

5
IN THE
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF NEW YORK

John Vidurek, Gerard Aprea, et al

Plaintiffs

- Against -

10
Governor A. Cuomo, N.Y.S. Senate, and N.Y.S. Assembly

Defendants

15
BRIEF OF AMICUS CURIAE¹
UNIFIED UNITED STATES COMMON LAW GRAND JURY

KINGS BENCH IN THIS COURT OF RECORD²
IN SUPPORT OF THE PLAINTIFFS

Grand Jury Next Friend³
Sureties' of the Peace⁴

20 DATED MAY 18, 2018

Copied: President Trump, A.G. Jeff Sessions,
Senator Chuck Grassely & U.S. Supreme Court

¹ **Amicus Curiae**, Lat. (law) an adviser to the court on some matter of law who is not a party to the case; usually someone who wants to influence the outcome of a lawsuit involving matters of wide public interest. A friend of the court. A bystander who interposes and volunteers information upon some matter of law in regard to which the judge is doubtful or mistaken, *Fort Worth & D. C. Ry. Co. v. Greathouse*, Tex.Civ.App., 41 S.W.2d 418, 422; or upon a matter of which the court may take judicial cognizance. *The Claveresk*, C.C.A.N.Y., 264 F. 276, 279; *In re Perry*, 83 Ind. App. 456, 148 N.E. 163, 165. Implies friendly intervention of counsel to remind court of legal matter which has escaped its notice, and regarding which it appears to be in danger of going wrong. *Blanchard v. Boston & M. R.*, 86 N.H. 263, 167 A. 158, 160. Also a person who has no right to appear in a suit but is allowed to introduce argument, authority, or evidence to protect his interests. *Ladue v. Goodhead*, 181 Misc. 807, 44 N.Y.S.2d 783, 787.

² "A **Court of Record** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial." *Jones v. Jones*, 188 Mo.App. 220, 175 S.W. 227, 229; *Ex parte Gladhill*, 8 Metc. Mass., 171, per Shaw, C.J. See, also, *Ledwith v. Rosalsky*, 244 N.Y. 406, 155 N.E. 688, 689.

³ **Next Friend**: "A next friend is a person who represents someone who is unable to tend to his or her own interest." Federal Rules of Civil Procedures, Rule 17, 28 USCA; *Haines v. Kerner*, 404 U.S. 519 (1972).

⁴ **SURETIES OF THE PEACE**: If anyone has been dispossessed without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseized or removed by our government, we will immediately grant full justice therein. *Magna Carta* Paragraph 52.

TABLE OF CONTENTS

25

FRONT PAGE	-	-	-	-	-	-	-	-	-	-	1
TABLE OF CONTENTS	-	-	-	-	-	-	-	-	-	-	2
TABLE OF AUTHORITIES	-	-	-	-	-	-	-	-	-	-	3
INTERESTS OF THE AMICI CURIAE				-	-	-	-	-	-	-	5
30 FICTION OF LAW -VS- LAW				-	-	-	-	-	-	-	8
JUDICIAL NOTICE	-	-	-	-	-	-	-	-	-	-	13
ARGUMENT	-	-	-	-	-	-	-	-	-	-	13
CONCLUSION	-	-	-	-	-	-	-	-	-	-	18

35

40

TABLE OF AUTHORITIES

- Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.
- 45 1 Bl. Judgm. §173; In re Manning, 139 U.S. 504, 11 S.Ct. 624, 35 L.Ed. 264
1776 Declaration of Independence
1781 Articles of Confederation
1789 Bill of Rights
28 U.S. Code §1914
- 50 Alien Registration Act
Amendment I:
Amendment V
Amendment VII
American Jurisprudence
- 55 Article III Section 1
Article VI
Bennett v. Boggs, 1 Baldw 60.
Best, Ev. 419
Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908)
- 60 Bowyer, Mod. Civil Law, 19; Sevier v. Riley, 189. Cal. 170, 244 P. 323, 325
Buck Act
Carmine v. Bowen, 64 A. 932
Cert Denied, 50 U.S. L.W. 2169; S.Ct. March 22, 1982
CONLEY VS. GIBSON (1957),355 U.S. 41, 45, 46, 78 S.Ct. 99, 102, 2LEd 2d 80
- 65 Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958).
Copperthwait v. Dummer, 18 N.J. L. 258
Costello v. United States, 350 U.S. 359, 361-362 (1956).
Dartmouth College Case, 4 Wheat, U.S. 518, 4 ED 629.
Emergency Banking Act
- 70 Federal Reserve Act
Gildemeister V. Lindsay, 212 Mich, 299, 180 N.W. 633, 635
Habeas Corpus Suspension Act
Hoke vs. Henderson,15, N.C.15,25 AM Dec 677
Judge David L. Bazelon.
- 75 Judiciary Act of 1789
Klever v. Seawall, C.C.A.Ohio, 65 F. 395, 12 C.C.A. 661.
Lieber Code
Luke 11:46
Luke 11:52

- 80 Luke 7:30
Magna Carta 61
Mal 3:8-9
Marbury v. Madison, 5th US (2 Cranch) 137, 180.
Miranda v. Arizona, 384 U.S. 436, 491.
- 85 New York Constitution Article 1 §6.
NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886).
People v. Carmona, 79 Cal.App. 159, 251 P. 315, 317
Rev 17:5
Rule 12
- 90 Rule 7
Ryan v. Motor Credit Co., 130 N.J.Eq. 531, 23 A.2d 607, 621
Self v. Rhay, 61 Wn (2d) 261.
SEYMOUR VS. UNION NEWS COMPANY, 7 Cir., 1954,217 F.2d 168
Sheppard Towner Act
- 95 Social Security Act
State v. Tinnin, 64 Utah 587, 232 P. 543, 545, 43 A.L.R. 46
The National Banking Act
The Organic Act
The Revenue Act
- 100 Thomas Jefferson, letter to John Cartwright; June 5, 1824.
Trading With the Enemy Act
U.S. Constitution Article I Section 9, clause 8
U.S. v. Prudden, 424 F.2d 1021, 1032
U.S. v. Tweel, 550 F.2d 297, 299
- 105 United States v. Calandra, 414 U.S. 338, 343 (1974), Cf.
United States v. Williams, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992).
USC 26
Vide 15 Vin. Ab. 144; Ayl. Pand. tit. 22; Dig. 30, 16, 57; Merl. Rep. h. t.; 13 Pick. R. 523
Wagner v. Armstrong, 93 Ohio St. 443, 113 N.E. 397, 401.
- 110 War Powers Act
West Virginia Mortgage & Discount Corporation v. Newcomer, 101 W.Va. 292, 132 S.E. 748,
749
Woo Lee Hopkins 118 US 356
Yick Wo vs. Hopkins
- 115

INTERESTS OF THE AMICUS CURIAE

120 The Unified United States Common Law Grand Jury is one of the ways that *We* the
People Consent to the actions of our government.⁵ If anyone has been deprived of their
unalienable right, we will immediately grant full justice therein. The will of the
Common Law Grand Jury is the opening and manifestation of due process⁶ in a court of
law. The Grand Jury is the “Sureties of the Peace” that we find in the Magna Carta⁷ and
125 ordained by the People through the 5th Amendment⁸ and, thereby officially
acknowledged as an unalienable right. They are the posterity of our founding fathers.
They are *We* the People that ordained and established the Constitution for the officers
of this court. They are *We* the People that established the eighteen (18) powers for
Congress to legislate under Article I Section 8. And, not one of those powers gave
Congress the authority to replace the Law of the Land with legislative civil law and
130 criminal law; not one!

*“We the people have been providentially provided legal recourse to address the
criminal conduct of persons themselves entrusted to dispense justice. The American
grand jury is neither part of the judicial, executive nor legislative branches of
government, but instead belongs to the people. It is in effect a fourth branch of*

⁵ **Declaration of Independence:** We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

⁶ **“Due course of law**, this phrase is synonymous with "due process of law" or "law of the land" and means law in its regular course of administration through courts of justice.” - Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.

⁷ **Magna Carta 61:** “Move-over, for God and the amendment of our kingdom and for the better calming of the quarrel that has arisen between us and our elected and appointed stewards, we have ordained all these concessions, desiring that they should enjoy them in complete and firm endurance forever, we give and grant to them the underwritten security, namely, that the twenty-five who shall be bound by oath to observe and hold, and cause to be observed peace and liberties we have granted and confirmed to them by this our present Charter, so that if we, or our justices, or our sheriffs or any one of our officers, shall in anything be at fault towards anyone, and if any of our civil servants shall have transgressed against any of the people in any respect and they shall ask us to cause that error to be amended without delay, or shall have broken some one of the articles of peace or security, and their transgression shall have been shown to four Jurors of the aforesaid twenty five and if those four Jurors are unable to settle the transgression they shall come to the twenty-five, showing to the Grand Jury the error which shall be enforced by the law of the land.”

⁸ **Amendment V:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury ... nor be deprived of life, liberty, or property, without due process of law.

135 government "governed" and administered to directly by and on behalf of the American
people, and its authority emanates from the Bill of Rights. Thus, the People have the
unbridled right to empanel their own grand juries and present "True Bills" of indictment
to a court, which is then required to commence a criminal proceeding. Our Founding
Fathers presciently thereby created a "buffer" the people may rely upon for justice,
140 when public officials, including judges and clerks, criminally violate the law."⁹

"The institution of the grand jury is deeply rooted in Anglo-American history. In
England, the grand jury served for centuries both as a body of accusers sworn to
discover and present for trial persons suspected of criminal wrongdoing and as a
protector of citizens against arbitrary and oppressive governmental action. In this
145 country, the Founders thought the grand jury so essential to basic liberties that they
provided in the Fifth Amendment that federal prosecution for serious crimes can only be
instituted by "a presentment or indictment of a Grand Jury."¹⁰

"Whenever people are well-informed they can be trusted with their own government...;
the constitutions of most of our states assert that all power is inherent in the people;
150 that they may exercise it by themselves, in all cases to which they think themselves
competent."¹¹ "Trust in the jury is, after all, one of the cornerstones of our entire
criminal jurisprudence, and if that trust is without foundation we must re-examine a
great deal more than just the nullification doctrine."¹² "There is no statute or
procedural rule that prevents (nor can there be) people from convening grand juries.
155 The power of grand juries to inquire into the willful misconduct in office of public
officers, and to find indictments or to direct the filing of information's in connection

⁹ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992).

¹⁰ *United States v. Calandra*, 414 U.S. 338, 343 (1974), Cf. *Costello v. United States*, 350 U.S. 359, 361-362 (1956).

¹¹ *Thomas Jefferson*, letter to John Cartwright; June 5, 1824.

¹² Judge David L. Bazelon.

with such inquiries, shall never be suspended or impaired by law.”¹³ That is because “*sovereignty remains with the people and resides with the people.*”¹⁴

160 In this case, we act as the Kings bench to ensure that the law of the land is adhered to by
all elected and appointed government servants, particularly the officers of this court. It
is our duty being amicus curiae (*friends of the court*) to promote transparency, integrity,
and accountability in government and faithfulness to the rule of law. And, because of
the response by Magistrate Hummel on April 26, 2018 ordering a denial of the
165 plaintiffs’ unalienable right of due process protected by the 5th Amendment and their
unalienable right to redress of grievances protected by the 1st Amendment,¹⁵ we find it
necessary to intervene and remind the officers of this court that this is an Article III
Court of Justice and that any misplaced construction of law via covert acts of Congress
that presumes to state otherwise is a nullity and when an officer of the court places said
covert fiction of law above the Law, they war against the constitution.¹⁶ They engage in
170 treason.

Because of the officers of this court’s denial of an Article III Court of Justice we cross
the threshold to remind the offices of this court of their oath and of the fact that this
court belongs to the People from whom all “Just Courts” ascend, and that the judges,
both of the supreme and inferior courts hold their offices during good behavior.

175 Amici, being the posterity of our founding fathers who were the authors of the
Constitution and being well-informed and thereby experts in questions concerning the
unalienable rights raised by the plaintiffs, have been engaged by request to correct or
dispense justice.

¹³ **New York Constitution** Article 1 §6.

¹⁴ **Yick Wo vs. Hopkins** and *Woo Lee Hopkins* (118 US 356).

¹⁵ **Amendment I:** Congress shall make no law... prohibiting... or abridging the freedom [right]... to petition the Government for a redress of grievances.

¹⁶ Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason. *Cooper v. Aaron*, 358 U.S. 1, 78 S. Ct. 1401 (1958).

Amici further perceives this case as a means to advance its purpose to protect all the Peoples' unalienable rights protected by the first, second, and fifth Amendments.

FICTION OF LAW¹⁷ -vs- LAW¹⁸
Fraud is fraud - it will not stand

BIRTH OF A NATION UNDER COMMON LAW – In 1774, the First Continental Congress met to discuss potential solutions to the abuse upon the colonists by the King of Great Britain. In 1775, The Second Continental Congress met and concluded with the 1776 Declaration of Independence. In 1781, the colonies passed the Articles of Confederation that united them during the Revolution. In 1789, the Constitution for the United States of America was signed and our Nation was born. The Conventions of a number of the States, having at the time of their adopting the Constitution, “*expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution,*”¹⁹ thereby added to the Constitution the Bill of Rights in 1791.

SUBVERSION OF THE COMMON LAW – In 1789, the very year of the birth of the United States, the enemies of Liberty had already infiltrated congress and passed the Judiciary Act of 1789 wherein congress properly exercised their legislated duty. However, within the act was the first act of subversion by the enemies of Liberty through congress to

¹⁷ **FICTION OF LAW** – “*Something known to be false is assumed to be true.*” Ryan v. Motor Credit Co., 130 N.J.Eq. 531, 23 A.2d 607, 621. “*That statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land.*” Hoke vs. Henderson, 15, N.C.15, 25 AM Dec 677. A rule of law which assumes as true, and will not allow to be disproved, something which is false, but not impossible. Best, Ev. 419. Founded on a fiction; having the character of a fiction; pretended; counterfeit. People v. Carmona, 79 Cal.App. 159, 251 P. 315, 317; State v. Tinnin, 64 Utah 587, 232 P. 543, 545, 43 A.L.R. 46. Arbitrarily invented and set up, to accomplish an ulterior object. West Virginia Mortgage & Discount Corporation v. Newcomer, 101 W.Va. 292, 132 S.E. 748, 749. FICTION. An assumption or supposition of law that something which is or may be false is true, or that a state of facts exists which has never really taken place. New Hampshire Strafford Bank v. Cornell, 2 N.H. 324; Hibberd v. Smith, 67 Cal. 547, 4 P. 473, 56 Am.Rep. 726; Murphy v. Murphy, 190 Iowa 874, 179 N.W. 530, 533.

¹⁸ **AT LAW:** Blacks 4th this phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity. “*The common law is the real law, the Supreme Law of the land, the code, rules, regulations, policy and statutes are “not the law”.* - Self v. Rhay, 61 Wn (2d) 261.

¹⁹ Bill of Rights

change our equity courts under American Jurisprudence into courts proceeding in
chancery that rests upon statutes and custom²⁰ which is ungoverned by the Bill of
200 Rights. Whereby, they wrote:

Section 15: “*And be it further enacted*, That all the said courts of the United States, shall have
power in the trial of actions at law, on motion and due notice thereof being given, to require the
parties to produce books or writings in their possession or power, which contain evidence
pertinent to the issue, in cases and under circumstances where they might be compelled to
205 produce the same by the ordinary rules of proceeding in chancery; and if a plaintiff shall fail to
comply with such order, to produce books or writings, it shall be lawful for the courts
respectively, on motion, to give the like judgment for the defendant as in cases of nonsuit; and
if a defendant shall fail to comply with such order, to produce books or writings, it shall be
lawful for the courts respectively on motion as aforesaid, to give judgment against him or her
210 by default.”

Any court that charges fees and operates under the rules of chancery and statutes is a de
facto court²¹ and is not an equity court that proceeds under American Jurisprudence
governed by the constitution.

215 “*The terms "equity" and "chancery," "court of equity" and "court of chancery,"*
are constantly used as synonymous in the United States. It is presumed that this
custom arises from the circumstance that the equity jurisdiction which is
exercised by the courts of the various states is assimilated to that possessed by the
English courts of chancery. Indeed, in some of the states it is made identical

²⁰ **Chancery as distinguished from equity law**, it is a body of rules and principles, written or unwritten, which are of fixed and immutable authority, and which must be applied to controversies rigorously and in their entirety, and cannot be modified to suit the peculiarities of a specific case, or colored by any judicial discretion, and which rests confessedly upon custom or statute, as distinguished from any claim to ethical superiority. *Klever v. Seawall*, C.C.A. Ohio, 65 F. 395, 12 C.C.A. 661.

²¹ **De facto court**: One established, organized, and exercising its judicial functions under authority of a statute apparently valid, though such statute may be in fact unconstitutional and may be afterwards so adjudged; or a court established and acting under the authority of a de facto government. 1 Bl. Judgm. § 173; *In re Manning*, 139 U.S. 504, 11 S.Ct. 624, 35 L.Ed. 264; *Gildemeister V. Lindsay*, 212 Mich, 299, 180 N.W. 633, 635.

220 *therewith by statute, so far as conformable to our institutions.*" Wagner v. Armstrong, 93 Ohio St. 443, 113 N.E. 397, 401.

225 In 1802, the United States Supreme Court in Marbury v Madison ruled that any acts of the U.S. Congress, State Constitutions and State Legislation that are repugnant to the U.S. Constitution are null and void²² and the judges in every state are bound to obey the Constitution²³ above any statutes to the contrary, fraud and subversion is null and remains void and can never supersede law no matter how much they construct upon the fraud.

 In 1791, the First Bank of the United States was created and Thomas Jefferson warned us concerning banks issuing paper currency.

230 *"If the American people ever allow private banks to control the issue of their currency, first by inflation, then by deflation, the banks and corporations that will grow up around them will deprive the people of all property until their children wake up homeless on the continent their Fathers conquered.... I believe that banking institutions are more dangerous to our liberties than standing armies."*

235 In 1833, President Jackson killed the bank and paid off the national debt. The following is a series of covert acts that laid the foundation to resurrect the bank and enslave the People as Thomas Jefferson warned us. In 1845, the Pope and the King of Britain set out on a covert action and issued Letters of Marque and Reprisal to the members of the Bar Associations, allowing them to act as Foreign Agents on American soil and as privateers free to plunder American commerce. The BAR, minions of the NWO, 240 infiltrated Congress and through the use of legalese covertly succeeded in fraudulently replacing our Republic with a democracy, our Laws with statutes and thereby turned

²² **NULL & VOID:** "All laws, rules and practices which are repugnant to the Constitution are null and void" -- Marbury v. Madison, 5th US (2 Cranch) 137, 180.

²³ **Article VI:** This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

We the People into subjects and chattel, and changed the meaning of words such as persons into corporations. This was accomplished by covert legislation and the rewriting of history with propaganda and by this means created Fiction of Law:

245 *“Something known to be false is assumed to be true.”* Ryan v. Motor Credit Co.,
130 N.J.Eq. 531, 23 A.2d 607, 621. *“That statute which would deprive a citizen of
the rights of person or property without a regular trial, according to the course
and usage of common law, would not be the law of the land.”* Hoke vs.
Henderson, 15, N.C.15,25 AM Dec 677. *“A rule of law which assumes as true,
250 and will not allow to be disproved, something which is false, but not impossible.”*
Best, Ev. 419.

The BAR deceived congress via legalese covertly passing unlawful statutes as law. In 1860, President Abraham Lincoln was the first BAR member that was elected president, which was in violation of U.S. Constitution Article I Section 9, clause 8 “Titles of
255 Nobility”. When President Lincoln came to understand the fraud, he betrayed the bank by printing greenbacks and was latter assassinated. In 1861, the BAR, under the color of law, convinced Congress to pass the Revenue Act. In 1862, the BAR covertly solidified, under the Revenue Act, a Corporate Congress and changed the meaning of the word person deeming it to mean corporation.

260 In 1863, Congress unconstitutionally passed the National Banking Act, Habeas Corpus Suspension Act, and Lieber Code creating a new constitutional order without authority and repugnant to the Bill of Rights. In 1868, Congress changes the words “Constitution for the United States” to “Constitution of the United States”. The changing of this one little word fraudulently made the government the author of and not the object of the
265 Constitution. In 1871, the Organic Act created a foreign state within a state within a city. In 1878, the American BAR was created that provided for home grown minions. Between 1900 and 1904, Congress created an oligarchy changing federal territories and possessions into a new “union” of “American states” – Puerto Rico, Guam, et al and began calling it “the United States of America in order to write USC 26 that prepared

270 the way for income tax in 1943 using WWII as an excuse, and by 1952, the IRS was
collecting unconstitutional taxes. By early 1970, the office of the IRS, without
congressional approval, appeared as an established government agency. In 1913,
congress passed the Federal Reserve Act that resurrected the control of America's
275 Agriculture, the Department of Transportation, and set up monopolies, and rigged
commodity markets. In 1917, congress passed the War Powers Act and Trading With
the Enemy Act that made We the People the enemy. Between 1918 and 1933, foreign
bankers deliberately collapsed the American economy in order to bring in the New
Deal. Between 1933 and 1940, congress passed the Sheppard Towner Act, the Buck
280 Act, the Alien Registration Act, the Social Security Act(s) and, the Emergency Banking
Act. All these Acts redefined the estates of living Americans as public trusts, claimed
living Americans as assets along with their private assets and required the registering of
all live births which claimed ownership of the People as chattel. This is how the
fraudulent foundation was created that the enemy continues to build upon and the
285 Judiciary continues to rule upon until this present day.

The Judiciary and their minions know that they are committing treason every time the
court rules the status quo against the Constitution and then tries to hide it. They have
destroyed countless lives; they have taken our children, our homes and our livelihood.
Christ warned us, that lawyers reject the counsel of God (Luke 7:30) and that they place
290 upon men grievous burdens (repugnant laws) to be endured while they place themselves
above the burdens (above the laws), (Luke 11:46), by controlling our courts, and they
are never held accountable; even to their own laws. The Lord went on to reveal that they
take away the key of knowledge thereby preventing many from entering into the
Kingdom of Truth (Luke 11:52). Of which God said, "*cursed are they that robbed God*
295 *of His Nation.*" (Mal 3:8-9) Indeed Jefferson prophesied correctly when he said, "I

tremble for my country when I reflect that God is just; that his justice cannot sleep forever.”

JUDICIAL NOTICE

When a court officer intentionally deceives (*element of intent*) the People into believing
300 that our courts are Article III Courts’ of Justice under the Law of the Land, while they
unsuspectingly enter into these deceptive covert nisi prius court that operate under
fiction of law without any constitutional authority. Court officers are to take judicial
notice that they have a duty to obey the law and if they do not they defraud the People
and lose all immunity. That is because "*the general rule is that an unconstitutional*
305 *statute, though having the form and name of law, is in reality no law, but is wholly void*
and ineffective for any purpose, since its unconstitutionality dates from the time of its
enactment. In legal contemplation, it is as inoperative as if it had never been passed.
Since an unconstitutional law is void, the general principles follow that it imposes no
duties, confers no right, creates no office, bestows no power or authority on anyone,
310 *affords no protection and justifies no acts performed under it. A void act cannot be*
legally consistent with a valid one. An unconstitutional law cannot operate to supersede
any existing law. Indeed insofar as a statute runs counter to the fundamental law of the
land, (the Constitution) it is superseded thereby. No one is bound to obey an
*unconstitutional law and no courts are bound to enforce.”*²⁴ Ignorance of the law is no
315 excuse.

ARGUMENT

JURISDICTION & FILING FEES: 28 U.S. Code § 1914²⁵ requires a filing fee for civil cases. Civil law²⁶ and Roman Civil law are interchangeable serving the same system of

²⁴ Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886).

²⁵ 28 U.S. Code § 1914 District court; filing and miscellaneous fees; rules of court; (a) The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$350, except that on application for a writ of habeas corpus the filing fee shall be \$5.; (b)

jurisprudence, distinguished from the common law. Plaintiffs clearly filed an Action at
320 Law under the jurisdiction Common Law under American Jurisprudence where justice
is free. History shows that Natural Law a/k/a Common Law finds its roots in the Book
of Exodus where we find a covenant between God and man, a covenant²⁷ that was
renewed via the Declaration of Independence²⁸. In contrast, Roman law a/k/a Civil law
325 finds its roots in Babylon that God called an abomination²⁹ where man thinks he can
create law that enslave subjects and serves tyrants like Nebuchadnezzar and not God
through statutes. Civil law is repugnant to the Law of the Land.

Article VI, clause 2: *This Constitution, and the laws of the United States which shall be made
in pursuance thereof; and all treaties made, or which shall be made, under the authority of the
330 United States, shall be the supreme law of the land; and the judges in every state shall be
bound thereby, anything in the Constitution or laws of any State to the contrary
notwithstanding.*

*"All laws, rules and practices which are repugnant to the Constitution are null and void" --
Marbury v. Madison, 5th US (2 Cranch) 137, 180.*

*"Where rights secured by the Constitution are involved, there can be no rule making or
335 legislation which would abrogate them." - Miranda v. Arizona, 384 U.S. 436, 491.*

*"... that statutes which would deprive a citizen of the rights of person or property without a
regular trial, according to the course and usage of common law, would not be the law of the
land." - Hoke vs. Henderson, 15, N.C. 15, 25 AM Dec 677.*

Article III Section 1: *...The judges, both of the supreme and inferior courts, shall hold their
340 offices during good behaviour...*

The clerk shall collect from the parties such additional fees only as are prescribed by the Judicial Conference of the United States.; (c) Each district court by rule or standing order may require advance payment of fees.

²⁶ **CIVIL LAW:** "Civil Law, Roman Law and Roman Civil Law are convertible phrases, meaning the same system of jurisprudence. That rule of action which every particular nation, commonwealth, or city has established peculiarly for itself; more properly called "municipal" law, to distinguish it from the "law of nature," and from international law." See Bowyer, Mod. Civil Law, 19; Sevier v. Riley, 189. Cal. 170, 244 P. 323, 325.

²⁷ **Heb 10:16:** This is the covenant that I will make with them after those days, saith the Lord, I will put my laws into their hearts, and in their minds will I write them;

²⁸ **Declaration of Independence:** When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them...

²⁹ **Rev 17:5** And upon her forehead was a name written, MYSTERY, BABYLON THE GREAT, THE MOTHER OF HARLOTS AND ABOMINATIONS OF THE EARTH.

MOTION TO DISMISS: First and Paramount in Common Law: “*By the law of the land is more clearly intended the general law, a law which hears before it condemns; which proceeds upon inquiry and renders judgment only after trial.*” - Dartmouth College Case, 4 Wheat, U.S. 518, 4 ED 629.

345 Rule 12(b)³⁰ states: A defendant must serve an answer. A motion asserting any of the following defenses are the only defenses that may and must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim.

350 (1) Lack of subject-matter jurisdiction: - This court has subject-matter jurisdiction over the law and the facts. See Article III Section 2.

(2) Lack of personal jurisdiction: - Defendants are government officials that acted under the color of law in Albany County, within the Northern District of New York, Albany County which is where the events took place. This court has personal jurisdiction.

355 (3) Improper venue: - Albany County, within the Northern District of New York is the state capital where the defendants under the color of law violated plaintiffs unalienable rights, therefore plaintiffs filed in the proper venue.

360 (4) Insufficient process: - process was sufficient service by the Albany County Sheriff.

(5) Insufficient service of process: - service of process was sufficient service by the Albany County Sheriff.

³⁰ Rule 12 (b) HOW TO PRESENT DEFENSES: Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion: (1) lack of subject-matter jurisdiction; (2) lack of personal jurisdiction; (3) improper venue; (4) insufficient process; (5) insufficient service of process; (6) failure to state a claim upon which relief can be granted; and (7) failure to join a party under Rule 19. A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

365 (6) Failure to state a claim upon which relief can be granted: - "*The general rule in appraising the sufficiency of a complaint for failure to state a claim is that a complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.*" - CONLEY VS. GIBSON (1957),355 U.S. 41, 45, 46, 78 S.Ct. 99, 102, 2LEd 2d 80; SEYMOUR VS. UNION NEWS COMPANY, 7 Cir., 1954,217 F.2d 168. Plaintiffs have proved the facts in support of the claim within their Action w/affidavits.

370 (7) Failure to join a party under Rule 19 - All parties involved in this Action have been joined.

Defendants have no case for a responsive pleading and if Judge Mae A. D’Agostino read the plaintiffs Action she would have found no grounds to grant defendants more time to file a responsive pleading.

375 Plaintiffs have an unalienable right to be heard and the defendants, being elected officials have a duty to speak. "*Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading.*" - U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.

380 We counsel the officers of this court to obey the Law and not fiction of law, correct the records to reflect the lawful jurisdiction of an Article III Court, and order the defendants to answer.

385 This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. – U.S. Constitution Article VI clause 2

390 In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury,

shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law. Amendment VII.

"All laws, rules and practices which are repugnant to the Constitution are null and void" - Marbury v. Madison, 5th US (2 Cranch) 137, 180.

395 *"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them"* - Miranda v. Arizona, 384 U.S. 436, 491

400 *"... that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land."* - Hoke vs. Henderson, 15, N.C.15,25 AM Dec 677

CONCLUSION

405 *"It is the duty of all magistrates to exercise the power, vested in them for the good of the people, according to law, and with zeal and fidelity. A neglect on the part of a magistrate to exercise the functions of his office, when required by law, is a misdemeanor."* - Vide 15 Vin. Ab. 144; Ayl. Pand. tit. 22; Dig. 30, 16, 57; Merl. Rep. h. t.; 13 Pick. R. 523.

410 *"Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason."* - Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958).

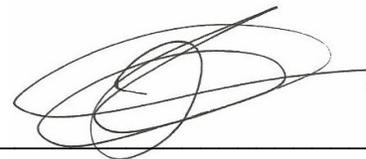
415 The orchestrated actions between Assistant Attorney General Michael G. McCartin, Judge Mae A. D'Agostino and Magistrate Christian F Hummel is an unlawful ruse that both the federal and state judiciaries use to maintain the status quo by unlawfully denying the People access to Courts of Justice. This aforesaid collusion is obvious to those of us who are experienced in the courts. We have watched pro se plaintiff after pro se plaintiff have their complaints dismissed by the courts based on the defendant's pretrial motion to dismiss under Rule 12(b) (6). Whereas Common Law is clear that:

420 *"Indeed, no more than Affidavits is necessary to make the Prima Facie Case."* - Cert
Denied, 50 U.S. L.W. 2169; S.Ct. March 22, 1982. And, *"statutes that violate the plain
and obvious principles of common right and common reason are null and void."* -
Bennett v. Boggs, 1 Baldw 60.

425 We the Grand Jury find both Judge Mae A. D'Agostino and Magistrate Christian F
Hummel in bad behavior. We grace you with five (5) days to correct the record and
conduct yourself within the Law and the lawful rules or submit your recusals. Failure to
obey will result in further action by the Grand Jury. Think not that you will escape
justice, people are awakening and critical mass is imminent and soon the powers that be
will not be able to protect you. Stop waring against the Constitution, obey the will of the
People, and restore the Law of the Land in this court. We understand the web that
430 entangles the judiciary, and we offer an escape, via obedience.

Dated: May 18, 2018

SEAL



Grand Jury Foreman

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