and agencies acting on the government's behalf on the case, including the police

CERTIFICATE OF SERVICE

Plaintiff(s) or Plaintiff(s) Attorney Name / Address / Phone

Defendant(s) or Defendant(s) Attorney Name / Address / Phone

I CERTIFY that I mailed / delivered a copy of this MOTION and AFFIDAVIT to:

☐ Plaintiff at the above address or ☐ Plaintiff's attorney | ☐ Defendant at the above address or ☐ Defendant's attorney

by: _____
Defendant

Date: _____

Printed Name: _____

IN THE SUPERIOR COURT OF THE STATE OF _____
IN AND FOR _____ COUNTY

Name: _____, <i>Plaintiff(s),</i>	} } } } } } }	CASE/CITATION NO.: _____ REQUEST FOR JURY TRIAL
v.		
Name: _____, <i>Defendant(s).</i>	} } } }	

MOTION TO EXERCISE RIGHT TO JURY TRIAL

COMES NOW the Defendant and files a motion to demand a jury trial by right:

I. RIGHT AND DEMAND TO JURY TRIAL

Rule 38 (b)(1)-(2), Defendant(s) reserves the right to and demands a jury trial as expressed under the Sixth Amendment. The jury is there, by design, *“to prevent oppression by the Government”* and to *“protect against unfounded criminal charges brought to eliminate enemies and against judges too responsive to the voice of higher authority.”* *Duncan v. Louisiana*, 391 U.S. 145, 155-56 (1968). In 1804, Samuel Chase, Supreme Court Justice and signer of the Declaration of Independence said, *“The jury has the Right to judge both the law and the facts.”*

“It would not satisfy the Sixth Amendment to have a jury determine that the defendant is probably guilty, and then leave it up to the judge to determine whether he is guilty beyond a reasonable doubt.” *Sullivan*, 508 U.S. at 278. Further, the Sixth Amendment *“defines the jury's power to acquit out of justice or mercy as a constitutionally protected right. If not their right, it is at least the defendant's firmly settled right that he insist on a jury with such power; regardless of whether the proof of his technical legal guilt is literally overwhelming and uncontradicted.”* *Sullivan v. Louisiana*, 508 U.S. 275, 277-82 (1993). **Any judicial instructions that would prevent the exercise of this right are unconstitutional. A jury's latitude to nullify is deliberately protected by the Constitution.** This rule, by design, gives juries the power to *“err upon the side of mercy”* by entering *“an unassailable but unreasonable verdict of not guilty.”* *Jackson v. Virginia*, 443 U.S. 307, 317 n.10 (1979).

Neither the tradition nor the wording of the oath administered to the jurors, on the other hand, is so dictated. In federal court it is not even prescribed by statute. It is simply an old tradition judges have made up. If the wording of the oath poses some conflict with the jury's constitutional prerogative to nullify, it is clear which one must yield the right of way. Courts simply have no business asking jurors to swear to anything that would violate the Constitution or the jury's deeply held convictions about justice.

This rule is designed to safeguard the jury's power *“to arrive at a general verdict without having to support it by reasons or by a report of its deliberations,”* and to protect its historic power to nullify or temper rules of law based on the jurors' sense of justice as conscience of the community. *Id.*; *United States v. Spock*, 416 F.2d 165, 181-82 (1st Cir. 1969). The jury is given *“a general veto power; and this power should not be attenuated by requiring the jury to answer in writing a detailed list of questions or*

explain its reasons.” United States v. Wilson, 629 F.2d 439, 443 (6th Cir. 1980). Although far from settled, a powerful argument can be made that this rule “*is of constitutional dimensions,*” and a direct corollary of the Sixth Amendment's protection of the jury's power to nullify. Wayne LaFave v Jerold Israel, Criminal Procedure § 24.7(a) (2d ed. 1992).

It is unanimous from prior comments held by this court and federal courts on the matter like United States v. Manning, 79 F.3d 212, 219 (1st Cir. 1996) that “*a district judge may not instruct the jury as to its power to nullify.*” **Therefore the freedom of speech protects the Defendant(s) right to inform the jury of their rights** [when appearing *in propria persona* and not by incapacitated methods such as representation by a lawyer], including “*the [natural] right of nullification*” Bushel’s Case (1670) 124 E.R. 1006.

If relying on the false belief of “*The Supreme Court said not to tell the jury about it.*” That is a myth. The Supreme Court has never said such a thing. In the two cases widely cited for this proposition, the Court merely declared that a jury is not entitled to decide what the law is or should be, and that “*a judge always has the right and duty to tell them what the law is upon this or that state of facts that may be found.*” Horning v. District of Columbia, 254 U.S. 135, 138 (1920) (Holmes, J.); accord Sparf and Hansen v. United States, 156 U.S. 51 (1895). In fact, however, Horning and Sparf have nothing to do with this matter. It would indeed be improper to tell a jury that “*they are to determine the rules of law.*” Dougherty, 473 F.2d at 1136. Such instructions need not suggest that jurors be told they can decide for themselves what the law is or should be, or that they can convict the defendant of some lesser offense (or acquit on the basis of some affirmative defense) with no basis in the facts. But a proper nullification instruction or argument would merely tell the jury the fact that they can “*refuse to enforce the law's harshness when justice so requires.*” LaFave and Israel, Criminal Procedure § 22.1, at 960.

Supreme Court Justice Sonia Sotomayor has said on the matter of jury nullification, “*As I’ve grown more in the system and watching it, I’m not so sure that that’s right [to not inform the jury of their rights to nullify]. Our forefathers ... believed that the jury getting it wrong, was better than the crown getting it wrong.*”

by: _____
Defendant

Date: _____

REQUEST RECORDING FOR TRIAL

It is highly recommended one make a request for the trial to be audio/visually recorded or by stenographie. Otherwise, some judges will trample over any rights without a verbatim record. Even when approved by the court, and they state the availability of a recorder or steno available, download an app for any smartphone that allows voice recording as a backup.

One can deliver a “pretrial motion” immediately before the trial, requesting it be recorded, or to use a personal recorder. Do this “first thing,” even if interrupting the officer! Let the judge know that federal rules state *“The judge may permit inconspicuous personal recording devices to be used by persons in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device must obtain advance permission from the judge.”* That advance being as simple as a “pretrial motion”, just seconds before the trial is set to begin. When the judge relents and allows use of the recorder, show thankshim. If he does not allow the use of a recorder, say *“I move for a Peremptory Challenge.”*

He may try to rule that since he has already made a decision in the case - on the issue of recording or not - it is too late. Baloney! That would only apply if he had made a decision having some effect on the guilt or innocence of the accused. **If they force one to continue with the proceedings without a recording, that is a great case for appeal!** Here are a number of important court decisions regarding the right to record proceedings: *In re Armstrong, People v. Matthews, People v. Ashley, People v. Dixon*

NOTE: Should a judge rule against, the fine will be demanded for payment in 3-30 days (varies by state). It is not necessary to pay immediately and a motion can verbally be entered for the judge to extend the time to pay the ticket, including a payment plan. No person should end up in jail for victimless crimes when the only penalty is a fine! Even if one has \$10,000 in tickets, a payment plan can be arranged so jail is not required. Simply phone the local police department for further information.

IN THE SUPERIOR COURT OF THE STATE OF _____
IN AND FOR _____ COUNTY

Name: _____, Plaintiff(s), v. Name: _____, Defendant(s).	} } } } } } }	CASE NO.: _____ REQUEST FOR COURT REPORT OR ELECTRONIC RECORDING OF PROCEEDINGS
--	---------------------------------	--

MOTION TO REQUEST COURT REPORTER OR ELECTRONIC RECORDING OF PROCEEDINGS

COMES NOW the Defendant, in the above-entitled action hereby requests that the Court provide for attendance at the trial proceeding herein a stenographic court reporter, or that the proceedings be electronically recorded by the court, or that the defendant be allowed to record such proceedings by smartphone and notified by mail at least (10) days before trial.

Illinois Supreme Court Justice Steigmann, quoted Whitney v. California 274 U.S. 357 (1927), has said [assented by multiple Supreme Court Justices from other states of the Union], “[E]ven imminent danger cannot justify’ restrictions on speech ‘unless the evil apprehended is relatively serious.’ Recording trial court proceedings in violation of an Illinois Supreme Court rule falls far short of that standard.”

The following commentary from Supreme Court Justice Elkington [with Racanelli, P. J., and Grodin, J., concurring] from Re Armstrong (1981) is of valuable consideration if denial of the right to record is the court’s first opinion in the matter.

“On the habeas corpus petition of [Defendant] we consider the constitutionality of a practice of some municipal courts not to record verbatim, although requested by the defendant, the testimony and other oral proceedings of criminal misdemeanor cases by a phonographic reporter, or electronic recording device, or otherwise.”

It is now settled law that the state must allow access by an appealing defendant in a criminal case, to ‘a record of sufficient completeness’ to ‘permit proper consideration of his appeal.’ March v. Municipal Court, 7 Cal. 3d 422, 428 (1972); Draper v. Washington 372 U.S. 487, 499 (1963).

“We have, by our instant decision, held that, upon request therefore, there is a constitutional right that a verbatim record be provided at public expense for all defendants in misdemeanor matters [and felonies].” Id.

by: _____
Defendant

Date: _____

PHYSICAL APPEARANCE FOR ARRAIGNMENT/PRE-TRIAL

Now before even entering the courtroom, everyone will be made to wait outside. An officer will call each person before entering the courtroom (to pressure a confession for traffic cases usually). Simply say, *"I must see a judge regarding this matter."*

The basic purpose of arraignment is to enter a plea of "guilty" or "not guilty." **An arraignment session is NOT to argue the case, except for the issue of subject-matter jurisdiction AND THEN identity.** And don't let the judge say "jurisdiction is a trial issue" because Texas Dept. Parks Wildlife v. Miranda states:

"If the pleadings do not contain sufficient facts to affirmatively demonstrate the trial court's jurisdiction, but do not affirmatively demonstrate incurable defects in jurisdiction, the issue is one of pleading sufficiency and the plaintiffs should be afforded the opportunity to amend." However, "if the pleadings affirmatively negate the existence of jurisdiction, then a plea to the jurisdiction should be granted without allowing the plaintiffs an opportunity to amend."

That means, during PLEADINGS a challenge to the jurisdiction may be raised and it is the courts duty to see if it is amendable WITH or WITHOUT the Plaintiff present. Eventually, the judge will be forced into a tough decision, throw out the case or force a trial. More often than not it's a trial for "show of force" while the prosecutor is told to "drop it" behind the scenes.

In order to "trick" the judge into talking about jurisdiction, one should bring an UNSIGNED plea of guilty. Until the plea is SIGNED, it is not official. There should be no verbal communication of "Guilty - Not Guilty" and all reference should be made as such:

"Honor, I have a guilty plea here [hand to bailiff]. All I need to sign it - is to have a few questions answered so I can honestly say I know the nature and cause of the charges."

That's all that needs to be said. Don't let a judge finagle a plea out of that mouth until all the questions have been answered. Typically, one won't even get a chance to sign it (like they would want to) because the judge often gets so perturbed during questioning, they request the Defendant be removed. **Be sure to ask "Am I free to leave without any aggression?" or risk arrest.** And for the love of all that's holy, strictly follow the Guide to Interacting with Judges and Prosecutors!

Do not put too much focus on questioning the judge or risk losing the case. Those questions merely create a record for an easy appeal if convicted. Prosecution is the focus the entire time. Ream them hard with the primary point *"Prove subject-matter jurisdiction."* and *"To prove a crime was committed beyond a reasonable doubt means to prove '(1) the occurrence of loss or injury and (2) criminal causation of that loss or injury'"* object to any evidence given with *"What fact proves this applies to me."*

NOTE: A serious crime (misdemeanor or felony) has its arraignment in front of a judge; but for infractions, it may be at the clerk's window, by mail, on the phone, in front of a judge, or even on the Superior Court's website. **When pleading "not guilty," one will get a date set for the trial. One can sign a written promise to show up on the trial date so that bail is not required.**

GUIDE TO APPEARING IN COURT & QUESTIONS TO ASK

1. DO NOT BE ARGUMENTATIVE

Courts are scams and only interested in taking money. They are not in place to administer justice. Being argumentative only ensures one will be treated like a combatant.

2. DO NOT BRING OPINIONS TO CONVINCE THE JUDGE

Judges don't care what we think. But, we can get judges to contradict themselves fairly easily. If an argument or opinion is used, it should always be the judge's opinion.

3. DO NOT PRESS ON A POINT MORE THAN TWICE

Keep pressing a point and the judge is only going to get angry, and they're notorious for their anger issues.

4. STICK TO THE FACTS

Sticking to the facts is the fastest and most effective way to demonstrate there is no case. Asking questions is usually enough to have their witness(es) declared incompetent, which includes their testimony (and ticket) to be stricken.

Keep in mind that impeaching the only witness does not mean a judge will strike the testimony – just that logically they should. Sadly, we're considered guilty the moment we walk in.

5. STAY ON POINT

These people are masters of diversion. Never forget their goal is not getting to the truth and administering justice, it's about making money. If they get off-point, they win; the attention on the real issues is gone, and within a blink, the proceedings are over.

6. REPEAT: "I AM NOT AN ATTORNEY. I DON'T UNDERSTAND."

Non-lawyers are legally incapable of defending themselves and it is unfair to put someone on trial who does not understand the nature and cause of the proceedings against them. The more the judge explains about what is going on, the more can be used to make him contradict himself and prove there is no case.

7. ASSUME EVERYTHING SAID IS A "LIE"

Assume everything the cop, prosecutor and judge says is a lie. This doesn't mean everything is a lie, but one will more readily object and challenge their claims. Since most of what they say is a lie, this serves everyone well. A common tactic judges use against us is called [cherry picking](#), where a statement may sound true but deliberately has left out key information. This is necessary for non-responsive answers.

8. OBJECT TO EVERYTHING ENTERED INTO THE RECORD

Do not extend the prosecution of any [sacred cows](#) for their claims, *nothing is exempt from challenge*. Even if it's obvious, object and make them meet their burden of proof. It may feel uncomfortable challenging, but realize the prosecution needs a free pass or else they cannot prove subject-matter jurisdiction. They may use intimidation tactics and gaslighting but don't stop challenging them.

9. ONLY ASK LEADING QUESTIONS – EVEN RESPOND WITH QUESTIONS

Only ask [leading questions](#). The defendant doesn't have a burden of proof that lies with the accuser. If you're making statements that take pressure off the prosecutor. Never allow the focus to be taken off the prosecutor's claims, be *unrelenting* when holding the prosecution to their burden. If forced to make a statement, make sure the burden stays on the prosecution e.g., the prosecution has no evidence proving jurisdiction. A leading question is a YES or NO question where the information is given in the question, it suggests the answer. i.e. "You alone determined you had probable cause to stop me?"

10. ONLY ACCEPT RESPONSIVE ANSWERS

Only accept responsive answers to keep on point. This works to destroy the appearance of a case. Beware, know in advance what a responsive answer is; it may sound good, but their answers are not responsive. Sharpen those skills and identify non-responsive answers by watching the master, [Kellanne Conway](#).

11. GET JUDGE & PROSECUTOR TO COMMIT TO POSITIONS

Lower court judges do not care if you think they've violated the Constitution or the law. But judges hate to contradict themselves. To do this, use the list of questions to get the judge to commit to certain positions. Because the very nature of court for a victimless crime is unfair, it's easy to get the judge to contradict.

12. ONLY USE THE POSITIONS THE JUDGE & PROSECUTOR TAKE

By contradicting self, all pretense of fairness is gone. The trial should be recorded (audio or transcript) to show *judicial bias* and that the judge should have *recused* him/herself. The result of the case can be reviewed by an appellate court and an entirely new trial may be ordered.

QUESTIONS FOR THE JUDGE

1. I have a few questions as to the nature-cause of the proceedings, may I proceed? [YES]
2. Am I entitled to responsive answers to any questions I have about the charges? [YES]
3. Am I entitled to a fair and meaningful hearing? [YES]
Goldberg v. Kelly dictates that *"the hearing must be meaningful"* for due process. Using 'evidence' that's not subject to challenge is not a *"fair trial"* by any means.
4. Mustn't the *prima facie* burden be met before a matter can be set for trial? [YES]
5. Is *corpus delicti* required for every criminal case? [YES]
Corpus delicti refers to the principle that a crime must be proven to have occurred before a person can be convicted of committing that crime.
6. So logically, I wouldn't have to enter a plea if there wasn't a crime presented? [NO]
7. Is there evidence of an injury, loss, tort or cause of action? [NON-RESPONSIVE ANSWER]
There must be an injury for there to be valid testimony (fact-witness) or subject-matter jurisdiction is lost. The judge knows this and will say it's a matter for trial (false). *"But how can there be a trial, if I am not duly informed?"* The judge will dismiss the idea and tell you to seek discovery from the Prosecutor.
8. Is this court bound by the US-State Constitutions and Supreme Court rulings? [YES]
9. How does Prosecution acquire standing in this court? [NON-RESPONSIVE ANSWER]
In order to acquire standing a party must allege a violation of Constitutional rights.
10. Am I presumed innocent until proven guilty? [YES]
11. And am I presumed innocent of every ELEMENT of the crime? [YES]
12. Is jurisdiction an ELEMENT of the crime? [YES]
13. Now, I understand the logic sequitur drawn for the record. But for simplicity, YES or NO, am I presumed innocent of jurisdiction? [NON-RESPONSIVE ANSWER]

MOST SHOULD STOP THE LINE OF QUESTIONING HERE

14. What is the nature of the relationship, if any, between us? [NON-RESPONSIVE ANSWER]
If unable to obtain RESPONSIVE ANSWER say, *"It's bad faith refusing to inform of the nature of the proceedings."*
15. If there was a conflict of interest like representing a party to a proceeding, would you recuse yourself? [YES]
16. Who do you [the judge] represent (hired by) in these proceedings? [CITY OF ABC]
17. Who is the Plaintiff in these proceedings? [CITY OF ABC]
18. So, a recusal is in order, yes? [NO + LONG EXPLANATION TO GET THE F*** OUT]
If the judge says *"I represent no one"* simply ask *"Are you here on your own authority? A yes or no will do."* OR *"Please explain how you 'can represent the state' and 'cannot represent the state' at the same time?"*
19. What facts do you base your "legal" opinions on? [NON-RESPONSIVE ANSWER]
20. Explain *factually* where, when, why and how your so-called 'jurisdiction' over me was acquired? [NON-RESPONSIVE ANSWER] Is your jurisdiction based on my consent? [NO, LIE]
21. Do you equate violence and coercion with fairness and good faith? [NO]
22. So, am I free to walk away without any further aggression? [YES/NO] *If not, ask why.*

LEAVE WITH: *Well your honor, I hope the Prosecution reads the motion and we can rid this Nolle Prosequi (nah-lee prah-se-kway). I'd hate to slow your court with all these questions.*

QUESTIONS FOR THE PROSECUTION

1. I have a few questions as to the nature-cause of the proceedings, may I proceed? **[YES]**
2. Am I entitled to responsive answers to any questions I have about the charges? **[YES]**
3. Who brought this complaint? **[STATE OF ABC]**
This proves that there is no complaining party because the “state” cannot take the stand to offer testimony as to the injury or loss that occurred.
4. Is there an allegation of injury, loss or tort here? **[DEMAND ANSWER – IT’S “NO”]**
This should be enough to end the case right there. No injury, no case. The ‘state’ is not a *natural* phenomenon. It is *man-made* and *exists* only in the mind.
5. Since I’m presumed innocent of every ELEMENT of the crime, jurisdiction being one of those elements - what evidence do you have that I am subject? **[YES]**
If a judge “jumps in” and claims jurisdiction has been established – ask, “*Are you the prosecution? And are you giving testimony for the record? That would mean I can cross-examine you too, doesn’t it?*”
6. Except for coercion, exactly *where, when, why* and *how* was your control over my life acquired? **[DEMAND ANSWER – IT’S “I DON’T KNOW”]**
Whether the ‘law’ is binding or not is really a ‘jurisdiction’ issue. Everything being used against you is supposed to be subject to challenge.
7. What facts are currently before you proving *where, when, why* and *how* the written will of individuals aka ‘legislators’ became applicable, binding or obligatory on me?
8. How is an ‘act of parliament’ a complaining party? **[NON-RESPONSIVE ANSWER]**
9. What *obligation* do I owe, and how did I damage an alleged ‘act of parliament’? **[DEMAND ANSWER – IT’S “I DON’T KNOW”]**

NOTE: Always challenge the “plaintiff’s” right to appear in a representative capacity. Further, during direct examination, if the prosecutor or the judge asks the cop a question that “assumes facts not in evidence,” I object on those grounds. This is basically his entire testimony though.

QUESTIONS FOR THE WITNESS

1. Did you file a valid cause of action against me? [YES]

2. How many elements are in a valid cause of action? [OBJECTION-SUSTAINED]

Usually, in one way or another you'll hear something like... "*Objection, calls for a legal conclusion; the witness is not competent to testify.*" The judge will sustain the objection, which is needed, as the judge is now required to strike all of the testimony – and now request the matter to be dismissed.

3. Did you witness the "crime" or "civil violation" alleged? [YES]

4. Was that an arbitrary opinion (based on personal whim)? [NO]

5. And that opinion is based upon facts currently within your knowledge? [YES]

Witness has just testified having facts to support their opinion the "law" was obligatory; however, the argument will be based on legal opinion and conclusions, but not admissible facts. Further, refusing to answer questions is grounds to strike testimony from the record. That's why we don't argue, we only ask questions.

6. What are those facts? [OBJECTION-SUSTAINED]

7. That's fine, honor. Since the witness cannot draw legal opinions, the testimony should be stricken from the record, shouldn't it? [NON-RESPONSIVE ANSWER]

If the witness cannot draw a legal opinion, how can they determine whether a law or statute applies to me? It's impossible, therefore the complaint should be dismissed.

8. Does that mean you are going to rely on the witness's testimony? [YES (and unfair)]

If the judge strikes the testimony, the case is over. If the judge refuses to strike, then he cannot deny cross-examination. If cross examination is denied, the decision will be reversed on appeal (including a slap on the wrist or retirement).

9. I'm not asking for a legal opinion, what are the facts that make me liable? [NON-RESPONSIVE ANSWER]

10. Do you have any facts on record to prove that I was in the state of [STATE] on the date of this violation? [NO RESPONSIVE ANSWER]

11. Is there evidence of an injury, loss, tort or cause of action? [OBJECTION-SUSTAINED]

There is usually only one witness in a case – if they even show up. It is easy to impeach a witness by asking only the first two questions. This requires the judge to strike the witness' testimony. Impeachment legally disqualifies the witness from testifying - rendering the testimony inadmissible with no discretion allotted to the judge to accept prior testimony (like a ticket). **During direct examination, if the prosecutor or the judge asks the cop a question that "assumes facts not in evidence," I object on those grounds.** This is often the entire testimony.

Cross-examination is to show there's no case, only groundless legal opinions. The only way to do this is by asking what their "*legal opinions*" are based on. According to court rules and procedures, we can question a witness on *all prior testimony* and any *new testimony* the judge relies on. This includes challenging any documentary or other evidence. By agreeing with them and asking them to provide the facts their opinions are based on, sets them up to fail. Pit the witness against themselves. **The testimony of a witness concerning a particular matter is inadmissible unless they have *personal knowledge* of the matter.** Never assume or accept anything, it relieves the witness of their alleged burden of proof. **Feed their own testimony back to them in question form and watch the house of cards tumble.**

QUESTIONS FOR CIVIL CASE

1. Is this *civil case* in the nature of a contract dispute or a tort? [**CONTRACT/TORT**]

A 'civil' cause of action can only fall into one of two categories: *tort or contract*. A 'tort' consists of two elements: the breach of a duty *and* damage. For a valid contract dispute to exist there must be evidence of both a loss *and* a wrong (to bring a cause of action). For there to be a cause of action there must be both: 1) the breach of a duty *and*, 2) actual damages.

One will never receive an answer, only arguments and non-responsive answers. And even if lied to, told "*It was brought by the state and doesn't fit into those categories.*", then where's it fit and what's it called legally? If there is something I must plead to, I must be told what it is, right?

"There must be a 'meeting of the minds' for there to be a contract. For an enforceable contract to exist there must be: offer, acceptance, consideration and sufficient specifications of terms so that obligations involved can be ascertained." Savoca Masonary Co., Inc. v Homes * Son Const. Co., Inc.

2. Is there evidence of an injury, loss, tort or cause of action? [**NON-RESPONSIVE ANSWER**]

A 'cause of action' is a breach of a known 'legal' duty (right of life, liberty or property) that results in injury, loss or harm. A cause of action is supposed to require the breach of duty resulting in damage.

3. Am I being accused of breaching some duty? [**YES/NO**]

If yes, ask "*Where, when, why and how was this alleged duty created?*" This question and many others will probably not be answered.

4. Was this alleged duty created by coercion? [**TALK WITH PLAINTIFF**]

5. Is this court bound by the US-State Constitutions and Supreme Court rulings? [**YES**]

"A plaintiff must allege personal injury" Allen v. Wright, 468 US 737,751; U.S. Supreme Court and *"Without standing, there is no actual or justifiable controversy, and courts will not entertain such cases."* Clifford S. v. Superior Court, 45 Cal. Rptr. 2d 333, 335.

6. Is it your opinion you have "jurisdiction" over me? [**YES**]

7. Is your jurisdiction based on my consent? [**NO**]

8. Is that an arbitrary legal opinion? [**NO**]

9. So your legal opinion is based upon facts currently within your knowledge? [**YES**]

10. I'm glad those facts are currently within your knowledge. Now, could you please tell me what those facts are and exactly where, when, why and how, you, of your own authority, actually acquired this jurisdiction over me? [**NON-RESPONSIVE ANSWER**]

WHAT TO EXPECT AT THE TRIAL

If one gets to this final stage (unless Appeals is needed), it's time to bring forward the necessary burden of proof from the priorly submitted Challenge to the Jurisdiction. If proven, the officer needs to avoid letting the trial arrive to the point where the judge may see a mismatch of identity, and will often ask the court to dismiss the case when the case is called. If the prosecution is certain and proceeds, at a trial, the burden of proof is on the court, so they will speak first.

After showing evidence, make a motion by saying, *"I move to dismiss, on the grounds that the prosecution has not proven, beyond a reasonable doubt, the element of identification of the driver (or that XYZ law applies to me). Your honor, would you convict a murder suspect on evidence not proven beyond a reasonable doubt? This also is a criminal matter... the burden of proof is the same. Finally, I intend to remain silent except for the making of motions, questioning and objecting."* **If the judge still asks if you were the driver, reply "That's a factual determination for the court if proven beyond a reasonable doubt."**

Take this example: When a witness was called, John would object on grounds the witness had no facts proving the code was applicable (the witness's testimony wasn't relevant to proving the allegations). As predicted, the judge denied the objection without explanation. On cross-examination, John asked the witness if they had facts proving the U.S. Code was applicable, the prosecutor would object and the judge would sustain the objection. This can go on ad infinitum, but not one prosecution witness will be able to testify that the code is applicable to you. The prosecutors must prove the code is applicable, then prove a violation of the code beyond a reasonable doubt. Not one fact can be presented proving John has caused injury or loss. The bulk of the testimony, if not all, had to do with John violating imaginary laws. Driving is not evidence the code is applicable. John was able to point out to the jury, a jury he was not permitted to voir dire by the way (that's a pretty bad error for a judge to make), not one witness had facts the code was applicable. This evidently had an impact on the jury, as it resulted in a not guilty.

"If a party is found to lack standing, the court is without subject matter jurisdiction to determine the cause... A court lacks discretion to consider the merits of a case over which it is without jurisdiction." Miss. So. Pardons & Paroles, 896 A. 2nd 809, 812 (Conn. 2006)

"Standing is a necessary component of subject matter jurisdiction." Rames v. Byrd, 521 US 811

"Standing is perhaps the most important of [the jurisdictional] doctrines... Standing represents a jurisdictional requirement which remains open to review at all stages of the litigation..." NOW, Inc. v. Scheidler, 510 US 249.

"The requirement of standing has a core component derived directly from the Constitution. A plaintiff must allege personal injury (the violation of a legal right) fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." Allen v. Wright, 468 U.S. 737, 751 (1984).

PRO TEM JUDGES (FAUX JUDGES)

Pro Tem, the courtroom staff may announce that there is a “temporary judge.” A temporary judge could be a retired judge doing some part time work (keep this judge), or it could be a Pro Tem - a lawyer filling-in for the day. If it is the latter, they will ask everyone to sign a waiver. Get rid of that Pro Tem by refusing to sign the waiver. It is suggested that one never sign what is not understood completely. It will be a fight when asking for a real judge to make a decision on the case, but after some repetitive statements from the clerk, they should take the ticket and photo ID into the judge’s chambers (often for dismissal). Getting an arraignment in front of a judge is not necessary, but here are some good reasons to do so:

1. You do not have to pay any money, or any “collection,” in order to obtain an arraignment date in front of a judge - even if your ticket is in collection.
2. You're not eligible for traffic school, and you want to plea bargain - ask the judge if he will change the charge to some other section not carrying a point - in exchange for your guilty plea.
3. You want to get rid of collection fees or a “failure to appear.”
4. You want to tell the judge about the city's failure to respond to your Discovery request.
5. You want to make a request for Change of Venue (moves the case to another courthouse).
6. You have mailed-in a Peremptory Challenge, but there has been no response from the court.

DO YOU EQUATE VIOLENCE WITH FAIRNESS?

by: Marc Stevens

When I get in front of a judge, I ask him, “Do you equate violence with fairness?” This strikes right to the heart of the robbery going on. If the judge tries to squirm his way out by being unresponsive, **I ask: “Tell me, what would happen if I just walked out of here, threw this so-called ticket away, and ignored all of this?”**

By asking what would happen if I turned around and walked away he'll let everyone present know he is prepared to use physical violence on his own so-called “authority.” This is a pretty bad spot for him to be in. I would then point out he has claimed he is there “on his own authority” and “has acquired jurisdiction by coercion.” By his own admission his “authority” is violence, not from a constitution. An admission like that would be pretty damaging and is the reason why I will bring witnesses with me and audio recording equipment.

If he's there on his own behalf, then, to whom does the “fine” that I pay go? If any money goes to him there is a serious conflict of interest and any pretense of fairness and impartiality goes right out the window once again. And if that money goes to the “state,” and the “state” pays him, there is still a conflict of interest.

Also consider the political nonsense that the “state” is everyone in a certain geographic location. This would obviously include the judge. How could one of the very people tragically damaged also sit as a judge? **Where's the independence?**

If the judge is there on his own behalf, then what does this say about his relationship to the cop who came in crying about someone not having a seatbelt on? Why is the cop whining to the judge, what is the motive? I could really put this judge on the spot by holding up the ticket and asking him, *“What is the nature and basis of your relationship with this cop who filed this alleged complaint against me?”* If he has no relationship with him, then why is he taking control over my life and my property of his own “authority” for him? **There is obviously some kind of relationship going on here.** At the very least, there is some kind of business relationship. I think that would qualify as a conflict of interest. This line of questioning could really expose the judge and show, “beyond a reasonable doubt,” **there is only a thin pretense of fairness going on.**

If he still refuses, I ask him, *“Why should I enter a plea when there is no evidence of a complaining party and you will not answer a few simple questions and inform me of the nature and basis of the charges and proceedings against me?”* The judge will not be able to maintain any consistency with such questions.

A “cause of action” is a breach of a known “legal” duty that results in loss, harm or injury. The following case is only one of many from the United States Supreme Court:

“Like the prudential component, the constitutional component of standing doctrine incorporates concepts concededly not susceptible of precise definition. The injury alleged must be, for example,” ‘distinct and palpable,’” Gladstone, Realtors v. Village of Bellwood, 441 U.S. 91, 100 (1979) (quoting Warth v. Seldin, supra, at 501), and not “abstract” or “conjectural” or “hypothetical,” Los Angeles v. Lyons, 461 U.S. 95, 101-102 (1983); O'Shea v. Littleton, 414 U.S.

488, 494 (1974). *The injury must be “fairly” traceable to the challenged action, and relief from the injury must be “likely” to follow from a favorable decision. See Simon v. Eastern Kentucky Welfare Rights Org., 426 U.S., at 38, 41.* Allen v. Wright, 468 U.S. 737 (1984).

I may ask the judge: “Is this cause of action factually consistent with the Supreme Court’s opinion as to what a cause of action is?” If he says yes, I then ask him if he can tell me what facts are before him to support such an opinion and who presented them.

“What is the nature of the relationship, if any, between us?” This question really gets to the heart of the matter and is similar to the questions on subject-matter jurisdiction. Either the judge answers it or doesn’t. I don’t care either way because both work against them. In fact, any answer at all destroys any pretended case this bureaucrat is trying to put over. If he doesn’t answer he’s demonstrating bad faith because he’s refusing to inform me of the nature of the proceeding so I can defend myself. That’s unfair even in the legal sense.

Now getting back to the “plea” being entered for me, I would also ask: **“If you can enter a plea for me, then can you continue representing me at trial?”** If not, then how can you represent me by entering a plea without my consent and then go on to say you don’t represent me or the plaintiff? I’ve had a judge say I was “refusing to plea” when a proposed plea was on his bench. I had been held on a ransom called a *release bond* and told him I was going to assign the bond over to him for the fine. He still insisted I was “refusing to plead” and set the matter for pre-trial.

Cops usually sign tickets under penalty of perjury or some other kind of pretended certification. What is important here is that the ticket contains the cop’s testimony. **So, if testimony is thrown out – the ticket is too!**

Always challenge the plaintiff’s right to appear in a representative capacity. Some have claimed that a revenue agent’s so-called “assessment” was not testimony and neither was the agent a witness. If that’s all they can or will provide, I will tell them that such an answer is non-responsive to a question which only requires a yes or no answer. What in the world is so difficult about answering YES or NO? **Don’t let the lawyer, judge or anyone get off point here.** This point is critical in that it does more to expose them than almost anything else I can think of at this point in my experience. **That’s why I keep asking them even if they tend to get very upset.**

Think about this for a moment, why would someone get upset just because I am asking for evidence of a complaining party? The reason is because, like the lawyer who said who he was representing was “irrelevant,” they know they cannot provide any facts to prove there is a complaining party other than themselves.

Many think the “state” is the ground that the geographic landmass “_____” (fill in the blank) is identical in all respects to the “State of _____.” This is not only false, this is absurd, and for many reasons. I will provide only one more example. **If the “state” were the ground and ONLY the ground** (just as a table is just a table and not a book on the table), **then the complaining party in a traffic case would be the ground.** Now that’s insane. Obviously the “state” is not the ground. A “state” is not geographic or even tangible; if it’s anything, then it’s political.

During direct examination, if the prosecutor or the judge asks the cop a question that “assumes facts not in evidence,” I object on those grounds. This is basically his entire testimony though. There is humor somewhere in there, but I'm not laughing. Most of the cop's testimony will consist of rambling “time worn” legal opinions such as his seeing me within a pretended “city.” Well, unless a “city” is a particular geographic area and nothing else (it's not), then our cop has assumed facts not in evidence. He has also drawn a legal opinion that is supposed to be based upon facts already in evidence. The judge will really expose his true nature if he overrules this objection. It is unfair to permit a witness to assume facts not in evidence. Just ask any lawyer.

A big one is if the lawyer asks the cop a question requiring him to draw a legal opinion or conclusion, such as “did you see John Doe commit a crime” or “driving without a license?” This is a very serious glitch in the “system” I've exploited for years. They will always allow the cop to testify he saw me commit a “crime” or violate a “statute.” However, if I ask questions any more difficult or probing than that, the lawyer and the judge will run to the rescue of their client (partner) and refuse to allow him to answer any such questions.

If I object to a question requiring the cop to offer an opinion such as “I saw John Doe violate a statute,” and the judge overrules that objection, I don't worry because I know the judge will contradict himself later on when it's my turn to “cross-examine” the cop. The judge is headed for a pretty bad time for allowing the cop to continue giving legal opinions because he has permitted the cop to assume facts not in evidence and has overruled my objection that a question called for a legal conclusion. My “cross-examination” is geared to taking advantage of these “rulings” by helping the judge back himself into a corner so he will contradict himself and throw out every rule of fairness I know from experience that cops will not be permitted to answer questions such as “what is a statute?”

That is why I deliberately set them up to contradict themselves. Some lawyers have proudly proclaimed the cop doesn't need to know what a “statute” is to prove I “violated” one. Really? Maybe you can also perform brain surgery without knowing the brain is in the skull. Where is the “personal knowledge?” Without the legalese, shouldn't the bare minimum for a witness to be credible be that he at least knows what he's talking about? The point is not to be argumentative, but to get the case thrown out so I can go back to being productive instead of wasting my time with these crooks dressed in suits, robes, and other idiotic uniforms.

I then will ask the cop, “What are those facts?” This usually causes the persecutor to immediately stand up objecting on the grounds the “witness may not testify because it calls for a legal conclusion;” the same objection I previously made. The judge then obediently sustains the objection oblivious to the fact I asked for the facts and not another nonsensical “legal” opinion. At this point, I don't argue with them or say they are wrong other than to point out I only asked for the facts, the legal conclusion had already been drawn again without objection. The judge (as well as the other two bureaucrats in the courtroom) is now in a particularly difficult spot.

He may have previously overruled my objection that the witness (the cop) could not draw legal conclusions and has already permitted the cop to testify that he witnessed me commit a “crime” or “civil” violation which is, itself, a “legal” conclusion. He has now sustained the exact same objection with the same witness. The judge's actions are now plainly inconsistent and to my obvious prejudice; so much so that even a non-lawyer can tell it isn't fair.

To make the judge even more uncomfortable, I then ask, “O.K., since the witness may not draw legal opinions, then shouldn't his testimony, including the ticket, be stricken from the record?” This is a checkmate for the judge. If he refuses to strike the testimony and ticket, then he may not deny cross-examination. If so, this is supposed to be a huge “incurable” error on the part of the judge and should be reversed on appeal. I would then ask, “*Are you going to rely on the witness's testimony?*” He may not answer this question, but his actions will establish whether he is or is not. If he does strike the testimony, then the case is over because, without any testimony there is no evidence and without any evidence, there is no case. Without a case, the judge would be basing his “decision” entirely upon his own opinion.

I also point out that the judge previously overruled the same objection that a question called for a legal conclusion on the part of the cop and now he is sustaining the exact same objection. Excuse me Mr. “honorable” judge, but which one is it?

It's always a good idea to ask the cop to repeat his prior testimony, for example, “Is it your testimony that I was driving without a license?” This question tends to upset judges and prosecutors. Another is, “*Is it your testimony that I was driving while my privilege to do so was suspended?*” Why get upset? All I am doing is having the cop repeat his prior testimony. After all, he has already claimed it on the ticket and I know the cop cannot provide any facts the opinion was based on because there are no facts. A great question is to explain what a “privilege” is factually and do so without using the word “license.” The judge and the cop's other lawyer will not permit the cop to even attempt to answer such a question.

The persecutor pretending to represent the “state” jumped to his feet objecting on the grounds that answering this question called for a legal conclusion. Apparently this lawyer failed to recognize this legal conclusion was already on the ticket he so desperately relied on for a ostensible conviction. Just feed their opinions back in the form of a question. **The judge refused to permit the cop to answer the question.** The client asked why the cop could not verify his own prior testimony and the judge got furious and started yelling. I stood up and said this was only the charge on the ticket in question, so what was the big deal?

I'll also ask the cop if he had “jurisdiction” over me during the traffic stop, yes, or no? I also ask what “jurisdiction” factually is. To help him out I might also ask him if he had control over me during the stop. Despite this being a legal conclusion, the lawyers playing “prosecutor” and judge will allow it, and he'll probably answer yes because, if he is without jurisdiction, the case should be over. You'd be surprised, no, shocked, to see just how far some of these altruistic “honorable” lawyers will go to keep a case from being thrown out. If, however, he is not permitted to answer, I again suggest it may be consistent with the rules of evidence to strike his testimony, including the ticket.

If he testifies that he did have jurisdiction or control, I ask, “Did you ask for my permission?” He will proudly deny that he most certainly did not. This question is mostly for psychological reasons. I want him to assist me in exposing his true violent nature so I pump him up with pride. I want his true nature exposed because it contradicts any pretense of fairness and good faith. If what is being done to me is based upon violence, then it's not being done in good faith and is certainly not fair.

Once it is out in the open that it was not with my permission, nor was this required, I ask him, *“O.K., other than physical violence, please tell me, factually, the nature and basis of this jurisdiction and exactly where, when, why and how you acquired it.”* This is not going to be answered and with good reason.

I may help the cop out by asking, “Is your jurisdiction over me based upon your coercion or based on my freely given consent?” If he says, “coercion,” I can then ask him, *“Do you equate coercion with good faith and fairness?”* This is a great question I have never had answered because they realize answering would open up too big a can of worms for them.

If the “judge” wants to rely on a “Supreme Court” opinion as evidence of “jurisdiction,” that's O.K., as long as I can cross-examine those lawyers whose opinion he's relying on. Facts and opinions are two separate things and I'm supposed to be permitted to confront and question all witnesses against me. The most “evidence” that could be shown here is an opinion made with regards to other people who live in the same geographic area as me made by a “cop.” To “represent” me, or anyone for that matter, there must be something called a principal—agent relationship based upon mutual voluntary consent.

“Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute, see Willy v. Coastal Corp., 503 U.S. ____ (1992) (slip op., at 4-5); Bender v. Williamsport Area School Dist., 475 U.S. 534, 541 (1986), which is not to be expanded by judicial decree, American Fire & Casualty Co. v. Finn, 341 U.S. 6 (1951). It is to be presumed that a cause lies outside this limited jurisdiction, Turner v. President of Bank of North-America, 4 Dall. 8, 11 (1799), and the burden of establishing the contrary rests upon the party asserting jurisdiction, McNutt v. General Motors Acceptance Corp., 298 U.S. 178, 182-183 (1936).” Kokkonen v. Guardian Life Ins. Co., ____ U.S. ____ (1994), No. 93-263.

If during a pre-trial the judge tells me to get a “lawyer” to explain it to me then I would tell him, *“I don't want a lawyer, I just want you to answer a few questions. Apparently, you think there is evidence here. Are you concealing that evidence from me?”*

One time a woman “representing” the “IRS Director” testified to being qualified to draw legal conclusions and having jurisdiction over a friend I was helping. The “hearing officer,” a lawyer, agreed. He asked the woman if this alleged jurisdiction was acquired by his consent and she answered, “NO.” He then asked her if she equated coercion with good faith and the “hearing officer” (who also represented the “Director”) would not allow her to answer because it called for a “legal conclusion.” Huh??? I can always count on a bureaucrat to contradict themselves. This is because the outcome is always determined in advance so their actions must conform to that predetermined outcome.

Another good question is, *“Since this jurisdiction is not based on my consent, does it extend to the Cayman Islands?”* Think about this for a minute. If his control over me is not based upon my consent then why can't he follow me to the Cayman Islands and control me over there too? **My objective in questioning bureaucrats is to ask him what facts their “legal” opinions are based on.** This essentially strips bare all of the deletions, distortions and additions to reality the bureaucrat has

made. The whole point of a trial is to give one an opportunity to defend; literally to “test the evidence” being used against you.

I want the lawyer and the judge to say the cop cannot testify because my “question calls for a legal conclusion.” That is my opportunity to ask the judge if the “cop's” entire testimony, including the ticket, should be stricken from the record. In other words, treated as though it never existed and the complaint was never made. I also want to point out the “judge's” previous “ruling” where he did allow the “cop's” legal opinions to become a permanent part of the record. Always expect contradictions. This is accomplished by purposely asking the cop if he witnessed me commit a “crime” or a “civil” violation (I can ask the same question the “prosecutor” asked earlier).

So here is the setup: A contract, of course, is an agreement consisting of several elements: *“It is elementary that for an enforceable contract to exist there must be an offer, an acceptance, consideration, and sufficient specifications of terms so that the obligations involved can be ascertained.”* Savoca Masonry Co., Inc v. Homes

The Supreme Court, as well as other courts, have long held that there must be a “meeting of the minds” for there to be a contract:

“It is well-established that before a binding contract is formed, the parties must mutually consent to all material terms. A distinct intent common to both parties must exist without doubt or difference, and until all understand alike there can be no assent. [Citation omitted]. If one party thinks he is buying one thing and the other party thinks he is selling another thing, no meeting of the minds occurs, and no contract is formed. [Citation omitted] (contracts are founded on the agreements, not on the disagreements, of the parties. Where they misunderstand each other, there is no contract ... As the Restatement describes it, a contract is formed if there is “manifestation of mutual assent to the exchange and a consideration.” Restatement (Second) of Contracts § 17 (1979).” Hill-Shafer Partnership v. Chilson Family Trust, 799 P.2d 810, 814, 815.

“damage without wrong. Loss or harm resulting to a person which is not the result of the violation of a legal duty ... The practical sense of the expression is that there is no cause of action.” Ballentine's Law Dictionary, page 304.

“Do you know what a statute is?” [NO] “If you cannot answer what a statute is, logically can one assess a violation of what cannot be perceived?” [CHECKMATE]

Per 29 CFR § 18.602 A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of § 18.703, relating to opinion testimony by expert witnesses.

It will be shown the judge is assuming the “prosecutor's” burden of proof, and also denying cross-examination and taking testimony of “witnesses” who lack personal knowledge. I'm supposed to have the right to challenge all the “evidence” being used against me, including opinions, even those offered by so-called “expert witnesses” who are not even present or know they are being used as

witnesses. Lawyers can protest their own “rules” all they want; it only proves my point. It's the inconsistency that's important here, not whether or not I get to cross-examine a few lawyers.

If some “revenue agent” forms an opinion, then that opinion is supposed to be subject to challenge and it doesn't matter what the subject matter of the opinion is. For goodness sakes, even expert witnesses are subject to cross-examination. If you aren't supposed to challenge a revenue agent's legal opinions, then what's the point of having a “tax court?” If proving the law is binding is not relevant to proving tax evasion “beyond a reasonable doubt,” then a bureaucrat could jerk some poor soul out of Fiji and convict them. Everything being used against me is supposed to be subject to challenge.

If he doesn't want to order them to be cross-examined, then he shouldn't be trying to substitute their opinions as “evidence” against me.

“Who May Impeach. The credibility of a witness may be attacked by any party, including the party calling the witness.” Federal rule 607.

The opposition can go right ahead and protest, argue, object and disagree; rule 607 contains no exception for lawyers, not even judges. If the judge is non-responsive and cites opinions – not facts – that is OK. Let him rely on opinions I can't challenge; doing so conflicts with his previously stated “pretense of fairness and innocence until proven guilty” on Appeal, allowing approval virtually every time.

LOSS OR INJURY REQUIRED IN ALL CRIMINAL CASES

“Proof of the corpus delicti is required in all criminal cases...There are three basic elements in the proof of a crime: (1) the occurrence of loss or injury, (2) criminal causation of that loss or injury and (3) the identity of the defendant as the perpetrator of the crime. However, it is firmly established in this State that the term corpus delicti embraces only the first two of these elements-loss or injury and criminal causation.” State v. Hill, 221 A.2d 725, 728

“Though questioned by Wigmore, the prevailing American rule is that proof of the corpus delicti requires (1) proof of the injury, death or loss, according to the nature of the crime, and (2) proof of criminal means as the cause. 7 Wigmore on Evidence, [section] 2072. This is the rule in Delaware.” Nelson v. State, 123 A.2d 859, 861.

“‘Corpus delicti’ consists of occurrence of specific kind of loss or injury embraced in crime charged, rather than commission of crime charged by someone.” State v. Vuilleumer, 210 A.2d 673, 674, 3 Conn.Cir. 223.

“It has long been fundamental to the criminal jurisprudence of this Commonwealth that a necessary predicate to any conviction is proof of the corpus delicti, i.e., the occurrence of any injury or loss and someone's criminality as the source of this injury or loss. See Commonwealth

v. Burns, 490 Pa. 619, 627, 187 A.2d 552, 556-557 (1963); *Commonwealth v. Turza*, 340 Pa. 128, 133, 16 A.2d 401, 404 (1940).” *Commonwealth v. Maybee*, 239 A.2d 332, 333.

ADVERSARY REQUIRED IN ALL CRIMINAL CASES

“An analysis of standing begins with a determination of whether the party seeking relief has sustained an injury (see Society of Plastics Indus. v. County of Suffolk, 77 N.Y.2d 761, 772-773, 570 N.Y.S.2d 778, 573 N.E.2d 1043 [1991]).” Mahoney v. Pataki, 772 N.E.2d 1118, 1122 (N.Y. 2002).

ADVERSARY PROCEEDING: A contested action or proceeding; one having parties, as distinguished from a proceeding on ex parte application. Ballentine’s Law Dictionary, page 40, 3rd Edition.

ADVERSARY: The opposite party in a contest or action.” Ballentine’s Law Dictionary, page 40, 3rd Edition. Id.

PLAINTIFF: The party complaining in an action or proceeding. A person who brings a suit, action, bill or complaint. See 3 B1 Comm 25. Id. page 952

One needs to ask only one question to prove the prosecutor wrong: *“Who brought this complaint?”* **If someone brought the complaint, then there is a plaintiff or opposing party.** It’s one thing to disagree with the requirements of standing, but claiming “no plaintiff” or opposing party is necessary is ridiculous. To prove a crime was committed beyond a reasonable doubt means to prove *“(1) the occurrence of loss or injury [and] (2) criminal causation of that loss or injury”* beyond a reasonable doubt; they are two ways of saying exactly the same thing.

By continuing to question whether the witness/prosecution has any facts that the code applies, as that’s the main issue addressed in the motion to dismiss. The witness/prosecutor will respond by reading the citation and citing the code. This is circular to the question of what facts exist to prove the code applies? **The objective in a cross-examination is to show there is no case except groundless legal opinions. The only effective way to do this is by asking what his/her “legal opinions” are based on.** Many times, prosecutors will object to a question asked to the witness about prior statements/testimony; below is a common example:

DEFENDANT: Did you alone determine you had jurisdiction over me?

COP: Yes.

DEFENDANT: What facts did you rely on to prove you had jurisdiction over me?

PROSECUTOR: Objection, calls for a legal conclusion!

This objection has nothing to do with the question that’s about the facts the witness relied on. Being non-responsive is an effective way to derail an investigation/cross-examination and can also get you upset and off point.

Refusal to permit cross-examination is one of the worst errors a judge can make:

“Undue restrictions on the right to cross-examine strikes at the very heart of the adversary system: “[a] denial of cross-examination without waiver would be a constitutional error of the first magnitude and no amount of showing of want of prejudice would cut it.” Brookart v. Janis, 384 US 1, 3, 86 S. Ct. 1245, 1246, 16 L.Ed.2d 314.” Smith v. Illinois, 390 US 129, 131, 88 S.Ct. 748, 750, 19 L.Ed.2d 956, 959 (1968).” State v. Hanley, 108 Ariz. 144, 148, 493 P.2d 1201.

And if a lawyer protests, “this is only for criminal cases”, notice:

“This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, e.g. Mattox v. United States, 156 U.S. 236, 242-244; Kirby v. United States, 174 U.S. 47; Motes v. United States, 178 U.S. 485, 474; In re Oliver, 333 U.S. 257, 273, but also in all types of cases where administrative and regulatory actions were under scrutiny. E.g., Southern R. Co. v. Virginia, 290 U.S. 190; Ohio Bell Telephone Co. v. Public Utilities Commission, 301 U.S. 292; Morgan v. United States, 304 U.S. 1, 19; Carter v. Kubler, 320 U.S. 243; Reilly v. Pinkus, 338 U.S. 269.” Green v. McElroy, 360 U.S. 474, 496-497 (1959).

“For two centuries past, the policy of the Anglo-American system of Evidence has been to regard the necessity of testing by cross-examination as a vital feature of the law. The belief that no safeguard for testing the value of human statements is comparable to that furnished by cross-examination, and the conviction that no statement (unless by special exception) should be used as testimony until it has been probed and sublimated by that test, has found increasing strength in lengthening experience.” Id.

Make an objection every time the prosecution or judge responds without meeting their prima facie burden of proof (prove it applies to me). It is generally considered gross misconduct when the prosecution continues to argue outside the facts and evidence. One tactic judges, lawyers and bureaucrats use to divert attention away from what they are doing is to accuse people of “arguing.” **Always clarify with “I am asking questions, not arguments.”**

One of the most valuable things one can learn about these courts is: **A ticket/complaint is not synonymous with a case.** Remember, just because a cop writes a ticket does not mean he has presented a case before a court (it’s still an unbroken contract). No court has the “legal” authority to proceed against someone unless a case is presented to it.

If ever in jail, an attorney will be forced upon you, object and insist if an attorney must be involved, then only as standby counsel.

UNITED STATES DISTRICT COURT FOR THE _____
DISTRICT OF _____

Name: _____,	}	FILE NO.: _____
Plaintiff(s),	}	
v.	}	NOTICE OF APPEAL
	}	
Name: _____,	}	
Defendant(s).	}	
	}	

NOTICE OF APPEAL

Notice is hereby given to _____, Plaintiff(s) and the court that
_____, Defendant(s) in the above named case, hereby appeal to the
United States Court of Appeals for the _____ Circuit from the judgment/order entered in
this action on the _____ day of _____, 20_____.

CERTIFICATE OF SERVICE

Plaintiff(s) or Plaintiff(s) Attorney Name / Address / Phone

Defendant(s) or Defendant(s) Attorney Name / Address / Phone

I CERTIFY that I mailed / delivered a copy of this MOTION and AFFIDAVIT to:

☐ Plaintiff at the above address or ☐ Plaintiff's attorney ☐ Defendant at the above address or ☐ Defendant's attorney

by: _____
Defendant

Date: _____

Printed Name: _____

STEP #7: ALLOCUTION, THE SECOND TRY FOR CRIMINAL CASES

An opportunity to prepare a statement of extenuating circumstances that would mitigate or excuse the guilt of a party in imposing a sentence. Shown as an example is the attached case of cadet Custer regarding “No contract” as a final plea to refrain from or lessen the sentencing. This allocution allowed what could have been a “death penalty” to ultimately result in a dismissal on lack of jurisdiction.

Black's Seventh - A plea in which a defendant admits allegations but pleads additional facts that deprive the admitted facts of an adverse effect

Black's Sixth, Fourth, Third, Second, First - A plea in confession and avoidance is one which avows and confesses the truth of the averments of fact in the [complaint or (only in Black's Sixth)] declaration, either expressly or by implication, but then proceeds to allege new matter which tends to deprive the facts admitted of their ordinary legal effect, or to obviate, neutralize, or avoid them.

Allocution is done to notify the judge of a defendant's request for the opportunity to present mitigating circumstances, requesting assistance from the Prosecution and one or more of its witnesses, agents, charging parties etc., and presenting reasons (facts) why the party plead guilty (honor) are all part of the process. The concept is called “Confession and Avoidance” - The defendant did the act, but should be excused for legal or moral reasons.

The process works like this:

1. Accept the declaration entered as fact & enter a plea of guilty, for example:

As I have no intention of dishonoring XXXXXX (Plaintiff), XXXXX's agency or XXXXXX (Court, Officer etc.), I am therefore accepting XXXXX's offer and returning my acceptance (see enclosed presentment which I have accepted and returned) to XXXXXX (Court) as follows: Guilty to the fact presented, to wit, that _____.

2. Ask the Court to take notice that XXXXXX and any others having information (facts) that might help prepare a Statement of Allocution have been asked for assistance, for example:

Please also take notice that I have asked XXXXX to provide answers to several questions (attached as Appendix A) which would allow me the opportunity to investigate the existence and relevance of additional facts which might have a bearing on the court's determination of the appropriate penalty in this matter.

3. Ask the Court to hold off rendering sentence until such time as the information requested is received and the statement of allocution can be prepared, for example:

I would ask the court to hold off on rendering the penalty in this matter until at least ten days after XXXXX has provided answers to the questions in Appendix A so that I can analyze the relevance of these additional facts and, if appropriate, prepare a statement of extenuating circumstances prior to sentencing.

4. Thank the Court for extending this additional time, for example:

Your courtesy in providing me time to properly research, prepare and submit a statement of allocution for consideration during the penalty phase of this matter is appreciated.

5. Attach with the letter to Court a copy of your correspondence to XXXXX requesting information.
6. Continue sending requests for extension, more information (Appendix B, C, etc.) until such time as one is satisfied and is ready to complete and submit their statement of allocution to the Court.
7. Ask each holder of information at XXXXX for information as appropriate, for example:
Your assistance in providing answers to several questions (attached as Appendix A) which would allow me the opportunity to investigate the existence and relevance of additional facts which might have a bearing on the court's determination of the appropriate penalty is requested in this matter.
8. Prepare and submit statement when ready or before the due date once notified that it must be submitted by a specific date, for example:
Following receipt of answers to several questions previously attached as Appendix A with 01/01/1900 letter and Appendix B with 01/01/1900 letter, furthering my investigation of the existence and relevance of additional facts which might have a bearing on the court's determination of the appropriate penalty in this matter, the following statement of allocution is submitted for your consideration during the penalty phase of this matter:
 - a. The incident(s) in this matter occurred _____.*
 - b. The incident(s) in this matter occurred despite my intention and belief that I was abiding by the _____.*
 - c. Lack of response by XXXXX hindered my ability to investigate and present additional exculpatory evidence.*
 - d. The incident occurred without design or intent as a result of confusion as follows _____.*
 - e. Please accept my sincere apology for my confusion about the _____.*
 - f. Your consideration and courtesy in extending me an opportunity to present mitigating circumstances in this matter is appreciated.*
 - g. Please include the above extenuating circumstances in your consideration of the appropriate punishment for this matter.*
 - h. Your mercy and kindness are appreciated.*

In summary, and according to the courts, the legislature defines crimes, can create a crime, while ignoring the common law elements of a crime and mandates the punishment for the crime it creates. **There is no crime unless it is created by the legislature.** All of this certainly flies in the face of the common law rule that there must be an injured party for a crime to exist. These creations of the legislature are most certainly maritime “crimes.” The Texas legislature has certainly exercised its power to extend maritime jurisdiction.

“The Legislature may create an offense and in [the] same enactment, provide exceptions to its application.” Williams v. State, 176 SW2d 177, Tex. Cr. App. (1943)

CADET CUSTER'S COURT-MARTIAL

The story of George Armstrong Custer's court-martial is a case on point. In 1861, as a young cadet in West Point, Mr. Custer struck an officer and knocked him to the ground. He was immediately arrested, tried before a court martial and found guilty of the offense. Custer was about to be sentenced to 15 years of hard labor. Before sentencing, Custer addressed the court and asked why the sentence was so severe, it was only a friendly fist fight. The court explained to Custer that the sentence imposed was mandated by the Articles of War, which provided at Article 9:

Any officer or soldier who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretense whatsoever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offense, be inflicted upon him by the sentence of a court-martial. (2 Statutes at Large 259).

The court went on to explain that Custer, as a cadet, had signed the Articles of War when he was admitted to the academy and was bound to the punishment. The court felt that the punishment was suitable to the nature of the offense and quite merciful under the circumstances. Custer expressed confusion and stated that he didn't know anything about these Articles of War and didn't have any recollection of signing them. This statement put the officers of the court-martial in a frenzy. They immediately adjourned the court to inspect the enrollment records. Sure enough, they found that Custer had not signed the Articles of War. When the court was reconvened, the judge ruled that the case was dismissed for lack of subject-matter jurisdiction. Custer was then ordered to sign the Articles of War or discontinue his education at West Point. The fate of Custer was determined by the want of a signature.

In this trial, Custer was afforded the right of allocution. Allocution is the formality of a court's inquiry of a defendant as to whether he has any legal cause to show why judgment should not be pronounced against him on conviction (See: Black's 6th). In this case, Custer was able to show cause as to why he should not be sentenced and save himself from being imprisoned and possibly hanged. When Custer denied having signed the contract, the burden of proof was shifted because of his rebuttal of the presumption that the contract existed. Custer was freed because, without the contract, the court-martial did not have subject-matter jurisdiction to execute the sentence. Custer may have known what he was doing by demanding the right of allocution, which is alive and well today, but I doubt it. The authors believe he was just lucky and stumbled and fumbled into the remedy. This story is a fact of history. It is also a fact of history that Custer did not learn much from the court-martial because he later disobeyed orders by not waiting for reinforcements at a place called Little Big Horn, a place where his luck left him.

The right of allocution is an ancient right rooted in the English common law and cannot be denied.

"The design of Rule 32 (a) did not begin with its promulgation; its legal provenance was the common-law right of allocution. As early as 1689, it was recognized that the court's failure to ask the defendant if he had anything to say before sentence was imposed required reversal. See Anonymous, 3 Mod. 265, 266, 87 Eng. Rep. 175 (K. B.). Taken in the context of its history, there can be little doubt that the drafters of Rule 32 (a) intended that the defendant be personally afforded the opportunity to speak before imposition of sentence. We are not unmindful of the relevant major changes that have evolved in criminal procedure since the seventeenth century -

the sharp decrease in the number of crimes which were punishable by death, the right of the defendant to testify on his own behalf, and the right to counsel. But we see no reason why a procedural rule should be limited to the circumstances under which it arose if reasons for the right it protects remain. None of these modern innovations lessens the need for the defendant, personally, to have the opportunity to present to the court his plea in mitigation. The most persuasive counsel may not be able to speak for a defendant as the defendant might, with halting eloquence, speak for himself. We are buttressed in this conclusion by the fact that the Rule explicitly affords the defendant two rights: 'to make a statement in his own behalf,' and 'to present any information in mitigation of punishment.' We therefore reject the Government's contention that merely affording defendant's counsel the opportunity to speak fulfills the dual role of Rule 32 (a). See Taylor v. United States, 285 F.2d 703.

However, we do not read the record before us to have denied the defendant the opportunity to which Rule 32 (a) entitled him. The single pertinent sentence is the trial judge's question "Did you want to say something?" - may well have been directed to the defendant and not to his counsel. A record, certainly this record, unlike a play, is unaccompanied with stage directions which may tell the significant cast of the eye or the nod of the head. It may well be that the defendant himself was recognized and sufficiently apprised of his right to speak and chose to exercise this right through his counsel. Especially is this conclusion warranted by the fact that the defendant has raised this claim seven years after the occurrence. The defendant has failed to meet his burden of showing that he was not accorded the personal right which Rule 32 (a) guarantees, and we therefore find that his sentence was not illegal.

However, to avoid litigation arising out of ambiguous records in order to determine whether the trial judge did address himself to the defendant personally, we think that the problem should be, as it readily can be, taken out of the realm of controversy. This is easily accomplished. Trial judges before sentencing should, as a matter of good judicial administration, unambiguously address themselves to the defendant. Hereafter trial judges should leave no room for doubt that the defendant has been issued a personal invitation to speak prior to sentencing." Green v. United States, 365 U.S. 301 (1961)

The U.S. Fifth Circuit Court of Appeals, in U.S.A. v. Myers, 1998, expanded further on this holding of the Supreme Court.

*Rule 32(c)(3)(C) of the Federal Rules of Criminal Procedure states that the court **must**, before imposing sentence, address the defendant personally and determine whether the defendant wishes to make a statement and to present any information in mitigation of the sentence.*

*Initially, we must decide whether Myers was, in fact, denied the so-called "right of allocution" secured him by Rule 32. We review **de nova** whether a district court complied with a Federal Rule of Criminal Procedure. U.S. v. Scott, 987 F.2d 261, 264 (5th Cir. 1993). The government contends that Myers was indeed afforded his allocution rights because (1) the court invited Myers to explain why the firearm enhancement could not apply, and (2) through defense counsel, Myers was able to argue that he had cooperated with the government and that he was a minor participant in the conspiracy. Further, the government contends that a remand is, in any case,*

not warranted since Myers received the lowest sentence possible. We reject the government's arguments as meritless.

First, we observe that thirty-seven years ago the Supreme Court, in Green v. United States, 365 U.S. 301 (1961), we rejected the argument that a defendant's right of allocution may be satisfied through his counsel. In Green the court stated:

The most persuasive counsel may not be able to speak for a defendant as the defendant might, with halting eloquence, speak for himself. We are buttressed in this conclusion by the fact that the Rule explicitly affords the defendant two rights: "to make a statement on his own behalf," and "to present any information in mitigation of his sentence." We therefore reject the Government's contention that merely affording defendant's counsel the opportunity to speak fulfills the dual role of Rule 32(a).

As the Supreme Court recognized, Rule 32 envisions a personal colloquy between the sentencing judge and the defendant. See U.S. v. Anderson, 987 F.2d 251, 261 (5th Cir. 1993); U.S. v. Dominguez-Hernandez, 934 F.2d 598, 599 (51 Cir. 1991). The arguments of Myers's counsel therefore did not satisfy Rule 32.

Second, the court's two questions to Myers regarding the firearm enhancement were patently inadequate to meet the plain requirements of Rule 32. By its own terms, Rule 32 mandates that a defendant be given the opportunity "to make a statement and present any information in mitigation of sentence." FRCP 32(c)(3)(C). (Emphasis added). The court questioned Myers merely to confirm that there was a factual basis for the firearm enhancement. Those esquires were not even an arguable attempt to give Myers the broad-ranging opportunity to speak embodied in Rule 32. See U.S. v. Sparrow, 673 F.2d 862, 864 (5th Cir. 1982); see also, U.S. v. De Alba Pagan, 33 F.3d 125, 129 (1st Cir. 1994). 3

We also reject the government's assertion that, because Myers received the lowest sentence possible, a remand for resentencing would be a useless act. We pretermitt discussion of that issue, however, until the next section.

In sum, in order to satisfy the command of Rule 32(c)(3)(C), the court, the prosecutor, and the defendant must at the very least interact in a manner that shows clearly and convincingly that the defendant knew he had a right to speak on any subject of his choosing prior to the imposition of sentence.

De Alba Pagan , 33 F.3d at 129, citing Green, 365 U.S. at 304-05. Buttressed by our own independent review of the record, we reject the government's claim that Myers was afforded his Rule 32 right of allocution.

We now must turn to a question left undecided by the Supreme Court in Green: whether denial of a defendant's Rule 32 right of allocution requires an automatic reversal and remand for resentencing, or whether such an error can be deemed "harmless" if the record shows that, regardless what the defendant might have said in his own behalf, the court would not have imposed a lower sentence. The government implicitly contends that a harmless error analysis

should apply when it urges that “remand is not warranted because there is no possibility that a lower sentence would have been imposed by the district court.” Citing our decision in *Dominguez-Hernandez*, the government maintains that remanding Myers's case for resentencing would therefore be a “useless bow to procedural nicety.” *Dominguez-Hernandez*, 934 F.2d at 599.

The government misconstrues *Dominguez-Hernandez*, a case which, we must observe, entirely refutes the government's position. In *Dominguez-Hernandez*, we reaffirmed the settled principle that “[i]f the district court fails to provide the [Rule 32] right of allocution, resentencing is required.” *Dominguez-Hernandez*, 934 F.2d at 599, citing *U.S. v. Posner*, 868 F.2d 720, 724 (51 Cir. 1989) (emphasis added). We remanded for resentencing even though the defendant (1) had not raised the error to the district court, and (2) did not even assert that, on resentencing, he wished to exercise his right of allocution. *Dominguez-Hernandez*, 934 F.2d at 599. It was in view of the latter point in particular that we observed remand could “well be a useless bow to procedural nicety.” *Id.* Nonetheless, we found that failure to afford the defendant his allocution rights necessitated remand; our precedents dictated and continue to dictate such a result. See, e.g., *U.S. v. Anderson*, 987 F.2d 251, 261 (5th Cir. 1993); *U.S. v. Sparrow*, 673 F.2d 862, 864-65 (5th Cir. 1982).

Because it is opposite to Myers's case, we add that a remand is necessary even when the judge's comments, at the sentencing hearing or elsewhere, indicate that the judge would remain unmoved in the face of anything the defendant has to say. See *Sparrow*, 673 F.2d at 865. 6 The right of allocution embodied in Rule 32 does not exist merely to give a convicted defendant one last-ditch opportunity to throw himself on the mercy of the court. To be sure, one important function of allocution is “to temper punishment with mercy in appropriate cases, and to ensure that sentencing reflects individualized circumstances.” *De Alba Pagan*, 33 F.3d at 129. But the practice of allowing a defendant to speak before sentencing, which dates back as far as 1689 to the case of *Anonymous*, 3 Mod. 265, 266, 87 Eng. Rep. 175 (K.B. 1689), has symbolic, in addition to functional, aspects. As a sister Circuit has observed, “[a]ncient in law, allocution is both a rite and a right . . . [A]llocution has value in terms of maximizing the perceived equity of the [sentencing] process.” *De Alba Pagan*, 33 F.3d at 129 (citations and internal quotes omitted). The right of allocution, then, is one “deeply embedded in our jurisprudence”; both its longevity and its symbolic role in the sentencing process counsel against application of a harmless error analysis in the event of its denial. *Id.*

The district court was well within its discretion in rejecting the § 5K1.1 motion and also, as we will below demonstrate, in subjecting Myers to the firearm enhancement. See discussion *infra* Part II. All we say, however, is that Myers should have been invited to speak freely in his own behalf prior to sentencing. A hypothetical observer to the proceedings, then, would have been left with no doubt that Myers's sentence reflected the sentencing court's considered judgment about the gravity of his individual participation in the drug conspiracy. Such benefits, although perhaps intangible, could have been bought at the relatively cheap cost of complying with the simple, clear language of Rule 32(c)(3)(C). As we have already observed, the burden of such compliance falls upon the sentencing court, and not upon the convicted defendant. See *Dominguez-Hernandez*, 934 F.2d at 599. We recognize that our holding today puts us at odds with some of our sister Circuits. For example, the Fourth, Sixth and Ninth Circuits apply some

variation of harmless error analysis to the denial of a defendant's Rule 32 allocution rights. See, e.g., U.S. v. Cole, 27 F.3d 996, 999 (4th Cir. 1994); U.S. v. Riascos-Suarez, 73 F.3d 616, 627 (6th Cir.), cert. denied, 117 S. Ct. 136 (1996); U.S. v. Leasure, 122 F.3d 837, 840 (9th Cir. 1997), cert. denied, 118 S. Ct. 731 (1998). On the other hand, the First Circuit, in De Alba Pagan, supra, squarely held that such an error could not be harmless. De Alba Pagan, 33 F.3d at 129, see also U.S. v. Patterson, 128 F.3d 1259, 1261 (8th Cir. 1997), citing U.S. v. Walker, 896 F.2d 295, 301 (8th Cir. 1990).

*For the foregoing reasons, we AFFIRM the district court's application of the firearm enhancement, but we **VACATE Myers's sentence because of the district court's failure to accord Myers his Rule 32 right of allocution. We must therefore REMAND FOR RESENTENCING.***

The right of allocution is alive and well in Texas. It may be a right, but not necessarily a “rite” as elucidated by the 5th Circuit Court of Appeals. According to the Texas Courts, **the defendant must take the initiative and demand the right to the “rite” to allocution himself before sentencing.** The courts hold:

The trial court does not err in failing to grant the defendant his right of allocution, where, even though the record shows that the mandatory question was not asked by the trial court, there are no objections to the court's failure to inquire of the defendant if he had anything to say as to why the sentence should not be pronounced against him, and where there is no contention that any of the statutory reasons set forth to prevent the pronouncement of sentence ever existed Hernandez v. State., (App. 9th Dist. 628 SW2d 145, (1982)).

When the record is silent on the subject [allocution] and there is no showing to the contrary, it will be presumed on appeal that the requirement was complied with. Johnson v. State, (1883) 14 App. 306; Bohannon v. State (1883) 14 App. 271.

“Where there is no objection in trial court that defendant has been denied right of allocution, no error is shown on claim that recitation in formal sentence that defendant was asked by court whether she had anything to say why sentence should not be pronounced against her is not supported by transcription of court reporter's notes.” Tenon v. State 563 SW2d 197, (1978).

The old cliché that if you don't know what your rights are, you don't have any seems to be the order of the day in most Courts. See what the state holds in their respective courts concerning allocution.

THE REQUIREMENT TO REVEAL THE NATURE AND CAUSE

The author has made, and has witnessed others make, numerous demands for “bills of particular” and “more definite statements” to determine the nature and cause of these penal offenses that we sometimes find ourselves charged with. It is enough to say here that the sliminess, stonewalling and just plain blatant viciousness of the courts and prosecutors in their attempts to conceal the true nature and cause of the accusation can be astonishing. The 6th Amendment makes this “right” to know the nature and cause of action mandatory. Why are they (judges and prosecutors) so bent on concealing this mandatory information? The Supreme Court has held:

The constitutional right to be informed of the nature and cause of the accusation entitles the defendant to insist that the indictment apprise him of the crime charged with such reasonable certainty that he can make his defense and protect himself after judgment against another prosecution on the same charge. United States v. Cruikshank, 92 U.S. 542, 544, 558 (1876); United States v. Simmons, 96 U.S. 360 (1878); Bartell v. United States, 227 U.S. 427 (1913); Burton v. United States, 202 U.S. 344 (1906).

*No indictment is sufficient if it does not allege all of the ingredients that constitute the crime. Where the language of a statute is, according to the natural import of the words, fully descriptive of the offense, it is sufficient if the indictment follows the statutory phraseology, but where the elements of the crime have to be ascertained by reference to the common law or to other statutes, it is not sufficient to set forth the offense in the words of the statute. **The facts necessary to bring the case within the statutory definition must also be alleged.** Potter v. United States, 155 U.S. 438, 444 (1894). United States v. Carll, 105 U.S. 611 (1882).*

*If an offense cannot be accurately and clearly described without an allegation that the accused is **not within an exception contained in the statutes**, an indictment which does not contain such allegation is defective. United States v. Cook, 84 U.S. (17 Wall.) 168, 174 (1872).*

Despite the omission of obscene particulars, an indictment in general language is good if the unlawful conduct is described so as reasonably to inform the accused of the nature of the charge sought to be established against him. Rosen v. United States, 161 U.S. 29, 40 (1896).

The right to notice of accusation is so fundamental a part of procedural due process that the States are required to observe it. In re Oliver, 333 U.S. 257, 273 (1948); Cole v. Arkansas, 333 U.S. 196, 201 (1948); Rabe v. Washington, 405 U.S. 313 (1972).

Article VI of the Constitution of the United States mandates that all the judges of every State are bound to the supreme Law of the Land and all judicial officers shall take an Oath or Affirmation to support the Constitution. The office of judge is an office of public Trust under the Constitution and this “trust” creates a duty and obligation on the judges. This author submits that every judge in every local, State, and Federal court is in breach of the duty to reveal the nature and cause of their quasi criminal, maritime penal charges that they are misrepresenting to the people to be crimes in common law.

Further, the law states the fundamental idea of fraud upon the court or for unjust enrichment shall vitiate the whole of the argument.

“Party having superior knowledge who takes advantage of another’s ignorance of the law to deceive him by studied concealment or misrepresentation can be held responsible for that conduct.” Fina Supply, Inc. v. Abilene Nat. Bank, 726 S.W.2d 537 (1987)

“Knowing failure to disclose material information necessary to prevent statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under Texas law.” Rubinstein v. Collins, 20 F.3d 160 (1990)

“Party in interest may become liable for fraud by mere silent acquiescence and partaking of benefits of fraud.” Bransom v. Standard Hardware, Inc., 874 S.W.2d 919 (1994)

“When circumstances impose duty to speak and one deliberately remains silent, silence is equivalent to false representation.” Fisher Controls International, Inc. v. Gibbons, 911 S.W. 2d 135 (1995)

“When a person sustains to another a position of trust and confidence, his failure to disclose facts that he has a duty to disclose is as much a fraud as an actual misrepresentation.” Blanton v. Sherman Compress Co., 256 S.W. 2d 884 (1953)

STEP #8: LACK OF JURISDICTION TO PROSECUTE TITLE 18 CRIMES

Our research has uncovered a significant error in the criminal code. The federal Title 18 criminal code was codified in 1909, again in 1940, and again in 1948. In 1909 and 1940 the jurisdictional section for federal courts **only authorized prosecution under Title 18 crimes, not under drug crimes or IRS crimes.** The 1940 statute, 18 U.S. Code § 546, was never repealed or amended.

That statute, which is still valid, only authorized prosecution for 1909 Title 18 crimes, nothing for United States Code TITLE 21 DRUG ABUSE PREVENTION AND CONTROL or TITLE 26 INTERNAL REVENUE CODE. **Anyone who was imprisoned under these statutes may be released challenging the validity of Title 18.**

Furthermore, under the Fair Waning Doctrine, to prosecute someone under a prior statute, a person must be given warning under that statute. **Therefore, no possible prosecution exists under Title 21, Title 26, or under any Title 18 charge other than those listed in the 1909 act, but prior notice is required.**

See if the case could be reopened challenging the jurisdiction of the DOJ and BOP to charge and incarcerate federal prisoners where prosecution exists under Title 21, Title 26, or under any Title 18 charge other than those listed in the 1909 act which deprives the court of jurisdiction over any criminal case one would be seeking declaration of innocence and damage.

Research has verified the evidence directly from Congress that Public Law 80-772 was never Constitutionally passed by Congress, the only statute which gives the court jurisdiction to indict and convict on any crime is Title 18 listed in the March 4, 1909 Act to codify, revise, and amend the penal laws of the United States. [see: SIXTIETH CONGRESS. Sess. II. CHs. 320, 321. – 1909.]

No court can challenge this lack of jurisdiction as presented or the evidence obtained found directly from Congress. All administrative and court remedies have been exhausted in the action before court.

One of the most significant cases in recent history related to jurisdiction and the right to challenge a federal statute was ruled on by the Supreme Court on June 16, 2011. In Bond v. United States; No. 09-1227; the Supreme Court, in a 9-0 decision, ruled that Bond had “standing to challenge a federal statute on grounds that the measure interferes with the powers reserved to States” pg. 3-14. “Anything in repugnance to the Constitution is invalid or unlawful.” Bond, supra.

Bond now opens the door for a challenge 18 U.S. Code § 3231 part of the enactment of Title 18, which states: “The district courts of the United States have original jurisdiction, exclusive of the Courts of the States, of all offenses against the laws of the United States. Nothing in this title shall be held to take away or impair the Jurisdiction of the courts of the several States under the laws thereof.” Without the validity of 18 U.S. Code § 3231 a federal court must revert the powers of the federal courts back to the states.

The Bond ruling provides standing for anyone to challenge U.S. Code § 3231 and any crime that could have been tried by the state where one would have received less time (in many cases the state decided not to prosecute at all). See U.S. v. Sharpnack, 355 U.S. 286 (1957). “It further specifies that “Whoever ...is guilty of any act or omission would be punishable if committed or omitted within the

jurisdiction of the State ...in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of like [federal] offense and subject to like punishment.”

Request a declaration of factual innocence. Once the court declares actual innocence, then the Petitioner will be allowed to seek damages estimated of up to \$3,000 per day. Damages come in tort forms; 18 U.S. Code § 2513 provides \$50,000 per year; the Citizens Protection Act of 1998 allows damages for as much as \$4 million; Tort actions and Constitutional actions allow damages for actual innocence. The total average recovery for false imprisonment is \$3,000.00 per day of confinement. **Those damages will come in 4 forms:**

1. Violations of 28 US § 2513, Unjust Conviction and imprisonment which requires the amount of damages awarded shall not exceed \$100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and \$50,000 for each 12-month period of incarceration for any other plaintiff. And \$3,000.00/day for anyone declared actually innocent; and
2. Violations according to the Citizens Protection Act of 1998, which will be requested at \$4 million per person; and
3. Damages for violations of federal tort actions; and
4. Constitutional violations.

Anyone who was charged with a federal crime since 1948 of any kind, whether Title 18, Title 21, Title 26, or any other 'federal' crime, and whether pretrial, in trial, post-trial, or released from the system **is eligible**. *This includes anyone, whether one entered a plea agreement or went to trial.*

NOTE: The Enrolled Bill Rule, *Field v. Clark*, 14,3 U.S. 649 does not apply to a proper challenge, because *Munos Flores*, *Clinton v. N.Y.*, and *Bond v. United States*, overturned *Field v. Clark*.

IN THE SUPERIOR COURT OF THE STATE OF _____

IN AND FOR _____ COUNTY

Name: _____,
Petitioner(s),

} CASE NO.: _____
}
}
} SUBMITTED UNDER TITLE 42, PART VI,
}
} CHAPTER 65 SEC. 6503(A)
}
}
}
}

MEMORANDUM OF LAW IN SUPPORT OF [STATE] HABEAS CORPUS

COMES NOW THE PETITIONER _____, who is unschooled in legalese and speaks only in the common tongue [layman's English] to apply his right to the Writ of Habeas Corpus to inquire as to the Nature and Cause of his detention in [FEDERAL PRISON NAME].

1. No meaningful hearing before a court of record has occurred prior to incarceration.
2. No explanation of the nature of the action has been explained to the petitioner prior to incarceration.
3. No explanation of the cause of action has been explained to the petitioner prior to incarceration.
4. No assistance of counsel was afforded to the petitioner.
5. Subject matter jurisdiction was not established prior to incarceration.
6. This petitioner demands immediate implementation of this Writ.
7. All findings of fact and conclusions of law regarding this Writ shall be in writing.

=====

FORTIETH CONGRESS. Sess. IL Cu. 248, 249. 1868. Expatriation Act CHAP. CCXLIX - An Act concerning the Rights of American Citizens in foreign States. Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle, this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed; Therefore, be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any declaration, instruction, opinion, order, or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this government.

Sec. 2. And be it further enacted, That all naturalized citizens of the United States, while in foreign states, shall be entitled to, and shall receive from this government, the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances.

Sec. 3. And be it further enacted, That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the

President forthwith to demand of that government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress. Approved, July 27, 1868.

=====

Respectfully Submitted,

by: _____

Date: _____

Printed Name: _____

Phone Number: _____

STEP #9: VACATE DEFAULT JUDGMENT

Now it's time to determine if our case is able to vacate a judgment, default or not. To determine what a void judgment is, we look at Black's Law Dictionary 6th Ed. pg. 1574: **Void judgment. One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally.** See Reynolds v. Volunteer State Life Ins. Co., Tex. Civ. App., 80 S.W.2d 1087, 1092.

One which from its inception is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree.

"Judgment is a 'void judgment' if the court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process." Klugh v. U.S., D.C.S.C., 610 F.Supp. 892, 901.

"Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties." See: 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).

A motion to set aside a judgment as **void** for lack of jurisdiction is not subject to the time limitations of Rule 60(b). See Garcia v. Garcia, 712 P.2d 288 (Utah 1986).

"There is only an immaterial procedural difference between the relief sought pursuant to Rule 60(b) and the relief sought in an independent action." Hadden v. Rumsey Prods., 196 F.2d 92 (2d Cir. 1952); 7 Moore's Federal Practice, § 60.38(3) (2d ed. 1971))

A judgment is **void**, and therefore subject to relief under Rule 60(b)(4), only if the court that rendered judgment lacked jurisdiction or in circumstances in which the court's action amounts to a plain usurpation of power constituting a violation of due process. See United States v. Boch Oldsmobile, Inc., 909 F.2d 657, 661 (1st Cir. 1990)

Where Rule 60(b)(4) is properly invoked on the basis that the underlying judgment is **void**, *"relief is not a discretionary matter; it is mandatory."* Orner v. Shalala, 30 F.3d 1307, 1310 (10th Cir. 1994) (quoting V.T.A., Inc. v. Airco, Inc., 597 F.2d 220, 224 n.8 (10th Cir. 1979)).

The concept is that the person seeking to nullify the judgment should ordinarily do so by going into the court that rendered the judgment rather than attempting to do so in an independent suit. Hence, it has been said that a **"void"** judgment can be attacked in an independent suit but a **"voidable"** one must be attacked by a 60(b) type of motion. But if the proposition is accepted that the applicant for relief should always be required to use a 60(b) motion unless it would not provide adequate relief, then the distinction is unnecessary.

Many authorities still adhere to the view that the jurisdictional question can be subsequently raised, by motion under Rule 60(b) or its analogues, by separate suit in equity, or by attacking the judgment when it is relied upon by an opponent. However, most of the cases in which such an attack has

been allowed have involved no intervening reliance interests and either a judgment of a tribunal of limited jurisdiction or grounds of attack having Constitutional implications. Even in these situations the tendency seems to be to sustain the judgment except when its enforcement would affect the government itself or the administration of a scheme of remedies having significance beyond the immediate parties.

Which party should bear the burden of proof in such a motion? Rule 60 is silent on the issue and the other federal rules provide no explicit answers. However, the controlling burden of proof rule is often critical: in over 90 percent of the reported cases where courts have ruled on Rule 60(b)(4) motions to void a default judgment for lack of personal jurisdiction, the party bearing the burden of proof has lost. The allocation of the burden of proof may drive a case's final disposition. This question of how the burden of proof should be allocated in Rule 60(b)(4) motions advanced on personal jurisdiction grounds has caused sharp and, to date, unresolved conflict among the lower federal courts. The Supreme Court and most of the federal appellate courts have not squarely addressed this narrow but important question. Further, despite the lack of a clear rule for allocating the burden of proof in Rule 60(b)(4) motions based on personal jurisdiction, scholars have overlooked the issue.

Let it be said that subject matter jurisdiction can never be presumed, waived, or constructed even by mutual consent of the parties. Subject matter failings are usually the following:

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 (1938); *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); if the court exceeded its' statutory authority, see *Rosenstiel v. Rosenstiel*, 278 F. Supp. 794 (1967).

A **statutory right** is a right granted to a person by authority of a **statute**. Statutes are created by **legislative** (and in certain countries executive) bodies, and form the codified law of a **jurisdiction**. For example, a statute governing court process might contain provisions giving an election on either party to an **appeal**, and that right to appeal would be considered statutory.

8. Any acts in violation of 11 U.S. Code § 362(a), in re *Garcia*, 109 B.R. 335 (N.D. Illinois, 1989).
9. 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).
10. 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).
11. Where any litigant was represented before a court by a person/law firm that is prohibited by law to practice law in that jurisdiction.

12. 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).
13. Where a summons was not properly issued.
14. 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).
15. When the rules of the Circuit court are not complied with.
16. 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).
17. Where the statute is vague, People v. Williams, 638 N.E. 2d 207 (1st Dist. (1994).
18. 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).
19. 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).
20. 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).

These twenty points regarding subject matter jurisdiction when examined make a viable case a void judgment, null and void upon its face.

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. Code § 3331, 28 U.S. Code § 543 and 5 U.S. Code § 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 (very difficult) a trespasser upon the court [upon the law] not one of his judgments, pronouncements or orders are valid. All are null and void.**

When the judgment has been entered by default, the judgment is usually regarded as open to attack if rendered without subject matter jurisdiction. When the default was entered without Constitutionally adequate notice, the judgment is in any event infirm on Due Process grounds. The better rule would seem to be to hold such a default judgments as **void**, except when it has given rise to substantial interests of reliance of which the person against whom it was rendered was aware. Binding the person to the judgment in the latter situation can be justified not so much on a principle of res judicata as upon one of equitable estoppel, for a judgment is not the only basis upon which one's rights may be treated as finally concluded.

“A party challenging an ALJ's decision must do more than recite evidence favorable to its case, the party must demonstrate with some degree of specificity the manner in which substantial evidence does not exist or why the decision is contrary to law.” Cox v. Benefits Review Board, 791 F.2d 445, 9 BLR 2-46 (6th Cir. 1986).

“A party may not attack a decision with a view toward enlarging his or her own rights or lessening the rights of an adversary absent a cross-appeal. However, a cross-appeal is unnecessary when a prevailing party merely advances an argument that would provide another

avenue by which the fact finder could reach the same favorable judgment.” Hansen v. Director, OWCP, No. 91-9559 (10th Cir. 1993).

“An appellee need not cross-appeal in order to make an argument that supports the decision reached by the alj but attacks the reasoning used by the alj in reaching his decision.” Malcomb v. Island Creek Coal Co., 15 F.3d 364, 18 BLR 2-113 (4th Cir. 1994).

WHY MOST PEOPLE LOSE SUMMARY JUDGMENTS

Suddenly the opposition files for summary judgment and one now has a hearing before the judge. After arguing the case both written and oral, the judge proceeds to ignore all your citations of law and all arguments. He rules against and dismisses the case. **What allows the judge to ignore arguments and make nonsensical rulings?**

What must be understood is the judge's statements from the bench that is on the record. In virtually all lower court cases, judges refuse to tell why they made their rulings. Most reference the need to take the case to Appeals and let Appeals tell why the judge dismissed the case! That tells us: **1) there is a secret court ruling or procedure all judges collude regarding** (and they want to keep it that way) **2).** The judge is stating that the Appeals Court judges also know what that secret ruling or procedure is.

Here is the secret... there are a number of high court rulings that state that **the court cannot decide on the basis of argumentation and must decide on facts presented to the court by a competent witness.** You however did not raise your hand and testify at the hearing. **If one even failed to present any witnesses because they thought they were testifying when actually giving oral arguments, that is the mistake!** One must raise their hand *and swear [or affirm]* to give testimony.

One can present testimony before a hearing by filing an affidavit sworn by you or any other competent witnesses, but most fail to do so. One can even present a court deposition as testimony. **If sworn/affirmed testimony is not given, it's no wonder we get clobbered in court so often!**

The last thing that most fail to do, is to enter evidence by means of a competent witness. Remember the famous "voter punch cards" brought into the court to show how the 2000 Florida election was flawed? The judge never even looked at them and threw Al Gore's lawyers out of court. The press was upset over this and no one knew why! **THIS IS THE REASON WHY!**

The boxes of punched cards were **never** presented to the court by a **competent witness.** There had to be a witness to state that the cards came from such and such precinct and that they witnessed the cards being gathered up and boxed and transported and they could testify to all such matters. Without the witness, how would the judge know if there had not been tampering with the cards during the gathering and transporting of them? Lawyers cannot be witnesses in the case nor can any statements be made by them that could be considered testimony. So much for high priced lawyers! **Now that one knows their secret agenda one can go into court and win!**

One more thing that will be helpful in any court filings is that the opposition will Answer some of your paragraphs with a statement like this: Plaintiff failed to state a claim on which relief can be granted. Court rules state that you have three options to answer: **Deny, Admit, or state that not enough information is given to make a determination as to the statement.** Just use the last option and let the attorney explain in court what he meant.

NOTE: Some argue that if an attorney makes a statement in court one should object because attorneys cannot give testimony. False! **The attorney is not giving testimony because he is not sworn under oath. His statements are mere argumentation and he has a right to make arguments. His client is the one who gives testimony under oath and the attorney never does.**

ATTACKING JUDGMENTS

When you're in the courtroom and you see the judge walk in you might think he has jurisdiction. This is not the case. The judge only has jurisdiction over the "contents of the case".

When any important document in the case is missing, then the judge does NOT have jurisdiction. **If any of these documents are lacking then a judgment can be voided in its entirety.** This is a very important point to remember. The important things to know is that for a case to have all the requirements for jurisdiction the following are required:

1. Complaint.
2. Proof of Service (you must have been served with the summons).
3. Affidavit from the person that approved your original loan or contract or their personal appearance in court.
4. Certified copy of your original contract evidencing your signature contracting for goods or services.

STARE DECISIS - Latin. "to stand by that which is decided." The principal that the precedent decisions are to be followed by the courts.

To abide or adhere to decided cases. It is a general maxim that when a point has been settled by decision, it forms a precedent which is not afterwards to be departed from. The doctrine of stare decisis is not always to be relied upon, for the courts find it necessary to overrule cases which have been hastily decided, or contrary to principle. Many hundreds of such overruled cases may be found in the American and English books of reports.

An appeal court's panel is *"bound by decisions of prior panels unless an en banc decision, -Supreme Court decision, or subsequent legislation undermines those decisions."* United States v. Washington, 872 F. 2d 874, 880 (9th Cir. 1989).

Although the doctrine of stare decisis does not prevent reexamining and, if need be, overruling prior decisions, *"It is ... a fundamental jurisprudential policy that prior applicable precedent usually must be followed even though the case, if considered anew, might be decided differently by the current justices. This policy ... 'is based on the assumption that certainty, predictability and stability in the law are the major objectives of the legal system; i.e., that parties should be able to regulate their conduct and enter into relationships with reasonable assurance of the governing rules of law.'"* Moradi-Shalal v. Fireman's Fund Ins. Companies (1988) 46 Cal.3d 287, 296.

Accordingly, a party urging overruling a precedent faces a rightly onerous task, the difficulty of which is roughly proportional to a number of factors, including the age of the precedent, the nature and extent of public and private reliance on it, and its consistency or inconsistency with other related rules of law.

STEP #10: JUDGMENT PROOF ASSETS [BEFORE LAWSUIT]

Should damages be awarded, as is good for all, the defendant shall pay the restitution; however, **where an entity has a publicly filed UCC-1 Lien against it and/or a prior private security agreement dated before the service of process shall have those creditors stand as “first in line, first to collect” on any and all debts adjudged** according to Uniform Commercial Codes. It should be noted that if damages were caused, the funds will eventually be drawn no matter the web weaved.

UCC FINANCING STATEMENT									
FOLLOW INSTRUCTIONS (front and back) CAREFULLY									
A. NAME & PHONE OF CONTACT AT FILER [optional]									
Pass-Through Trust									
B. SEND ACKNOWLEDGMENT TO: (Name and Address)									
Pass-Through Trust c/o 123 Main Street New York, New York [10023]									
					Print		Reset		
THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY									
1. DEBTOR'S EXACT FULL LEGAL NAME - insert only <u>one</u> debtor name (1a or 1b) - do not abbreviate or combine names									
1a. ORGANIZATION'S NAME									
OPERATING TRUST									
OR									
1b. INDIVIDUAL'S LAST NAME									
FIRST NAME									
MIDDLE NAME									
SUFFIX									
1c. MAILING ADDRESS									
777 Public Road									
CITY									
New York									
STATE									
NY									
POSTAL CODE									
10023									
COUNTRY									
USA									
1d. SEE INSTRUCTIONS									
ADD'L INFO RE ORGANIZATION DEBTOR									
1e. TYPE OF ORGANIZATION									
Express Trust									
1f. JURISDICTION OF ORGANIZATION									
Equity									
1g. ORGANIZATIONAL ID #, if any									
NONE									
2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only <u>one</u> debtor name (2a or 2b) - do not abbreviate or combine names									
2a. ORGANIZATION'S NAME									
OR									
2b. INDIVIDUAL'S LAST NAME									
FIRST NAME									
MIDDLE NAME									
SUFFIX									
2c. MAILING ADDRESS									
CITY									
STATE									
POSTAL CODE									
COUNTRY									
2d. SEE INSTRUCTIONS									
ADD'L INFO RE ORGANIZATION DEBTOR									
2e. TYPE OF ORGANIZATION									
2f. JURISDICTION OF ORGANIZATION									
2g. ORGANIZATIONAL ID #, if any									
NONE									
3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR(S)) - insert only <u>one</u> secured party name (3a or 3b)									
3a. ORGANIZATION'S NAME									
Pass-Through Trust									
OR									
3b. INDIVIDUAL'S LAST NAME									
FIRST NAME									
MIDDLE NAME									
SUFFIX									
3c. MAILING ADDRESS									
CITY									
New York									
STATE									
New York									
POSTAL CODE									
Postal Code Exempt									
COUNTRY									
United States									
4. This FINANCING STATEMENT covers the following collateral:									
One Million US Dollars (\$1,000,000) redeemed in lawful money.									
One Million Troy Ounces of Silver.									
Legal and equitable title of all Intellectual Property.									
All rights, titles and interest, real property of XXXX in the amount of XXXX.									
XXX assets.									
XXX bank account.									
Even body parts/blood/etc (if you want).									
5. ALTERNATIVE DESIGNATION (if applicable)									
LESSOR/LESSOR									
CONSIGNEE/CONSIGNOR									
BAILEE/BAILOR									
SELLER/BUYER									
AG. LIEN									
NON-UCC FILING									
6. THIS FINANCING STATEMENT is to be filed (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)									
7. Check to REQUEST SEARCH REPORT (S) on Debtor(s) (optional)									
All Debtors									
Debtor 1									
Debtor 2									
8. OPTIONAL FILER REFERENCE DATA									

USING PACER.COM TO RESEARCH COURT RECORDS

Public Access to Court Electronic Records (PACER) is a system whereby the public may access all court documents within a certain jurisdiction electronically, and for a small fee. Currently PACER charges \$0.10 per page to view a document (\$3.00 MAX as of 2020) and to download is an additional fee – these fees can add up quickly! It is free to create an account and begin researching court cases (researching case opinions is free); however, even a search will incur a small fee. If these fees add up to more than \$15.00 in a 90 day period, a paper invoice will be sent for payment (or automatic payment by credit card, if added). If one has an invoice of less than \$15.00, the total due resets upon each quarter's end. Nobody can have this fee waived, save an indigent and only when by court order of a judge ***and only for limited purposes***. What can one do? A system must run as self-sufficient per demand!

Thankfully, there is RECAP, a browser extension from Princeton University students which allows one to download information from the PACER System for free. It is currently available for Google Chrome and Mozilla Firefox browsers as a browser add-on. With RECAP, anyone who has accessed documents with the plugin installed will make the documents available to other people for free. If you see a small blue box with an “R” on it, next to the docket number – this is a RECAP downloadable file. Simply click on the “R” button and one may access it without the need for paying. Best of all, RECAP does not violate copyright laws as all court documents are works placed in the public domain, typically under federal jurisdiction (unless sealed).

NOTE: It is suggested one use a credit card when registering for a PACER account, otherwise an activation code will need to be sent by U.S. mail to the address provided on the registration form and may take weeks to arrive.

THE “CHEAT SHEET” TO BEAT VICTIMLESS CRIMES

1. Is the action a tort (was real damage caused to person or property)?
YES: Move to mediation, if unsuccessful, then private arbitration. Agreement to private arbitration should *always* be met with agreement to outcome and inability to get a court’s secondary ruling. If you control the contract, this stipulation should have been written in and agreed to prior.
NO: Enter a Challenge to the Jurisdiction by Special Appearance (first *in personam*, then *subject-matter*).
2. Refuse For Cause ALL documents entered into the record by Plaintiff. Everything is contested until proven beyond doubt.
3. Continue according to procedure, as found in the Jurisdictionary (846 pages) PDF to overcome victimless crimes aka statutory crimes.
4. Should the judge rule against you, read Void Judgements (281 pages) PDF.
5. Move to a common law Article III Court [Appellate or District Court]
 - a. Article III Courts are judged on facts and not statutes. If no lawful tort can be found, the lower court’s rulings will be overturned. One will need to file a Writ of Mandamus (find any template online, [a good example found here](#)).
 - i. A writ of mandamus is an order from a court to an inferior government official ordering the government official to properly fulfill their official duties or correct an abuse of discretion. (See *Cheney v. United States District Court* (2004))

SEVEN ELEMENTS OF JURISDICTION AND THE IRS

In order for any government agency, subsidiary or law to be applied to an individual American Citizen, **it must first be proved or assumed that the government has jurisdiction in this matter over that particular individual for that time.** Specifically, before an individual can be charged and convicted with a crime, the government official or agency must prove jurisdiction. This is seldom accomplished, and many individuals lose a case and even go to jail when no one has proved this legally essential issue.

Nowhere is this more common than in Internal Revenue Service cases against so-called tax protesters. **The IRS almost never attempts to prove jurisdiction.** In fact, jurisdiction is almost never even addressed. If the individual is correct in his/her claims that he/she is not a taxpayer as defined in the Internal Revenue Code, then they have NO JURISDICTION! With no jurisdiction comes no case and no conviction! But to win, jurisdiction MUST be challenged by the individual, and if challenged successfully (and adamantly), the case is dismissed.

There are seven elements of jurisdiction, all of which must be proved by the prosecution if challenged. If not challenged, it will ALWAYS be assumed by the court that competent jurisdiction is proved and accepted by all parties.

If any element of the seven is not proved, the case must be dismissed. The normal process in a case against a so-called tax protester is to ignore the jurisdiction issue altogether, or else to challenge jurisdiction while at the same time conforming to procedures and requirements that assume jurisdiction. In other words, one cannot allege the IRS has no jurisdiction while at the same time continuing to file a Form 1040 each year.

In the very few tax cases where jurisdiction is challenged, almost always the judge will proclaim jurisdiction from the bench, *"It is the opinion of this court that the prosecution has jurisdiction in this case, and exercises it regularly, almost every day. I don't think we need to go through all that today."* **This is a total violation of law and accepted court procedures.** But most federal judges won't let that stop them! But the one alleging jurisdiction must prove jurisdiction if jurisdiction is challenged. Usually the defendant charged with a crime is too intimidated or ignorant to successfully challenge a judge on this, but **the judge MUST be challenged if he/she proclaims that the prosecution has jurisdiction in this case.** If he/she is not successfully challenged, almost always the individual will lose the case.

One of the easiest and most common means of alleging jurisdiction on the part of the prosecution (IRS) is to refer to the accused as a "taxpayer." If that word is ever used in reference to the so-called tax protester, it MUST be immediately challenged. [*"I object, your Honor. The prosecution has just labeled me a taxpayer. Whether or not I am a taxpayer is the very root issue in this case, and has not been proven by the prosecution. I respectfully request that the word 'taxpayer' be stricken from the record and that the prosecution be instructed to not use that word again until it has proven that I am indeed a taxpayer."*] **If the defendant does not challenge that word, and similar techniques used by the IRS, the judge will have legal justification to assume jurisdiction.** Of course, if the defense has done its job, the issue of taxpayer and jurisdiction would already be established. The time to challenge jurisdiction is at the beginning of the trial, not at the end when it looks like the individual is about to lose. If jurisdiction is to be successfully challenged, it must be at the very beginning of the trial. To allow the trial to continue at all is to admit to jurisdiction.

Below are the seven issues of jurisdiction in any and every court case. Remember, if any one of these seven are not proven beyond a reasonable doubt, the case cannot continue.

1. **The accused must be properly identified;** identified in such a fashion there is no room for mistaken identity. The individual must be singled out from all others; otherwise, anyone could be subject to arrest and trial without benefit of “wrong party” defense. Almost always the means of identification is a person's proper name, BUT, any means of identification is equally valid if said means differentiates the accused without doubt. (By the way, there is no constitutionally valid requirement that you must identify yourself to the judge or to anyone.) For stop and identify issues (4th Amendment) see *Brown v. Texas*, 443 US 47 and *Kolender v. Lawson*, 461 US 352.
2. **The statute of offense must be identified by its proper or common name.** A number is insufficient. Today, a citizen may stand in jeopardy of criminal sanctions for alleged violation of statutes, regulations, or even low-level bureaucratic orders (example: Colorado National Monument Superintendent's Orders regarding an unleashed dog, or a dog defecating on a trail). **If a number were to be deemed sufficient, the government could bring new and different charges at any time by alleging clerical error.** ("I'm sorry, your Honor. I assumed that the regulation indicated by that number was a legitimate statute. My secretary must have made an error.") For any act to be tried as an offense, it must be declared to be a crime. Charges must negate any exception forming part of the statutory definition of an offense, by affirmative non-applicability. In other words, any charge must affirmatively negate any exception found in the law. Example of exception from a case where someone was on trial for § 7203, Willful Failure to File [a Form 1040]:

"... thereof to make a return (other than a return required under authority of § 6015)... Indictment or information is defective unless every fact which is an element in a prima facie case of guilt is stated. The assumption of an element is not lawful. Otherwise, the accused will not be thoroughly informed. 26 U.S. Code § 6012 is a necessary element of the offense. Since § 6012 isn't cited, the information is fatally defective. Additionally, the information did not negate the exception (other than required under authority of § 6015)."

After reading 6012 and 6015, and knowing that the essential § 7203 elements are: A. Required to perform. B. Failed to perform. C. Failure was willful you may wish to ask, “how often is a valid § 7203 indictment or other information or indictment brought? Very seldom.

How many citizens have been convicted in a fatally defective process? Perhaps thousands, all with the knowing or willing participation of a federal judge. It is the judge's job to assure that justice is accomplished. But the judge will almost always stop short of doing his/her job and wait until the defense takes the important steps. The fact that most defense attorneys don't know how to fight a case against the IRS doesn't seem to matter to the judges. Nor does it seem to matter to the judge...

3. **The acts of alleged offense must be described in non-prejudicial language and detail so as to enable a person of average intelligence to understand the nature of charge** (to enable preparation of defense); the actual act or acts constituting the offense complained of. The charge

must not be described by parroting the statute; not by the language of same. The naming of the acts of the offense describe a specific offense whereas the verbiage of a statute describes only a general class of offense. Facts must be stated. Conclusions cannot be considered in the determination of probable cause.

4. **The accuser must be named.** He may be an officer or a third party. Some positively identifiable person (human being) must be accused. Some specific person must take responsibility for the making of the accusation, not an agency or an institution. This is the only valid means by which a citizen may begin to face his accuser. Also, the injured party (corpus delicti) must make the accusation. Hearsay evidence may not be provided. Anyone else testifying that he heard that another party was injured does not qualify as direct evidence.
5. **The accusation must be made under penalty of perjury.** If perjury cannot reach the accuser, there is no accusation. Otherwise, anyone may accuse another falsely without risk.
6. To comply with the five elements above, that is for the accusation to be valid, **the accused must be accorded due process.** Accuser must have complied with law, procedure and form in bringing the charge. This includes court-determined probable cause, summons and notice procedure. If lawful process may be abrogated in placing a citizen in jeopardy, then any means may be utilized to deprive a man of his freedom. All political dissent may be stifled by utilization of defective processes.
7. **The court must be one of competent jurisdiction.** To have a valid process, the tribunal must be a creature of its constitution, in accord with the law of its creation, i.e. an Article III judge.

Without the limiting factor of a court of competent jurisdiction, all citizens would be in jeopardy of loss of liberty being imposed at any bureaucrat's whim. It is conceivable that the procedure could devolve to one in which the accuser, the trier of facts, and the executioner would all be one and the same.

The first six elements above deal primarily with the issue of personal jurisdiction. The seventh element (also element #2) addresses subject-matter and territorial jurisdiction. Subject-matter jurisdiction is conferred by acts controlled by law; territorial jurisdiction attaches by venue of the parties in relation to the court and to any trans-jurisdictional acts and/or activities of the parties (extended territorial jurisdiction is conferred by controversial long-arm statutes).

Lacking any of the seven elements or portions thereof, (unless waived, intentionally or unintentionally) all designed to ensure against further prosecution (double jeopardy); to inform the court of facts alleged for determination of sufficiency to support conviction, should one be obtained. Otherwise, there is no lawful notice, and charges must be dismissed for failure to state an offense. Without lawful notice, there is no personal jurisdiction and all proceedings prior to filing of a proper trial document in compliance with the seven elements are void. A lawful act is always legal but many legal acts by the government are often unlawful. Most bureaucrats lack elementary knowledge and incentive to comply with the mandates of constitutional due process. They will make mistakes. Numbers beyond count have been convicted without benefit of governmental adherence to these seven elements. Today, information is being filed and prosecuted by “accepted practice” rather than due process of law.

Jurisdiction, once challenged, is to be proven, not by the court, but by the party attempting to assert jurisdiction. The burden of proof of jurisdiction lies with the asserter. The court is only to rule on the sufficiency of the proof tendered. See McNutt v. GMAC, 298 US 178. The origins of this doctrine of law may be found in Maxfield's Lessee v Levy, 4 US 308.

Today the courts are unconcerned with questions such as whether or not the 16th or 17th amendments were ever lawfully ratified. If the courts were to address this type of question honestly, the government, with its huge bureaucracy and patron special interests would be placed in jeopardy. This potential threat is not allowed nor will it ever be. It is much easier for the courts to label such potential threats as political questions, point to the lateness of the clock and refuse to hear or rule. Whatever the political juggernaut does, it uses the facade of law to justify or reconcile it. *The only way such questions will have force and effect is if the general public becomes aware and concerned with justice being based upon law and not just policy based on a facade of law.*

If you doubt such words, please be assured that they are not just words but are, in fact, an articulation of the unwritten, unspoken, present public policy, as enforced by the courts in dealing with challenges to governmental acts and authority. For documentation see U.S. v. Wayne Wojtas, 85 CR 48 in the US District Court for the Northern District of Illinois, Eastern Division and Judge Shadur's opinion on the 16th Amendment. You will see the beginnings and threat of disbarment of a certain “aggressive” licensed attorney.

To be truly effective in the courts in any challenge to governmental power and authority, the challenger must possess a good understanding of politics. This is especially so since the government and the courts are primarily concerned with a public perception of the balancing of the scales of justice rather than the attainment of true justice under the law.

Once it is realized that the court is primarily concerned with politics, it then becomes necessary for any challenger to become proficient in the political arena. By politics, we speak, not of the electoral process, but of the politics of association.

Keeping this in mind, and truly understanding the concept, **a man accused of breaking a “rule”** for which he may suffer penalties of imprisonment, fine and costs **without benefit of trial or Constitutional safeguards, may very well consider bringing a criminal charge against himself directly in court** and thereby blunt his adversaries' attack. To the uninitiated, this may sound like madness, but to the political scholar destined to appear before a “master” to answer to alleged rule violation of the unauthorized practice of law, the self-accusatory route to the courts may be the only hope of victory (invoking an Article III Court); both legal and political.

NOTE: If one has a prior tax debt, then that needs to be paid. The lawful money redemption process is only executed by making the demand for a tax year [if forced to file by employer], then using the reporting form (1040) to have the withholdings refunded by Treasury check. If redeemed with record, there is proof of *non-tax liability* regarding any withholdings on account (to be refunded by law).

LEGAL RESOURCES

The Public Library of Law

One of the world's largest free law libraries.

CFR: Code of Federal Regulations

Codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the United States Federal Government.

FCRA: Fair Credit Reporting Act

Federal law regulating collection debt in the United States.

FDCPA: Fair Debt Collection Practices Act

Federal law regulating collection debt in the United States.

FRCP: Federal Rules of Civil Procedure

Rules that govern the conduct of all civil actions brought in Federal district courts.

RESPA: Real Estate Settlement Procedures Act

Consumer protection law regarding residential property loan terms and closing cost.

TCPA: Telephone Consumer Protection Act

The TCPA restricts telephone solicitations (i.e., telemarketing, debt collections, etc.) and the use of automated telephone equipment.

TILA: Truth in Lending Act

Consumer protection law regarding credit transactions.

U.S. Code and Alternate Source

Compilation and codification of the general and permanent federal law of the United States.

UCC: Uniform Commercial Code

Commercial law, adopted in most states, attempts to make all laws relating to commercial transactions uniform, including chattel mortgages and bulk transfers.

Justia: Online Legal Research Library

Great for researching case laws, legal citations and offers its own unique legal resources and search engine for researching law.

CaseText: A True Replacement for Lexis and Westlaw

May need to register for an account, but an average person will not use up the limits given each month. Another great resource for researching case laws, legal citations with its own search engine for researching law.

Case.Law: Harvard Law School Case Access Project

Great for researching case laws, legal citations and offers its own unique legal resources and search engine for researching law.

Case Mine: Artificial Intelligence for Creating Better Motions and Briefs

Great for researching case laws, legal citations and offers its own unique legal resources and search engine for researching law.

National Consumer Law Center

The National Consumer Law Center (NCLC) is an American nonprofit organization headquartered in Boston, Massachusetts, specializing in consumer issues on behalf of low-income people. Legal services, government and private attorneys, as well as community organizations, work with the center to advocate for consumer reform.

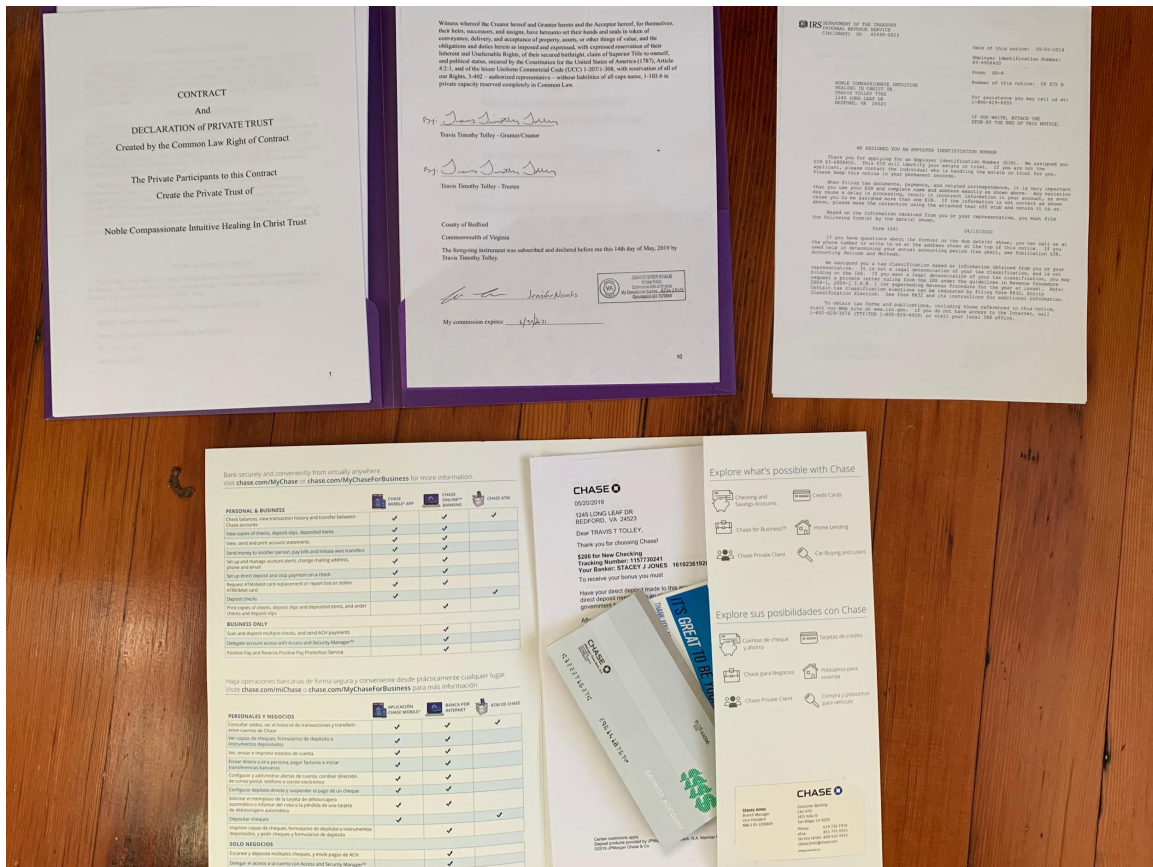
PACER (Public Access to Court Electronic Records)

The PACER service provides on-line access to U.S. Appellate, District, and Bankruptcy court records and documents nationwide.

Annual Credit Report

The only source for free credit reports. Authorized by Federal law.

TESTIMONIALS & CASE STUDIES



David Ogden

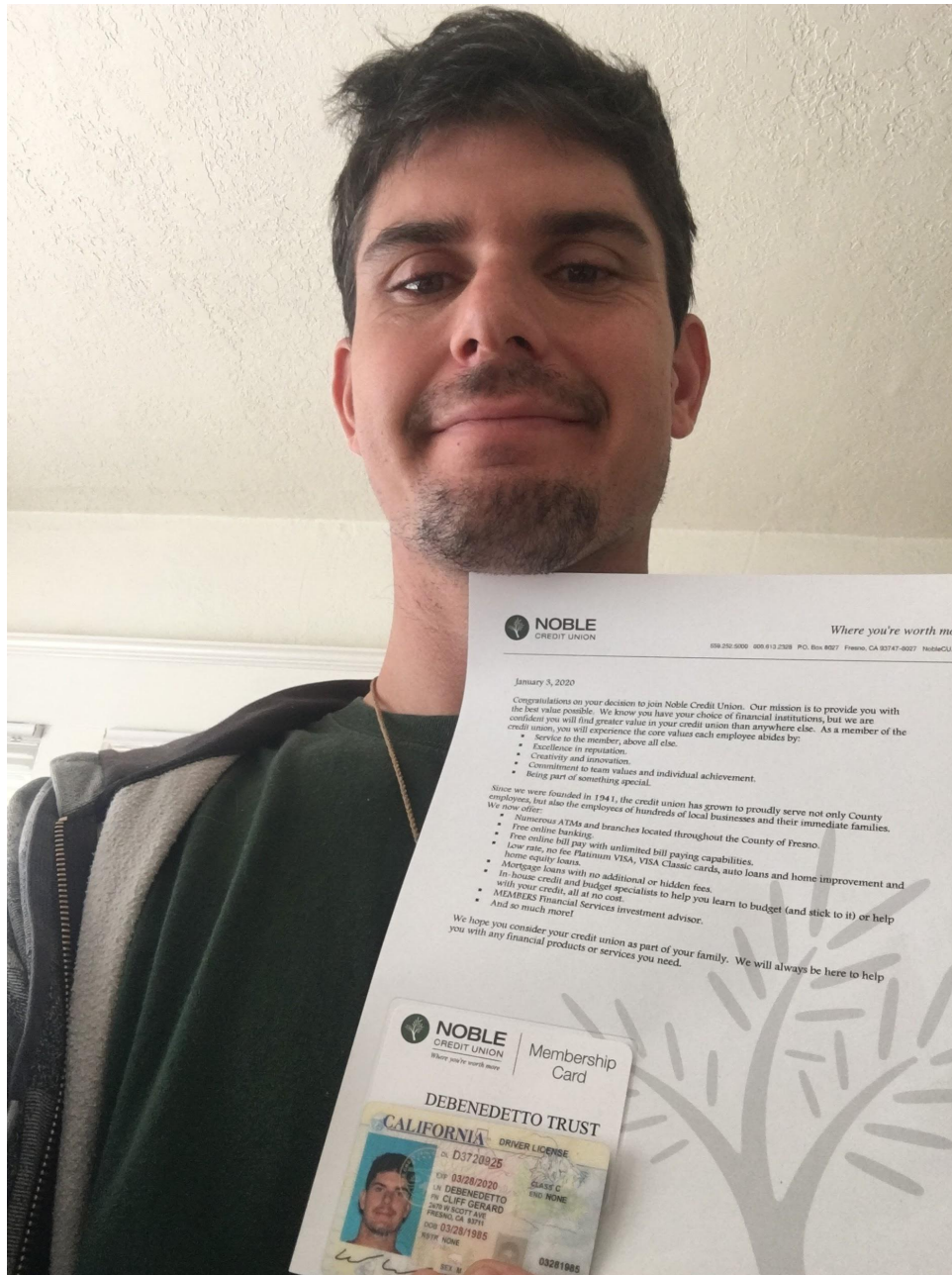
September 28 at 7:02 PM

I decided to open a trust with Navy Federal Credit Union. The application and paperwork needed was very simple. We had the trust documents notarized by a mobile notary because the bank said they didn't have anyone on staff to do it today.

The mobile notary was very helpful and actually gave us a few suggestions on how to change some of the wording so the trust would have more likelihood of getting approved. He said to make sure and list the trust name in the name and situs paragraph wording instead of just putting the trust name in the situs area. He also suggested some additional wording on the signature page to better identify the trustees and beneficiary. He had us print our names next to our positions and also recommended initialing each page.

The bank only required the cover page and the signature page. They didn't even care what the body of the trust said. They never asked if it was a business account and are converting our personal account into the trust account so we don't have to make any major changes. Overall it was a simple process. There should be no reason for the trust to get denied.

Next step is to send all the paperwork to the Secretary of State and get it registered. It's nice to finally be making some progress.



COPYRIGHT CLAIM

© Private Wealth Academy Trust. All rights reserved. No part of this document may be reproduced or utilized in any form or by any means, electronic, mechanical, including but not limited to photocopying, recording, or by any information storage and retrieval system, without the express permission in writing from the owner of the copyright. This copyright is covered under the criminal statutes, FNSP Act 72-78 and 80-84, where conviction can result in criminal penalties of up to \$250,000 for individuals and \$500,000 for corporations and imprisonment for up to 5 years for the first offense and 10 years for subsequent offenses. Never copy or use this document without written permission. Refunds available as previously described (or) within seven days of purchase, refund issued minus physical product price and shipping.