

WRIT OF PRECIPAE AND NOTICE UPON THIS COURT TO READ ALL PLEADINGS APPELLANT FILES WITH THIS COURT, AND ADHERE ONLY TO CONSTITUTIONALLY COMPLIANT LAW AND CASE LAW, AND MORE PARTICULARLY, THE BILL OF RIGHTS, IN ITS RULINGS IN THE NATURE OF AFFIDAVIT

COMES NOW Appellant, being over the age of majority, of sound, but emotionally inflicted mind, and willing and able to witness to the truth and fact of matters announced herewith, moves this Honorable Court, pursuant to the oaths sworn by the presiding judge and attending public officers, and their duties to the National Constitution, in any and all proceedings before this Honorable Court in this matter:

1. To read, consider, comprehend and rule upon all motions and pleadings Appellant files with this Court, with Court rulings based only in and supported by laws in agreement with, and not in opposition or contradiction to, the National Constitution, specifically, the Bill of Rights;
2. To honor, uphold and abide by the oaths taken by the presiding judge and attending court officers, pursuant to the Constitution of the United States of America, Article VI, Clauses 2 and 3, and Constitutional requirements thereof;
3. Pursuant to those oaths, to base and support all rulings in law or case law which is **Constitutionally compliant** and which will **not**: (A) deny the powers of and Rights guaranteed in the National Constitution; (B) deny Constitutional Rights to American Citizens, in the instant case, this Appellant; (C) violate federal and/or state Constitutionally compliant laws; (D) shield, ~~exonerate or hold Appellant harmless and immune from violating federal or state laws, federal or State Constitutions, violating Appellant's Constitutional Rights and Rights of due process of law, wrongdoing(s), crimes, criminal activity(ies), fraud, collusion and conspiracy, insurrection, sedition and anarchy.~~
4. To acknowledge that American Citizens, in the instant case, Appellant is/are Sovereign in this Nation, and that the government, this, and other Courts serve the American Citizens pursuant to: (A) *limited* powers delegated from the Constitution, which delegated powers are *derived from the People*; (B) oaths taken to uphold the Constitution; (C) the Constitution, specifically, the Bill of Rights; (D) powers authorized only by the Constitution or laws in full compliance therewith, specifically, the Bill of Rights, and (E) acknowledge that lack of Constitutional authority precludes any action and voids any ruling by this Court.

Wherefore, since the Constitution is the **Supreme Law of this Land**, to which this Court and presiding judge are sworn, Appellant respectfully demands this Honorable Court to comply with law (Fed R. Civ.P. Rule 9(d)), based in and supported by the federal Constitution, for the aforesaid reasons, to honor and uphold Appellant's Constitutional Rights during all judicial proceedings, and not in opposition or contradictory to, the Constitution.

All Rights Reserved, Respectfully presented,

by  representative

RECEIVED

JAN 06 2017

SC Court of Appeals

NOTICES

NOTICE OF NON-DENIAL FOR LACK OF FORM

In preparing "foundational documents", it has come to my attention that quite often "The Court" will refuse to act, or dismiss a case, under the ruse of "DENIED FOR WANT OF FORM".

The First Congress in 1789, clearly outlines the intent of what a court is to be and that **the court is the one who is "deemed to know the law"** and must assist sovereign people in **our** courts to plead **our** cases before a jury of **our** peers as **we** see fit to plead **our** cases, with **our** pick of counsel.

The court works for US, and has no discretion to refuse to hear cases of deprivation of rights and criminal injury, nor do they have the right to refuse a "trial by Jury".

Therefore; Any document, which is "an act of court", shall not be dismissed for lack of form or failure of process. All the pleadings must be as any reasonable man/woman would understand, clearly written, affidavits of facts and law.

"And be it further enacted, that no summons, writ, declaration, return, process, judgment, or other proceedings in civil cases in any of the courts of the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects or want of form in such writ, declaration, or other pleading, returns process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and wants of-form, other than those only which the party demurring shall express as aforesaid, and may at any time, permit either of the parties to amend any defect in the process of pleadings upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe." **Judiciary Act of September 24, 1789, Section 342, FIRST CONGRESS, Sess. 1, ch. 20, 1789.**

NOTICE TO AVOID FALSE ASSUMPTIONS AND PRESUMPTIONS;

Because of the common-knowledge fact that some modern civil judges and executive officers do routinely twist the natural and common meaning of words to mean something, obviously and entirely, unintended by those uttering them, and there-by do obstruct the course of justice; here-in; all references to any codes, rules, regulations, statutes, or de-facto decisions/findings from all courts "with-in" the private/corporate/legal-fiction/de-facto "UNITED STATES", are expressly used for reference and as applicable only to the "Public Servants" there-in; and this usage is NOT to be construed in any way as any form of "consent to be governed" by said de-facto "UNITED STATES", either through this court, or over any of the natural/organic/constitutional people, living as children of the Living Creator, standing in His Kingdom, and as Sovereign and peaceable non-combatant Inhabitants resting on the soil and land of these united States of America.

NOTICE OF RESERVATION OF ALL RIGHTS.

Appellant declares and agrees that fictions and falsehoods, though seemingly of no substance, are imaginations and information misgivings, which, when relied upon, may lead to the loss of Property and Liberty, and that loss of Property and Liberty, when based upon falsified information or deceptive trade practices with the intent for the perpetrator to obtain property of another, leverage, influence, or any ill-gotten gains is Fraud, and can lead to many other serious and damaging crimes against humanity, and that;

the most important aspect of an Affidavit of Truth is; Truth, itself, and, that; like a two-edged sword, it cuts both ways, thus the user, using the foundation of Truth, if not complete, or if intended to mislead, is damaged by his own use of his misappropriated Truth, and that;

in Commerce, Truth is Sovereign. The Sovereign tells only the Truth, and that; Title 18, USC Chapter 47, Section 1001, applies to this Libellant and Affidavit in hand, therefore, **all Defendant(s)(s) be forewarned** that as **the Flesh and Blood, real man/woman, representative** for; any Party, Agent, Fiction, Representative, Person, Delegate, Administrator, or any other legal, or fictional Entity must agree with above mentioned Title 18 USC Chapter 47, Section 1001, or hereby, rebut it with documentation and reasons it should not be applied to you, or forever hold your peace and comply with said statute. Non-response shall be deemed acquiescence and forfeiture for any possible recourse from above mentioned Defendant(s)(s).

TITLE 18, § 1001

§ 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or
- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

NOTICE OF CONSTITUTIONAL REQUIREMENT

Failure to prevent a deprivation of a constitutionally secured right (42 U.S.C. 1983, 1985, 1986, 18 U.S.C. 241, 242, etc...) is a **Criminal Offense**

NOTICE OF WRONGFUL INFORMATION

Information: In law, Information means; "A formal accusation of a crime made by a public officer rather than by Grand Jury Indictment".

Respondent(S)s listed in this document SHOULD admit to the truth and guilt of communication, delivering, and enforcing wrongful information against Appellant to Appellant's injury. Appellant, hereby, charges that "wrongful information", which is the entering, editing, registering, recording, or charging of any living man/woman with a crime, when there is NO INJURED PARTY, is a Tort (damage, injury, or wrongful act done willfully, negligently, or in circumstances involving strict liability, but not involving breach of contract, for which a civil suit can be brought), and establishes liability upon the "Actor" bringing forward the Accusation

Tacit. Existing, inferred, or understood without being openly expressed or stated; implied by silence or silent acquiescence, as a tacit agreement or a tacit understanding. Done or made in silence, implied or indicated, but not actually expressed. Manifested by the refraining from contradiction or objection; inferred from the situation and circumstances, in the absence of express matter.

proc·u·ra·tor *n.* 1. One authorized to manage the affairs of another; an agent. 2. An employee of the Roman emperor in civil affairs, especially in finance and taxes, in management of imperial estates and properties, and in governing minor provinces. [Middle English *procuratour*, from Old French, from Latin, to take care of. See PROCURE.] --

Under the Doctrine of Acquiescence as well as the Maxim in Law which states that "silence shows consent" 6 Barb. [N.Y.] 2B, 35. *Qui non negat, fatetur* and "He who does not deny, agrees," (Trayner, Maxim 503)

Appellant has no record or evidence that the entire judicial system is not polluted by way of fraudulent actions and omissions, as per; "McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v Holzer, 816 F.2d. 304, 307: ""**Fraud in its elementary common law sense of deceit - and this is one of the meanings that fraud bears in the statute, see United States v. Dial, 757 F.2d 163, 168 (7th Cir. 1985) - includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud. When a judge is busily soliciting loans from counsel to one party, and not telling the opposing counsel (let alone the public), he is concealing material information in violation of his fiduciary obligations."**

Appellant has no record or evidence to determine that any fraud must be obeyed. "**When any court violates the clean and unambiguous language of the Constitution, a fraud is perpetrated and no one is bound to obey it**". (See 16 Ma. Jur. 2d 177, 178) State v. Sutton, 63 Minn. 147, 65 NW 262, 30 L.R.A. 630 Am. 459.

Appellant has no record or evidence that false representation does not constitute fraud. "**Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages.**" Barnsdall Refining Corn. v. Birnam Wood Oil Co. 92 F 26 817.

Appellant has no record or evidence that Respondent(s) are not guilty of Sham Pleading.

"Those which are inherently false and must have been known by interposing party to be untrue." Pentecostal Holiness Church, Inc. v. Mauney, Fla App., 270 So.2d 762, 769.

Appellant has no record or evidence that Defendant(s) did not participate in Sham Pleading. "A "sham pleading", subject of motion to strike (Fed. R. Civil P. 12(f)), is one that is good in form, but false in fact, and not pleaded in good faith." Scott v. Meek, 228 S.C. 29,88 S.E. 2d 768, 769.

Appellant has no record or evidence that Defendant(s) are not guilty of participating as Aider and Abettor. "One who assists another in the accomplishment of a common design or purpose; he must be aware of, and consent, to such design or purpose." Peats v. State, 213 Ind. 560, 12 N.E. 2d 270, 277.

Appellant has no record or evidence that Defendant(s) did not promote the functions of Aider and Abettor. "One who advises, counsels, procures, or encourages another to commit a crime, himself being guilty of some overt act or advocacy or encouragement of his principal, actually or constructively present when crime is committed, and participating in commission thereof by some act, deed, word, or gesture, Turner v Commonwealth, 268 Ky. 311, 104 S.W. 2D 1085, and sharing the criminal intent of the principal."

Appellant has no record or evidence that silence is not equated with fraud. "Silence can only be equated with fraud when there is a legal or moral duty to speak, or when an inquiry left unanswered would be intentionally misleading... We cannot condone this shocking conduct... If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately." U.S. v. Tweel 550 F2d 297, 299-300.

Appellant seeks Estoppel of Actors and Actors acting in excess of jurisdiction, as per; "Acts which exceed defined power of court in any instance." Abelleira v. District Court of Appeal, Third Dist., 17 Cal.2d 942, 948, and, "A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an "excess of jurisdiction." Wuest v. Wuest, 53 Cal.App.2d 339, 127 P.2d 934, 937.

Appellant has no record or evidence Appellant is educated, knowledgable, or crafty in the "crafts" of "Word-Smithing" or "Spin-Doctoring" utilized in improper procedures of Administrative or Judicial Remedys. GIDEON v. WAINRIGHT, 372 U.S. 335, "A state cannot, by invoking the power to regulate the professional conduct of an attorney, infringe in any way on the right of individuals and the public to be fairly represented in lawsuits authorized by Congress to effectuate a basic public interest, laymen cannot be expected to know how to protect their rights when dealing with practiced and careful adversaries."

NOTICE OF PUBLIC LAW 96-303

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES. PART III. EMPLOYEES
Subpart F. Labor-Management and Employee Relations
CHAPTER 73. SUITABILITY, SECURITY, AND CONDUCT SUBCHAPTER I.
REGULATION OF CONDUCT Section 7301. Presidential regulations
CODE OF ETHICS FOR GOVERNMENT SERVICE (signed into law on July 3, 1980)

ANY PERSON IN GOVERNMENT SERVICE SHOULD:

- I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
- II. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.
- III. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.
- IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
- V. Never discriminate unfairly by the dispensing of special favors or
- VI. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
- VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.
- VIII. Never use any information gained confidentially in the performance of government duties as a means for making private profit.
- IX. Expose corruption wherever discovered.
- X. Uphold these principles, ever conscious that public office is a public trust.

DECA Poster 80-3, Feb 94

GOVERNMENT/PUBLIC SERVANTS/OFFICERS/JUDGE NOT IMMUNE FROM SUIT

"Immunity fosters neglect and breeds irresponsibility while liability promotes care and caution, which caution and care is owed by the government to its people." (Civil Rights) (Rabon vs Rowen Memorial Hospital, Inc., 269 N.S. 1, 13, 152 SE 1 d 485, 493

Government Immunity - "In Land v. Dollar, 338 US 731 (1947), the court noted, "that when the government entered into a commercial field of activity, it left immunity behind." Brady v. Roosevelt, 317 US 575 (1943); FHA v. Burr, 309 US 242 (1940); Kiefer v. RFC, 306 US 381 (1939).

The high Courts, through their citations of authority, have frequently declared, that "...where any state proceeds against a private individual in a judicial forum it is well settled that the state, county, municipality, etc. waives any immunity to counters, cross claims and complaints, by direct or collateral means regarding the matters involved." Luckenback v. The Thekla, 295 F 1020, 226 Us 328; Lyders v. Lund, 32 F2d 308;

"When enforcing mere statutes, judges of all courts do not act judicially (and thus are not protected by "qualified" or "limited immunity," - SEE: Owen v. City, 445 U.S. 662; Bothke v. Terry, 713 F2d 1404) - - "but merely act as an extension as an agent for the involved agency

-- but only in a "ministerial" and not a "discretionary capacity..." Thompson v. Smith, 154 S.E. 579, 583; Keller v. P.E., 261 US 428; F.R.C. v. G.E., 281, U.S. 464

Immunity for judges does not extend to acts which are clearly outside of their jurisdiction. Bauers v. Heisel, C.A. N.J. 1966, 361 F.2d 581, Cert. Den. 87 S.Ct. 1367, 386 U.S. 1021, 18 L.Ed. 2d 457 (see also Muller v. Wachtel, D.C.N.Y. 1972, 345 F.Supp. 160; Rhodes v. Houston, D.C. Nebr. 1962, 202 F.Supp. 624 affirmed 309 F.2d 959, Cert. den 83 St. 724, 372 U.S. 909, 9 L.Ed. 719, Cert. Den 83 S.Ct. 1282, 383 U.S. 971, 16 L.Ed. 2nd 311, Motion denied 285 F.Supp. 546).

"Judges not only can be sued over their official acts, but could be held **liable for injunctive and declaratory relief and attorney's fees.**" Lezama v. Justice Court, A025829.

"Exclusive admiralty jurisdiction of federal courts under 28 USCS § 1333 is limited to maritime causes of action begun and carried on in rem, while under "saving to suitors" clause of § 1333, suitor who holds in personam claim that might be enforced by suit in personam under admiralty jurisdiction of federal courts may also bring suit, at his election, in state court or on "**common law**" side of federal court. Lavergne v Western Co. of North America, Inc. (La) 371 So 2d 807 (superseded on other grounds by statute as stated in Cramer v Association Life Ins. Co. (La App 1st Cir) 1990 La App LEXIS 1937)." 2 Am Jur 2d ADMIRALTY §122 (Footnote 9) (emphasis added).

"The immunity of judges for acts within their judicial role is beyond **cavil.**" Pierson v. Ray, 386 U.S. 547 (1957).

cav·il (k²v⁶...l) v. **cav·iled** also **cav·illed**, **cav·il·ing** **cav·il·ling**, **cav·ils** **cav·ils**. --*intr.* 1. To find fault unnecessarily; raise trivial objections. See Synonyms at **quibble**. --*tr.* 1. To quibble about; detect petty flaws in. --**cav·il' n.** A carping or trivial objection. [French *caviller*, from Old French, from Latin *cavill³r^o*, to jeer, from *cavilla*, a jeering.] --**cav"il·er n.**

"**There is no common law judicial immunity.**" Pulliam v. Allen, 104S.Ct. 1970; cited in Lezama v. Justice Court, A025829.

"Judges, members of city council, and police officers as well as other public officials, may utilize good faith defense of action for damages under 42-1983, but **no public official has absolute immunity from suit** under the 1871 civil rights statute." (Samuel vs University of Pittsburg, 375 F.Supp. 1119, 'see also, White vs Fleming 374 Supp. 267.)

TAKE DUE NOTICE ALL GOVERNMENT OFFICIALS, SERVANTS, JUDGES,
LAWYERS, CLERKS, EMPLOYEES:

"Ignorance of the law does not excuse misconduct in anyone, least of all in a sworn officer of the law." In re McCowan (1917), 177 C. 93, 170 P. 1100.

"All are presumed to know the law." *San Francisco Gas Co. v. Brickwedel* (1882), 62 C. 641; *Dore v. Southern Pacific Co.* (1912), 163 C. 182, 124 P. 817; *People v. Flanagan* (1924), 65 C.A. 268, 223 P. 1014; *Lincoln v. Superior Court* (1928), 95 C.A. 35, 271 P. 1107; *San Francisco Realty Co. v. Linnard* (1929), 98 C.A. 33, 276 P. 368.

"It is one of the fundamental maxims of the **common law** that ignorance of the law excuses no one." *Daniels v. Dean* (1905), 2 C.A. 421, 84 P. 332.

"Judge acted in the face of clearly valid statutes or case law expressly depriving him of (personal) jurisdiction would be liable." *Dykes v. Hosemann*, 743 F.2d 1488 (1984).

"In such case the judge has lost his judicial function, has become a mere private person, and is liable as a trespasser for damages resulting from his unauthorized acts."

"There, every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowman without his consent." *CRUDEN v. NEALE*, 2 N.C. 338 (1796) 2 S.E.

"Every state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Art. VI, cl. 3, 'to support this Constitution.' Chief Justice Taney, speaking for a unanimous Court in 1859, said that this requirement reflected the framers' 'anxiety to preserve it [the Constitution] in full force, in all its powers, and to guard against resistance to or evasion of its authority, on the part of a State...' *Ableman v. Booth*, 21 How. 506, 524.' [Quote copied from *Cooper v Aaron*, 358 U.S. 1, 1958]

NOTICE OF NO IMMUNITY FOR UNLAWFUL ACTS

Actus Reus: A wrongful deed, which renders the actor criminally liable when combined with mens rea, a guilty mind. **Concerning actions outside the scope of employment and for willful and wanton conduct causing injury in violation of due process and civil rights of the Claimant are not limited by the Governmental Immunities Act;** "Conduct wrongful under Section 1983 cannot be immunized. Conduct by persons acting under color of state law which is wrongful under 42 U.S.C. Section 1983 cannot be immunized by state law." *Mucci v. Falcon School Dist. No. 49*, 655 O.2d 422 (1982); and, "A state actor cannot avoid liability under a state immunity provision in an action brought under 42 U.S.C. Section 1983." *City of Lakewood v. Brace*, 919 P.2d 231(1996).

Concerning actions within the scope of employment in violation of the law, official misconduct, and judicial misconduct as limited to by the Governmental Immunities Act; "This section operates as a waiver of a public employee's immunity for willful and wanton acts but does not operate as a waiver of a public entity's immunity for such acts." *King v. U.S.*, 53 F. Supp.2d 1056 (1999).

The lawsuit is simpler if directed at the agent personally: Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682, 69 S.Ct. 1457 (1949): suits agent govt agents: personal if without authority.

"If those actions are such as to create a personal liability, whether sounding in tort or in contract, the fact that the officer is an instrumentality of the sovereign does not, of course, forbid a court from taking jurisdiction over a suit against him. Sloan Shipyards Corp. v. Emergency Fleet Corp., 1922, 258 U.S. 549, 567, 388. As was said in Brady [337 U.S. 682, 687] † v. Roosevelt S.S. Co., 1943, 317 U.S. 575, 580, 428, the principle that an agent is liable for his own torts 'is an ancient one and applies even to certain acts of public officers or public instrumentalities.'"

"An instrumentality of Government he might be and for the greatest ends, but the agent, because he is agent, does not cease to be answerable for his acts." BRADY v. ROOSEVELT STEAMSHIP CO., 317 U.S. 575 (1943)

"The principal is not liable for every negligent act of his agent." BRADY v. ROOSEVELT STEAMSHIP CO., 317 U.S. 575 (1943)

"Personal-capacity suits, on the other hand, seek to impose individual liability upon a government officer for actions taken under color of state law. Thus, '[o]n the merits, to establish personal liability in a 1983 action, it is enough to show that the official, acting under color of state law, caused the deprivation of a federal right.' Id., at 166." HAFER v. MELO, 502 U.S. 21 (1991).

NOTICE OF INTIMIDATION NOT ALLOWED

Appellant has no record or evidence that Appellant is required to fall prey to vultures of "Legal-eze" in any manner, as per; "*An intimidating manner in putting questions may so coerce or disconcert the witness that his answers do not represent his actual knowledge on the subject. So also, questions which in form or subject cause embarrassment, shame or anger in the witness may unfairly lead him to such demeanor or utterances that the impression produced by his statements does not do justice to its real testimonial value.*" UNITED STATES v. WADE, 1967.SCT.41776 <<http://www.versuslaw.com>>, 388 U.S. 218 (U.S. 06/12/1967)

NOTICE PROHIBITING RETALIATION

Appellant has no record or evidence that any retaliation from a public official is not in violation of Section 1983. Duran v. City of Douglas, 904 F.2d 1372, 1378 (9th Cir. 1990) "the First Amendment right to criticize public officials is well-established and supported by ample case law. Furthermore, it is well-established that a public official's retaliation against an individual exercising his or her First Amendment rights is a violation of § 1983."

Appellant has no record or evidence that Appellant should not hold Defendant(s) personally liable for constitutional deprivation by direct deprivation and failure to remedy wrongs.

"Federal employees may become personally liable for constitutional deprivation by direct

participation, failure to remedy wrongs after learning about it, creation of a policy or custom under which unconstitutional practices occur or gross negligence in managing subordinates who cause violations." Gallegos v. Haggerty, Northern District of New York, 689 F.Supp. 93

Appellant has no record or evidence that when a conviction is obtained any prosecutor or judge, by willfully and knowingly withholding information contained in government files, well established principles of law and judicial policy are not violated. See Code of Professional Responsibility Policy #DR7-102.A4 and US -v- Valentine 820 F2d., 565 [Second Circuit 1987] criminal law note #1171.1(i) stating: "Criminal conviction must be reversed for prosecutorial misconduct, where prosecutor's tactics have caused substantial prejudice to defendant and served to deprive him of a fair trial....."

Appellant has no record or evidence that good intentions take precedence over law and fact, and that, good intentions may not be a warning sign of deeply imbedded desire for control and power from governing agents, as per quote; "*Good intentions will always be pleaded for any assumption of power. The Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.*" - Daniel Webster

NOTICE OF UTTERANCE

Black's 1st "UTTER. To put or send into circulation; to publish or put forth. To utter and publish an instrument is to declare or assert, directly or indirectly, by words or actions, that it is good; uttering it is a declaration that it is good, with an intention or offer to pass it. Whart. Crim. Law, Section 703" (possibly 708).

"To utter, as used in a statute against forgery and counterfeiting, means to offer, whether accepted or not, a forged instrument, with the representation, by words or actions, that the same is genuine. 48 Mo. 520."

And, for comparison of "Utter" to "Outer", Black's 1st, "UTTER BAR. In English law. The bar at which those barristers, usually junior men, practice who have not yet been raised to the dignity of queen's counsel. These junior barristers are said to plead without the bar; while those of the higher rank are admitted to seats within the bar, and address the court or a jury from a place reserved for them, and divided off by a bar. Brown."

And, Black's 1st, "UTTER BARRISTER. In English law. Those barristers who plead without the bar, and are distinguished from benchers, or those who have been readers, and who are allowed to plead within the bar, as the king's counsel are. Cowell."

Black's 7th, "UTTER. 2. To put or send (a document) into circulation; esp., to circulate (a forged note) as if genuine..."

As per Title 18 USC, Section 513(a); "Whoever makes, utters or possesses a counterfeit security of a State or political subdivision thereof or of an organization, or whoever makes, utters or possesses a forged security of a State or political subdivision thereof or of an organization, with intent to deceive another person, organization, or government shall be fined not more than \$250,000 or imprisoned not more than ten years, or both", Appellant gives NOTICE that Anonymous persons at the Department of the Treasury, Internal Revenue Service appear to be creating counterfeit securities in the form of notices, specifically, unverified commercial documents with clear intent to deceive Appellant into believing that Appellant is a citizen of the United States or citizen of the State of Missouri, when Appellant clearly is NOT a citizen of the United States, a corporate entity, NOR a citizen of the State of Missouri.

Appellant, ab initio, nunc pro tunc, has declared that Appellant is an Indigenous woman on the soil, a American Native, and a non-fictional/non-legal entity/non-corporate Living Woman. Appellant refuses to be enjoined in the fraud of un-disclosed agreements, counterfeit securities, and other "for profit scams" displayed by corporate legal fictions, acting as public servants and exhibiting treasonous aggressions toward Appellant.

NOTICE OF CRIMES AGAINST JUSTICE

According to; **Revised Statutes of The United States**, 1st session, 43 Congress 1873-1874. Title LXX. ---CRIMES. --- CH. 4. (Destroying , changing, public records.)

SEC. 5403. Every person who willfully destroys or attempts to destroy, or, with intent to steal or destroy, takes and carries away any record, paper, or proceeding of a court of justice, filed or deposited with any clerk or officer of such court, or any paper, or document, or record filed or deposited in any public office, or with any judicial or public officer, shall, without reference to the value of the record, paper, document, or proceeding so taken, pay a fine of not more than two thousand dollars, or suffer imprisonment, at hard labor, not more than three years, or both: [See § 5408, 5411, 5412.] (Conspiracy to defeat enforcement of the laws.)

SEC. 5407. If two or more persons in any State or Territory conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws, each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment. [See § § 1977-1991, 2004-2010, 5506-5510.]

(Destroying record by officer in charge.)

SEC. 5408. Every officer, having the custody of any record, document, paper, or proceeding specified in section fifty-four hundred and three, who fraudulently takes away, or withdraws, or destroys any such record, document, paper, or proceeding filed in his office or deposited with him or in his custody, shall pay a fine of not more than two thousand dollars, or suffer imprisonment at hard labor not more than three years, or both; and shall, moreover, forfeit his office and be forever afterward disqualified from holding any office under the Government of the United States. (Note: Revised Statutes of The United States from 1873 - 1874, one of the so-called "Reconstruction Acts" that were passed after the War Between the States, is still valid.

The purpose of the statutes were to prevent States from passing statutes to prohibit clerks from filing legal papers, or to prevent them from giving orders to clerks to not file legal papers from

former slaves. Please note the amount of the fines (1874 dollars) and the length of sentences to hard labor that are attached to these statutes. Also please note that a person convicted of such a crime, "[s]hall, moreover, forfeit his office and be forever afterward disqualified from holding any office under the Government of the United States." Although they were primarily intended to protect so-called 14th Amendment UNITED STATES citizens who were former slaves, its subject, "CRIMES AGAINST JUSTICE," is clearly relevant and fits in with other examples where statutes are passed or instructions given to clerks to not file papers for the people or when judicial agents and attorneys act to conceal evidence and block the remedy for the people. The very least offense that could be attributed to a judge giving instructions on what to file, or not to file, would be "practicing law from the bench", which in, and of, itself is a felony.) And, that;

B. Appellant agrees that according to 18 USC,

(A) Sec 242, "...whoever, **under color** of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the **deprivation of any rights, privileges, or immunities secured** or protected by the Constitution of laws of the United States... ..shall be fined under this title or imprisoned not more than one year, or both", and,

(B) Sec 245, provided that, "...whoever, whether or not acting under color of law, intimidates or interferes with any person from participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States; [or] applying for or enjoying employment, or any perquisite thereof, by any agency of the United States; shall be fined under this title, or imprisoned not more than one year, or both", and,

(C) Title 42, Sec 1983 provides, "that **every person** who, **under color** of any statute, ordinance, regulation, custom, or usage, of any State or Territory of the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress".

Respondent(s) listed in this document SHOULD admit to the truth and guilt of "UTTERING" forged and/or counterfeit documents upon and against this Appellant, to Appellant's hurt and injury.

NOTICE OF VOIR DIRE OF THE COURT

(This process is called voir dire, an Anglo-French term meaning "to speak the truth.")

NOTICE OF RIGHT OF SUBROGATION

Memphis & Little Rock R. Co. v. Dow, 120 U.S. 287, 301-302 (1887), "The right of subrogation is not founded on contract. It is a creature of equity; is enforced solely for the purpose of accomplishing the ends of substantial justice; and is independent of any contractual relations between the parties." And,

"Traditionally sureties compelled to pay debts for their principal have been deemed entitled to reimbursement, even without a contractual promise such as the surety here had. And probably there are few doctrines better established [371 U.S. 132, 137] than that a surety who pays the

debt of another is entitled to all the rights of the person he paid to enforce his right to be reimbursed. " PEARLMAN v. RELIANCE INS. CO., 371 U.S. 132 (1962) [For this reason, the Appellant is of a Right to demand reimbursement for all costs in investigating and pursuing relief from these defendant(s) One of the People, from the encroachments of the civil rights.

sub·ro·ga·tion (n) *n.* The substitution of one person for another, especially the legal doctrine of substituting one creditor for another.

NOTICE OF OPERATION OF LAW. This term is applied to those **rights which are cast upon a party by the law, without any act of his own.** Bouvier 1856

Operation of law. The application of legal rules to a given set of facts. Anderson, A Dictionary of Law, 1893 Appellants "person" is given the Right of Subrogation to balance the effects of governmental abrogation of the gold clause, HJR 192 and P.L. 73-10.

ab·ro·gate (²b"r...-g³t") *tr.v.* To abolish, do away with, or annul, especially by authority.

NOTICE OF ULTIMATE FACTS BEING ESTABLISHED

Ultimate Facts – Judgment (See Summary Section below, also)

"When such ultimate facts are established, the legal liability follows as a conclusion of law" in the adjudged decision of Baxter v. Chicago & N. W. Ry. Co., 80 N.W. 644, 647 (Sup. Ct. Wis. 1899).

In the pronouncement in Simmons Motor Co. v. Mosley, 379 S.W.2d 711, 715 (Civ. App. Tex. 1964) citing Wichita Falls & Oklahoma Ry. Co. v. Pepper, 135 S.W.2d 79, 84 (Sup. Ct. Tex. 1940), to wit:

"[T]he court stated that an ultimate fact is one essential to the right of action or matter of defense and that the court is under the duty of submitting only ultimate or controlling issues. A controlling or ultimate issue is one that when answered favorably to the theory in which it is presented will support a judgment."

An ultimate fact is essential to form the basis of a judgment, to a claim, or defense in the adjudged decision of People ex rel. v. Sexton et al., 444 N.Y.S.2d 884, 885 (Sup. Ct. NY County 1943) citing Wichita Falls & Oklahoma Ry. Co. v. Pepper, 135 S.W.2d 79, 84 (Sup. Ct. Tex. 1940), to wit:

"The terms 'ultimate issues,' 'ultimate facts,' 'essential facts,' 'essential issues,' and 'controlling issues' are frequently used synonymously. An **ultimate fact** is one essential to the right of action or matter of defense. If an ultimate fact is involved in a case, which is essential to the claim or defense, and **is necessary to form the basis of a judgment**, it is the duty of the court to submit such issue for determination by the jury." [Emphasis added]

And further in *Sexton* at 885, "Under that rule there are only two kinds of fact, ultimate facts, which are the same as essential facts; and evidentiary facts which go to prove the essential or ultimate facts."

And further in *Sexton* at 885, ultimate facts are necessary and essential for any determination or decision by the court, to wit:

"Up to now the Court of Appeals has held that there are only two kinds of facts, which are **ultimate facts** and **evidentiary facts**. The **first is necessary and essential for any determination or decision by the court**. The second contains the facts necessary to prove the essential or ultimate facts. The Court of Appeals has **forbidden the finding of evidentiary facts** and has limited the courts below to the **finding of ultimate facts**." (cites omitted) [*Emphasis added*]

The court held in *Perales v. Braslau's Furniture Co.*, 493 S.W.2d 638, 640 (Ct. of App. Tex. 1973) "An ultimate fact is one that is essential to the right of action or matter of defense and the trial court is under the duty of submitting only ultimate or controlling issues."

The court has held in *People ex rel. v. Sexton et al.*, 444 N.Y.S.2d 884, 885 (Sup. Ct. NY County 1943) that there are only two kinds of facts, which are ultimate facts and evidentiary facts, of which the ultimate facts are essential for any determination or decision by the court, to wit:

Court of Appeals has held that there are only two kinds of facts, which are ultimate facts and evidentiary facts. The first is necessary and essential for any determination or decision by the court. The second contains the facts necessary to prove the essential or ultimate facts.

Ultimate Facts – Judgment Summary

As held in *People ex rel. v. Sexton et al.*, 444 N.Y.S.2d 884, 885 (Sup. Ct. NY County 1943) there are only two kinds of facts, being ultimate facts and evidentiary facts. Ultimate facts are essential for any determination or decision by the court, and evidentiary facts are necessary to prove essential or ultimate facts. See also *Perales v. Braslau's Furniture Co.*, 493 S.W.2d 638, 640 (Ct. of App. Tex. 1973); *Wichita Falls & Oklahoma Ry. Co. v. Pepper*, 135 S.W.2d 79, 84 (Sup. Ct. Tex. 1940).

Natural Reasoning or Artificial Processes

In the adjudged decision of *Levins v. Rovegno*, 12 P. 161, 162-64 is the pronouncement of an ultimate fact is deduced from probative facts by a process of natural reasoning. The inference or conclusion of law is by a process of artificial reasoning. The evidentiary facts become the premises and the ultimate fact the conclusion.

Ibid at 163, "A presumption of fact is the natural connection of one fact with other by a combined process of proof and argument, while a presumption of law is a similar connection, artificially made by annexing a rule of law or legal incident to a particular fact proved. * * * ...are all facts; and whether their existence or non-existence is reached by a process of natural reasoning, or by artificial process known as a 'conclusion of law' does not in the least alter their *status* as facts."

NOTICE OF RIGHT TO BE HEARD

Law: The US Supreme Court has ruled that a natural individual entitled to relief is "entitled to free access..... to its judicial tribunals and public offices in every State in the Union" (2 Black 620; see also: Crandell vs. Nevada, 6 Wall 35). Appellant should not be charged fees or costs for the lawful and constitutional right to petition this court in this matter in which he is entitled to relief, as it appears that the filing fee rule was originally implemented for fictions and subjects of government, and should not be applied to the Appellant who is a natural individual and entitled to relief (Hale vs. Henkel, 201 U.S. 43).

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Appellate Case No. 2016-001239

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.

RECEIVED

JAN 06 2017

SC Court of Appeals

Respondent(s)

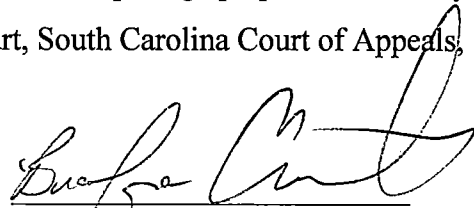
V.

Biafra Monique Curtis, Pro Se

Appellant

CERTIFICATE OF SERVICE

I certify that I have served the EXHIBITS TO SUPPORT FINAL BRIEF to the SC Court of Appeals Clerk by depositing a copy of it in the United States Mail, postage prepaid, on January 4, 2017, addressed to: Jenny Abbott Kichings Clerk of Court, South Carolina Court of Appeals, PO BOX 11629, Columbia, SC 29211



Biafra Monique Curtis, Pro Se
PO BOX 21294
Hilton Head Island, SC 29925

January 4, 2017

Attn: Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
PO BOX 11629
Columbia, SC 29211

RE: Curtis vs. South Carolina Department of Public Safety, et al
Appellate Case No. 2016-001239

Greetings Ms. Kitchings,

Enclosed for filing please find the documents referred to, but mistakenly left out of EXHIBITS TO
SUPPORT FINAL BRIEF.

RECEIVED

JAN 06 2017

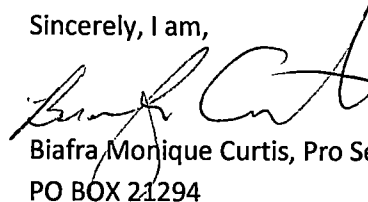
SC Court of Appeals

Thank you in advance.

ENCLOSURES:

1. WRIT OF PRECIPAE AND NOTICE UPON THIS COURT TO READ ALL PLEADINGS
2. NOTICES

Sincerely, I am,



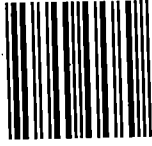
Biafra Monique Curtis, Pro Se- Appellant
PO BOX 21294
Hilton Head Island, SC 29925

R2303S102687-10

\$3.30

U.S. POSTAGE
PAID
SAVANNAH, GA
31419
JAN 04, 17
AMOUNT

29211



1000



SC Court of Appeals

JAN 06 2017

RECEIVED

7076 2070 0000 3806 3445



CERTIFIED MAIL

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

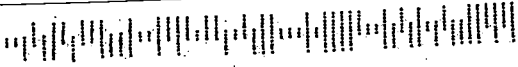
7076 2070 0000 3806 3445

COLUMBIA, SC 29211

PO BOX 11629

SC COURT OF APPEALS

JENNY ABBOTT KITCHENS-CLEAK

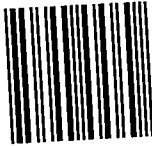


R2303S102687-10

\$1.10

U.S. POSTAGE
PAID
SAVANNAH, GA
31419
JAN 04, 17
AMOUNT

29211



1000



29225

HILTON HEAD, SC

PO BOX 21294

BIRRA CURTIS