

# Winning in Traffic Court

*" a constitution measures the powers of the rulers, but it does not measure the rights of the governed"* Cooley Con. Lim., 37. Atchison & Nebraska R.R. Co. v. Baty, 6 Neb. 37, 41 (1989).



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# S t o c k t o n

Winning in Traffic Court

Version 1.3



Brooky R Stockton, Ph.D.  
Pastor / Professor Theology, ret.  
PO Box 884  
Tijeras, New Mexico (87059)

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# Dedication

This work is dedicated to Tony Gutierrez, American Indian whose tribe has been fighting tyranny for 400 years. His gentle spirit, patience, courage, pursuit of excellence, devotion to accuracy, and knowledge of law motivated me to be a student of the law. Moreover, I took the liberty to integrate many of his ideas into this work.

Secondly, I am forever grateful to the SEDM team whose research in matters of law and the Word of God are second to none.

# Preface

Law is the engine that powers our political system.

None of us is born with a knowledge of law. It has to be learned. This research is legal, but it is not legal advice.

The Word of God is a law book based on the character of God. However, Evangelical Christians, though none will admit it, have slipped into the swamp of antinomianism. Those from the Presbyterian, Puritan Camp appear have fared better – even encouraging Christians to find a proper placed of God’s law in the modern church.

When I was about 40, I was a young pastor of a young church. Running out of funds I had to choose between paying the government “their fair share” or feeding my family. I chose to feed my family. The battle was on! I informed the IRS what I was doing and why I chose not to participate in their tax program. To my surprize they agreed with my assessment and interpretation of law.

About the same time, I tried to help a lawyer friend in a rental dispute. But, his adversary sued him AND ME! Ouch! Again, I found my nose in law books trying to figure out how to defend myself. I wrote my Motion to Dismiss with a counter suit attached. Amazingly, the judge dismissed the case and ruled in favor of my counter suit.

It seemed like the Lord was directing me to study law.

Soon thereafter, I was stopped by local cops, and given citations. Again, I found myself embroiled in court issues. Winning all my cases, I decided to write this book, “Winning in Traffic Court.”

The main lesson I learned in legal land is to obey God and resist presumption – the duty of all Christian men.

*Robin v. Hardaway, 1 Jefferson 109 (1772)*

*“The laws of nature are the laws of God, whose authority can be superseded by no power on earth. A legislature must **not** obstruct our obedience to him from whose punishments they cannot protect us. All human constitutions which contradict his cannot protect us. All human constitutions which contradict his (God given) laws, we are in conscience bound to disobey.”*

This book does not provide the reader with a silver bullet to win in court, but it does arm the innocent citizen with tools to grow and fight the good fight and to come out victorious. More importantly it fortifies moral courage in legal matters – one of the great needs of Christians today.

Brooky Stockton

# Introduction

Patriot Christians are **not** anti-government. May it never be! They are against corruption in government including commercial schemes to rob fellow Americans. Furthermore, patriots are against feckless Americans that don't have the courage of a mouse.

*Resistance to tyranny is service to God (Founding Fathers).*

There is a shortage of moral courage in America. Mark Twain once commented,

*"Physical courage seems quite common, but moral courage seems quite rare."*

He is correct. Athletes will throw bodies at a ball to catch a pass, but melt like a snowball in hell in the presence of a mouthy woman, a bossy cop, or before a municipal judge in a black dress who doesn't know the difference between sic 'em and com'ere.

Challenging a traffic ticket in a kangaroo court is a great way to develop moral courage.

The Founding Fathers believed that "resistance to tyranny is service to God."

Legislators and local cops are pushing their will down our throats while stomping all over our God-given rights . . . and Americans appear oblivious to the trauma caused to our liberties. Thus, challenging a traffic ticket is a great way to grow in legal knowledge and moral courage.

There is one Lawgiver and Judge (James 4:12) and it is Him that we seek to please – not politicians or the police.

No man is responsible to know all the statues, codes, and regulations.

This package is designed to assist Citizens who have been slapped with a State or city traffic ticket or certificate of violation from any State agency with whom they / you have no contract, and with whom you are trapped in some kind of commercial scheme to take money out of your pocket and to put it into the pockets of State actors.

This package is useful for people fighting tickets, citations, arrests, warrants, or subpoenas from a magistrate or state court.

- Speeding tickets,
- Seat belt violations,
- Bogus arrest warrants,
- False charges
- Barratry
- License demands



- Summary offences
- Code violations
- Failure to obey an officer
- Speed traps
- Other nonsense misdemeanors
- Photo tickets, parking tickets
- Resisting arrest
- Contempt charges

This package is **not** designed to assist criminals who have injured other people or damaged property. If you are a criminal and have violated common law, you do not have our consent to possess this traffic package or any legal information on the website.

If you are a BAR attorney, judge, or an employee of national or state governments, you do not have our consent to possess or reproduce this package of information; and, are in fact, subject to the contract violations and fines iterated at the Nike Insights Website.

This package is **not** legal advice. If you need legal advice, consult a BAR attorney who has a license to practice statutory law of the State, by the State, and for the State.

If you are a law abiding Citizen, and you have been trapped in one of these schemes to fleece you of your money, this package will help you prepare your defense. But, this package is NOT ABOUT MONEY! It is about freedom.

If you are motivated by “saving money” and not out of principle, you will lose every time. The motivation in this packet is the glory of God and responsibility that leads to freedom.

Remember, the law is very particular and you will have to use your State’s applicable codes and departments in defending yourself against the aggression of the Monolithic State.

## Legal Land

**First Priority:** The first legal decision you must make in life is to decide Who is your God and to what law(s) are you obligated? These systems can be summarized as follows:

1. **God’s laws:** There is only “one Lawgiver and Judge” (James 4:12); that is, all men are obligated to keep God’s laws (The Ten Commandment) . . . to love your neighbor as yourself. If you did this, you would be the ideal American Citizen.

*There is nothing more derelict than the notion the Christian is free to choose the law which he must serve (Rushdoony)*

*One God means there is one, absolute law-order – (Rushdoony)*

2. **Common Law:** While this system includes man of God's laws, it understands the rules of common sense, goodness, and fairness – the world of God-given rights, courage, fairness, freedom, and respect for your neighbor. In common law land, the government must acknowledge and yield to the God-given rights of man (The Declaration of Independence). Under common law you are innocent until proven guilty. In this world, you must protect yourself and your neighbor when possible.
3. **Equity:** The world of equity is all about man-made laws, rules, and court decisions; that is, fairness as the government measures fairness. All State courts are equity courts; that is, the judge rules based on his sense of fairness . . . or what the letter of the statute reads.
4. **Maritime law:** This is the law of the seas, the law of nations, the law of brute force and the will of admirals and military commanders. All federal courts rule on the basis of maritime law. Government is in charge, and you must make way for the will of the State. In this world, statutes rule. Forget human rights, you must obey the statute. In this world a man has rights – rights given to him by the state. In this world you are guilty until you can prove your innocence. The government is sovereign and you are its subjects, slaves, and taxpayer.

In this world, the government believes that it must protect you and that self-defence is a crime against humanity. But, this view runs contrary to the laws of nature and common sense.

Robin v. Hardaway, 1 Jefferson 109 (1772)

*“The laws of nature are the laws of God, whose authority can be superseded by no power on earth. A legislature must not obstruct our obedience to him from whose punishments they cannot protect us. All human constitutions which contradict his cannot protect us. All human constitutions which contradict his (God given) laws, we are in conscience bound to disobey.”*

Fortunately, the Bill of Rights is based on God's law and the tradition of the common law of “Christian” England. Government must make way for individual men with God-given rights. The individual is sovereign and the government is a public servant in place to protect human rights. The Bill of Rights is **not** in place to empower government, but to limit the monster from trampling on the rights of weak individuals.

Thus, this work is designed to serve those under the laws of the LORD God a.k.a. the common law.

We are on a mission to help free men to assert their rights and to claim their position under the Creator. No government official has the power to turn a right into a crime or to condemn the man who asserts his God-given rights. Thus, no free man has a duty to the State, Hale v. Henkle.

# Responsibility and Duties

*You should do your duty in all things. You can never do more; you should never wish to do less. Robert E. Lee*

Under the common law the stress is upon responsibility that leads to freedom . . . and not upon freedoms to do what your silly heart wants to do.

**Principle #1: Your first duty is not to obey authority, but to question authority.**

The First Commandment:

*Exodus 20:2 You shall have no gods (authority) above me.*

**Q: Who are you? What do you want? Why did you stop me? What is the probable cause?**

*Thy kingdom come. Thy will be done in earth, as it is in heaven. (Not the will of the State or Agents of the State).*

**Principle #2: Accept your responsibility. You have a duty to ascertain whether a person posing as a public servant acts within the bounds of his authority.**

*"Whatever the form in which the government functions, anyone entering into an arrangement with the government takes a risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, . . . even though the agent himself ... may be unaware of the limitations upon his authority." See Utah Power & Light Co. v. United States, 243 U.S. 389, 409; United States v. Stewart, 311 U.S. 60, 70, 108 (1940) and see, generally, In re Floyd Acceptances, 7 Wall. 666. Federal Crop Insurance v. Merrill, 332 U.S. 380 (1947)*

*"Public officers are agents of the public, whose powers and authority are defined and limited by law. Any act without the scope of the authority so defined does not bind the principal, and all persons dealing with such agents are charged with knowledge of the extent of their authority, Continental Casualty Co. v. United States, 113 F.2d 284, 286 (5th Cir. 1940)*

*"It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the government from falling into error." American Communications Association v. Douds, 339 U.S. 382, 442 (1950)*

*"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection, it creates no office; it is in legal contemplation, as*

*inoperative as though it had never been passed." see, Norton vs. Shelby County, 118 US 425 (1886), Quoting from Marbury v. Madison, 5 U.S. 137, 138 (1803)<sup>1</sup> Marbury holds that a void act is void ab initio. ". . . the Constitution **requires the judiciary to refrain from enforcing laws enacted contrary to the Constitution . . .**"*

*"The state citizen is immune from any and all government attacks and procedure, absent contract." see, Dred Scott v. Sanford, 60 U.S. (19 How.) 393 or as the Supreme Court has stated clearly, ". . . every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent." CRUDEN v. NEALE, 2 N.C. 338 2 S.E. 70Acceptances, 7 Wall. 666. Federal Crop Insurance v. Merrill, 332 U.S. 380 (1947)*

### **Principle #3: You Have No Duty to the State**

Hale v. Henkel, 201 U.S. 43 (1906)

*"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. **His power to contract is unlimited. He owes no such duty [to submit his books and papers for an examination] to the State**, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land [Common Law] long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. **He owes nothing to the public so long as he does not trespass upon their rights.**"*

**Principle Four: Public Officers have a duty to you because they are your public servant. Judges, attorneys, and peace officers, have a responsibility to provide full disclosure of their authority and the nature of all proceedings or they commit fraud.**

McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v. Holzer, 816 F.2d. 304, 307 (1986) (1987):

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<sup>1</sup> Note: this reference, Marbury v. Madison, 5 U.S. 137, 138 (1803), is a Bluebook model (Uniform Citations) of how to reference all cases in legal briefs: Case name; Source –vol., reporter abbreviation, first page of case; Court date; other information

*"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.*

*Notification of legal responsibility is "the first essential of due process of law". See also: "Silence can only be equated with fraud where there is a legal or moral duty to speak or when an inquiry left unanswered would be intentionally misleading." U.S. v. Tweel, 550 F.2d. 297 (1997)*

*"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 law." Rubinstein v. Collins, 20 F.3d 160, (1994).*

*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**. McNally v United States 483 U.S. 350 (1987)*

## Questions and Answers

This is not legal advice, but the answer given is believed to be consistent with the laws of most states. Do your own research.

### 1. Q: Do I have to talk to cops?

Ans: No, you have a right to remain silent . . . but that silence may be interpreted as guilt or that you have something to hide. Being polite, respectful, and reasonable is at all times is appropriate behavior.

Ans: "Anything you say, can and will be used against you." Do not talk to cops (James Dunne, Law Professor, Regents)

You have a right to remain silent. You do not have to speak to cops . . . but that doesn't mean they will not presume you are innocent and that you will not be arrested (Miranda v. Arizona, 384 US 436, 491 (1966)).

Cops must have probable cause to stop you; that is, sufficient evidence someone or their property has been injured. Going 55 mph in a 45 mph zone IS NOT A CRIME under the common law. It may be *mala prohibita*, but it's not *mala in se*.

*"You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?"*  
Miranda v. Arizona, 384 US 436, 491 (1966)

The greatest error people make at a traffic stop is that their mouth flies open and they start chattering like a Mississippi squirrel nervously defending themselves.

## 2. Q: Am I required to show a cop my driver's license?

Ans: No . . . unless there is probable cause (an injured party or damaged property), but showing them some kind of ID may be the wise course of action . . . and, maybe not. Why would you want to tell a cop your name if you have done nothing wrong? Giving them your name is giving them power over you.

An anonymous tip is not probable cause. Hearsay is not evidence. Unsworn testimony is not evidence in court.

Ans: Cops do not have a right to ask for your ID unless they suspect that you have not committed a crime. Say, "I do not consent to show you my papers unless you articulate the lawful, particular cause" (Bryant v. Camden Cty Police Department)

Beliefs are not acceptable in court. It does not matter what a cop believes. What are the visible, tangible facts?

## 3. Q: Do I have to have a Driver's license?

Ans: No, but you must be competent and have proof of competence

Ans: Yes, if you are driving a school bus, ambulance, taxi, big rig, or state vehicle.

*Under Drivers' License Act it is unlawful for any person to drive or operate a motor vehicle over a highway of Texas without having a license, **either as an operator, a commercial operator or a chauffeur**, but one holding a license as a*

*commercial operator or chauffeur is not required to have an operator's license.*  
Vernon's Ann. Civ. St. art. 6687b, §§2,3,44

*It is insisted that the information charges no offense, because a "driver's license" is neither recognized nor authorized to be issued under the Act and, by reason thereof, it constitutes no offense to drive a motor vehicle without such a license.*  
(Page Tex. 401)

*Cops do not have a right to ask for your ID unless they suspect that you have not committed a crime. Say, "I do not consent to show you my papers unless you articulate the lawful, particular cause" (Bryant v. Camden City Police Department (2020)).*

#### **4. Q: Is driving over the speed limit a crime?**

Ans: No, it is not a common law crime nor is it *male in se*<sup>2</sup>; but, it may be unsafe and it may be *mala prohibita*<sup>3</sup>. Unless someone is hurt, there is no crime. Unless property is damaged there is no crime. It may not be wise, but it is not a crime to have a tail light out nor is it a crime to slow down and not stop at a stop sign. But, reason and wisdom require us to do so.

For a crime to exist there must be an injured party. There can be no sanction or penalty imposed upon one because of this exercise of Constitutional rights." - Sherar v. Cullen, 481 F. 945 (1973)

#### **5. Q: Do I have to obey cops?**

Ans: Yes, if there is a state of emergency.

Ans: Yes, if it's a "Lawful Order." But, what is a lawful order?

The A.R.S. §28-622 says,

*"A person shall not wilfully fail or refuse to comply with any lawful order . . ."*  
*But, the question is, "What is a lawful order" or an "unlawful order"?*

A lawful order is one that is consistent with public policy and one that does not generally violate your God-given rights.

The "detainment" is not the place to discuss this question. Simply say, "I do not consent."

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<sup>2</sup> Evil in itself.

<sup>3</sup> Prohibited by statute for those to whom it applies – all "persons" in contract with the State.

Ans: Yes, if you have committed a common law crime.

Ans: No, cops do not have authority over free men. You have no duty to obey a bully cops barking out unlawful orders with eyes bent. You are **not** their slave. See the 13<sup>th</sup> Amendment. Show some guts from time to time and don't obey bully cops. Respectfully do not comply but be reasonable. Say, "I do not consent."

**6. Q: Do I have to get out of my car when a cop shouts orders to me?**

Ans: Yes, if you have committed a crime. Yes, if it's a lawful order (See supra).

Ans: No, the cop has no authority to seize you or your property or to give you orders. Say, "I do not consent! Stop violating my God-given rights!"

**7. Q: What if a cop asks me if he may search my car?**

Ans: You have a right to be secure in your effects. If a cop says, "May I search your car, say, "No! I do not consent." If he asks again in an authoritative tone, say, "No! I do not consent. You must have a warrant."

*The "cardinal rule that, in seizing goods and articles, law enforcement agents must secure and use search warrants wherever reasonably practicable."*

(Trupiano v. United States, 334 U.S. 699, 705 (1948). See also McDonald v. United States, 335 U.S. 451 (1948).

**8. Q: Can I call cops names or show them some fingers?**

Ans: Yes, the First Amendment protects free speech . . . but, using profanity and hand gestures is not recommended nor is it proper Christian behavior. Always show respect to cops, even the bad ones. Cruise-Gulyas v. Minard, No. 18-2196 (6th Cir. 2019)

*Ephesians 4:29 Let no corrupt communication proceed out of your mouth, but that which is good to the use of edifying, that it may minister grace unto the hearers.*

**9. Q: What does it mean to be detained?**

Ans: If a cop is barking out an order to you, or you are surrounded by cops, or an officer touches you, or if the cop prevents you from going on your way, or shouts out you in authoritative tones, you are being detained. Say, "I do not consent. You are making me afraid."

If the gang in black surrounds you, they have violated your right to be secure. You are being detained. Say, "You are making me afraid, I do not consent." Ask, "What is the



probable cause of this detainment?" You can ask, "I'm I being detained?" If they say no, then ask, "Am I free to go?" or just go.

If a cop shouts at you, you are no longer secure. You are being detained. A show of authoritative tones or words means you are being detained. Shut up! Don't argue or equivocate. Don't argue your innocence! Shut up! Do not talk to cops.

**10. Q: What should I do if a cop touches me without my consent**

Ans: **You have a right to be secure in your person.** If a cop touches you, you are no longer secure. Say, "stop touching me, I do not consent! Don't hurt me!" See the 4<sup>th</sup> Amendment.

**11. Q: Can I ask for a cop's name?**

Ans: You have a right to ask for the cop's name and badge number. In most states, policemen must respectfully identify themselves.

**12. Q: Do I have to take a breathalyzer test and perform sobriety tests.**

Ans: No! If you do not wish to do this, simply say, "I do not consent!" Stay in your car. The cop can accuse you of being intoxicated, but what is his proof? Remember, COPS ARE PROFESSIONAL ACCUSERS. Don't fall into their traps. Don't talk to cops.

**13. Q: Can I film cops?**

Ans: Yes, you can film public officers in public places according to the First Amendment.

Ans: Yes, you can film officers at the police station . . . but, there are certain restrictions. Generally speaking, you cannot film surreptitiously nor can you record private conversations that are believed to be private.

**14. Q: Can I argue with a cop?**

Ans: This is touchy. Yes, you can engaged a heated, reasonable discussion, and state your opinion. Arguing is not generally recommended; and, arguing after you are being detained or after the officer has read you rights is foolishness. Do not talk to cops. Anything you say can and will be used against you.

Congress has operated within this framework of legal uncertainty ever since this Court determined that it was the judiciary's **duty "to say what the law is."** Marbury v. Madison, 5 U.S. 137, 138 (1803)

According to: U.S. Judge, in American Communications Association v. Douds, (1950): "It is not the function of our Government to keep the citizen from falling into error; it is the

function of the citizen to keep the Government from falling into error." - Robert H. Jackson (1892-1954)

**15. Q: What if a cop pulls out his gun?**

Ans: If guns are out, you are no longer secure. You are being detained. Say, "I do not consent to having guns pointed at me. You're making me afraid."

**16. Q: What does "seizure" mean?**

Ans: If any of the following exist, and you have not committed a crime (injuring a person or property), then you are being detained and seized.

- A seizure occurs when a person's freedom to leave is limited by a police officer's actions.
- A cop shouts at you or barks out orders." arrest are nearly three times more likely to begin with the police officer issuing a command" (npr.org).
- Use of an authoritative voice or abusive language.
- If a cop point a gun at you.
- If a cop threatens to Taser you.
- If several cops surround you way too close.
- If he reaches for his handcuffs.
- If he touches you or grabs you. Physical contact is a seizure.
- If he uses force to cuff you.

Searches and seizures must be "reasonable," that is, a cop must have a reason . . . probable cause . . . factual evidence you committed a crime. He must name the crime and list the facts to arrest you or have a warrant. He may say, "I believe . . . " but beliefs are not facts (Terry v. Ohio 392 U.S. (1968)).

Unreasonable seizures include detainment without probable cause . . . detainment because the officer is angry . . . detainment based on beliefs . . . detainment based on an anonymous tip . . . detainment without a signed warrant by a de jure judge with a blue ink signature and a court seal accompanied with and a copy of sworn statement under penalties of perjury that a person saw you commit a crime.

**17. Q: What if I am nervous?**

Ans: Anxiety around cops is not illegal. It is normal. Anxiety is not evidence of guilt.

**18. Q: What if a cop breaks the law in trying to enforce the law?**

Ans: Cops often do. In re Re McCowan, 177 C. 93, 170 P. 1100 (1917),

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

The Privacy Act of 1974 (As Amended) Public Law 93-579, as codified at 5 U.S.C. 552a

*1) permit an individual (a single human being as distinct from a group, class, or family) to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;*

## **Laws Frequently Broken by Cops**

### **18 USC Criminal Statutes**

18 USC 225, Continuing Financial Crimes Enterprises,

18 USC 201, Falsification of a Material Fact,

18 USC 230, Fraud and Related Activity in Connection with Computers,

18 USC 1349, Attempt and Conspiracy,

18 USC 1505, Obstruction of Proceedings Before Departments,

18 USC 1510, Obstruction of Criminal Investigation,

18 USC 1512, Tampering With a Witness, Victim or Informant,

18 USC 1513, Retaliating Against Witness, Victim or Informant,

18 USC 1515, Misleading Conduct with Corruption,

18 USC 1519, Falsification of Records,

18 USC 1581, Peonage,

18 USC 1589, Forced Labor,

18 USC 1621, Perjury,

18 USC 1622, Subornation of Perjury,

18 USC 1911, Receiver of Mismanaging Property,

18 USC 1918, Disloyalty...Against the Republican Form of Government,  
18 USC 1951, Interference With Commerce by Threats,  
18 USC 1956, Laundering of Monetary Instrument,  
18 USC 1957, Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity,  
18 USC 1961, 62, 63, 64, 65, 66, 67 and 68, Racketeering,  
18 USC 2071(b), Falsification of Documents,  
18 USC 2111, Attempted Taking by Intimidation,  
18 USC 2381, Treason,  
18 USC 2382, Misprision of Treason,  
18 USC 2383, Rebellion or Insurrection,  
18 USC 2384, Seditious Conspiracy,  
18 USC 2385, Advocating Overthrow of Government,

#### Civil Statutes Violated

42 USC 1981, Deprivation of Equal Rights Under the Law  
42 USC 1982, Deprivation of Property Rights of Citizens  
42 USC 1983, Deprivation of Rights Under Color of Law  
42 USC 1985, Conspiracy to Interfere with Civil Rights  
42 USC 1986, Action for Neglect to Prevent Others from Violating Federal Laws  
42 USC 1994, Peonage

## **Strategies for Handling a Traffic Stop**

Look at a traffic stop as a challenge to assert your rights and to take command of any traffic stop. The one asking the questions controls the conversation. The calmest wins.

In all traffic stops, the cop / agent of the city corporation is seeking to create controversy. He wants to contract with you. He will bark out orders at you seeking to intimidate you. But, you have God-given right not to consent.

**Strategy One:** Take charge. Maintain self-control. Be calm, cool, and collected. Don't act like a slave. Put your hands on the steering wheel so the officer can see them. Roll down the window about 2 inches so the officer can hear you.

Cops have no authority over you unless you have committed a crime.

*1 Corinthians 7:23 You were bought with a price; do not become slaves of men.*

*Your first duty in life is not to obey authority, but to question authority.*

No, you don't have to answer questions . . . No you don't have to identify yourself . . . unless you have committed a common law crime. But, if you do not answer them, they will suspect that you are trying to hide something. So keep your answers short: "Yes." "No." "I don't know." "I don't consent." Even better, ask questions.

**Strategy Two:** You are not an ANSWER MACHINE! **See yourself as a QUESTION MACHINE!** My favorite recording on an answer machine goes like this: "Hello, this is not an answering machine, this is a QUESTION MACHINE! Who are you, and what do you want?" (smile)

**Officer:** License and registration, please . . . in an authoritative tone.

**Free Man:** Slowly with one question at a time. Potential questions to ask.

**Q:** Who are you?

**Q:** What do you want?

*Cop: You were going 55mph in a 45 mph zone.*

*Ans: I have no knowledge of that.*

**Q:** Was anyone hurt? Was any property damage?

*Cop: No!*

*If no one is hurt and no property has been damaged, you know that they cannot accuse you of a common law crime.*

**Q:** Officer, do I have a contract with you?

*Cop: No!*

**Possible Q:** Are you going to read me my rights? Do I have the right to remain silent? Do I have the right to be secure in my papers? May I go now? (Remember Columbo: Ur, a, may I ask you one more question, please?)

**Q:** Are you detaining me? On what charge?

*Cop: You were going 55 mph in a 45 mph zone.*

*Ans: I have no knowledge of that.*

**Strategy Three:** Remain silent. Put your hands on the wheel, and be quiet. After a while ask, "Officer, am I free to go now?"

**Strategy Four:** Plead ignorance.

Never admit guilt; i.e. never say "Yes" to an officer's assertion. Remain cool, calm, and collected, and ask questions. If the cop starts barking out orders, stay calm and say, "I do not consent." Be quiet.

**Officer:** You were going 55 mph in a 45mp zone (A presumption the officer hopes you will latch on to).

*Cop: You were going 55mph in a 45 mph zone.*

**Free Man Ans:** *Officer Donut, I have no knowledge of that! (and you don't!) Was anyone hurt? Was any property damaged? Why are you detaining me?*

**Officer:** You were going 55 mph in a 45mp zone.

**Free Man Ans:** *Officer Donut, I have no knowledge of that! I was looking at the road driving responsibility, not at my speedometer, which is what I should be doing, correct? Was anyone hurt? Was any property damaged? Why are you detaining me? May I go now?*

**Strategy Five: Show the officer your true, but homemade identification card.**

You do not have to show the officer your "driver's license." He doesn't need it. He already knows who you are on his computer system.

Show him your freedom papers: your Affidavit of Right to Travel; your affidavit that you are not operating in commerce; Your "Warning Papers" or any other documents you have created for this purpose.

**Q: Officer** -- May I see your driver's license.

*Free Man Ans: Why do I need a driver's license? I'm not driving. Do I look like a taxi driver carrying cargo on the road?*

**Q: Officer** -- Do you have a driver's license?

*Free Man Ans: Yes, but I'm not using it; that is, I'm not employed for hire right now. Why do you want to see it? Don't I have a right to be secure in my papers? Do you have a warrant?*

**Q: Officer** -- May I see your driver's license?

*Free Man Ans: Here is my personal identification card. Ask: May I see your business card, please?*

*From henceforth, I claim my right to remain silent.*

**Strategy Six: Getting the officer to commit.**

**Free Man:** Officer, are you detaining me?

Officer: No

**Free Man:** Then I am free to go?

Officer: No

**Free Man:** Then you are detaining me?

**Officer:** Ur, uh, yes?

**Free man:** On what charge?

**Officer:** for going 55 mph in a 45 mph zone?

**Free man:** I have no knowledge of that. Was anybody hurt? Was any property damaged? Since there is no crime, may I go now?

**Officer:** No

**Possible Free Man Q:** Are you trying to trap me in a commercial scheme to raise funds for the State? Do I have a contract with you that obligates me to some kind of performance?

**Officer:** No

**Free Man:** Then why are you stopping me if no one was hurt and no property damaged?

The cop may write out a ticket and ask you to sign it. This is O.K. Don't panic.

Note: if you have to go to court, you will be able to tell the judge that the cop detained you without a common law probable cause and that the cop said you did not hurt anyone. Since no one was hurt, ask the court to dismiss for want of probable cause.

**Strategy Seven: Ticket signing. Don't Sign the Traffic Ticket normally.**

Your signature equals consent. The ticket is a business offer to do business with the municipality. Don't accept. Do not consent.

Sign the ticket: "All Rights Reserved" in your lower case spelled name; or,

Sign the ticket: "Not a Contract!" or "I do not Consent to Contract!" or "I do not consent to his commercial scheme;" or,

Sign the ticket: "Non-assumpsit. No crime committed." Or, "No Contract, Return to Presenter;" or,

Sign the ticket: *Signed under fear and duress* because presenter / officer was armed and hostile and appeared ready to pull his gun and shoot me. (Facts must be true.).

Once you sign the ticket, the officer will usually let you go. He thinks he has a contract.

Strategy Ten: Understand the NAME game.

You have an evil twin called the "STRAWMAN" or "the Legal Fiction" or "the Birth Certificate Name in ALL CAPS," or "Debtor." The officer, a legal "person" and "state actor," seeks to make a presentment to the "legal person," your STRAWMAN to extract commercial value from YOU.

The officer assumes you are subject to the State and you have consented to be governed by the State and to pay the "legal person's" (State's) debts. You need to know who you are and that the picture on the driver's license IS NOT YOU. Plastic and "flesh and blood" are not the same. Somewhere in this process, you must insist the NAME on the Driver's License is not you. When he presents you a "ticket" or "tax bill," the city agents asking you to go to court and pay your port taxes.

The whole NAME game and separating your living self from the dead legal "person is an adventure in self-discovery. Know who you are and don't be surety for the DEBTOR. This is a game of assumptions and presumptions and you must swim your way through this tax port and avoid in "joinder."

**Maximum of law:** *He who fails to assert his rights has none.*

The cop wants you to contract with him and be a surety for the debt he's creating. You have a right to say "No." If you sign the contract, you consent to the contract. Your signature IS your



consent to “act” in “joinder.” But, if you sign the contract “non-assumpsit” you are declining the contract without out the officer comprehending what you have done.

If you pay the ticket, you are consenting to the contract offer.

If the cop asks a question, you could say, “I’m not an attorney and I can’t make a legal determination,” or

“I am not the STRAWMAN, but I have an interest in the STRAWMAN, and am here to protect my rights,” or “STRAWMAN is not me. STRAWMAN is a government creation. If you have an issue with the STRAWMAN contact its creator -- the UNITED STATES GOVERNMENT!” (But, this may be a useless conversation)

### **Strategy Eleven: One Trucker’s Strategy**

You have a “license” but you were not using it to drive down the highway minding your own personal business. A trucker is under contract to obey State laws. You are not. Here is the voice of experience from a “licensed driver.”

**Don't wait for the cop to ask for the paperwork and your CDL, and then go searching through the truck to find it.** This will make the officer a bit nervous concerning his security, as he has no idea what you might come back with. Keep all your shipping and trucking documents in a location you can reach without removing your seat belt. Have it sitting in your lap when the officer arrives at your window.

Don't remove your seat belt until you are absolutely sure the officer has seen you with it on. I never took mine off unless the officer requested I exit the tractor.

**Only hand the officer the documents he/she asks for.** Don't volunteer any document or information that hasn't been specifically requested by the officer.

**When asked if you know why you were pulled over, never give an answer that can be used as an admission of guilt.** (In most states today the officer is wired to his dashcam and anything recorded can possibly be used as evidence if you challenge the citation in court.) Best to say, "I'm not sure, but I know you're out here for my and other motorists' safety, so I'm sure you've stopped me for a good reason."

**Only answer questions** the officer asks with the shortest and most honest answer possible. Be polite, respectful and honest at all times, regardless of the officer's attitude.

Finally, once the officer has finished writing the citation, warning, or even if he lets you go with a verbal warning, always thank him for doing his job. (GetLoaded.com).

### **Strategy Twelve: Go to the Court**

Take a two or three friends with to the court **the day following your ticket**. Ask to see if there is any filed accusation against you. There probably won't be. Many officers are lazy and do not file their citations on time. If there is no complaint filed against you, ask for some kind of documentation from the clerk that there is no citation filed against you. Ask your friends to write a simple affidavit describing what they witnessed and that the clerk answered negative.

Now, have some fun. If a case arises against you, take your affidavits with you to court and state that you have witnesses that affirm there was no case or complaint against you. The court must dismiss.

**Strategy Thirteen: File amended motions found in this package of information.**

These motions are powerful and your case will most likely be dropped before you have to appear before the judge. But, if not, you have a power defense and you can use these motions to expose the commercial nature of the court system. In your interrogation of the officer, you have admitted you have no knowledge of any offense. The officer has admitted you did not injure any one or damage their property. So, what are they charging you with - - not a common law crime, for sure! You have a clear conscience and now you must extract yourself from their Godless commercial scheme.

**Strategy Fourteen: Ask to see the paperwork.**

If the paperwork in court does not tell you the type of device the officer was using in a speeding ticket, it is grounds for dismissal. Because the paperwork does not tell you the type of device the officer used, your due process rights have been violated and you were not able to prepare an adequate defense. Second, look at the paper work and if you anything that doesn't look right, show the judge. If he agrees, it is grounds for dismissal.

**Strategy Fifteen: Don't go to the municipal court.**

If you signed the ticket, "non-assumpsit," you have no contract. Sit back and don't go! You have no duty to do so.

The court clerk will send you an unsigned computer-generated summons without a court seal or signature of a de jure judge.

Hand print on the summons the following and send it back to the court: No court seal, computer-generated, no signature, not notarized; that is, circle and note the instrument's deficiencies. Because of these deficiencies, it has no authority. No authority, no duty!

# Traffic Court Facts

1. All “traffic” courts are commercial in nature and are doing business for profit by trapping you in their web of deceit; that is, they are for-profit corporations. They are not the people’s courts. They are usually run by a municipality as a revenue scheme of the city; that is, all traffic courts operate outside of the Constitution and the free man’s God-given rights. Judges error assuming you have a duty to comply with State statutes.

Rodrigues v Ray Donovan (U.S. Department of Labor), 769 F. 2d 1344, 1348 (1985)

*“All codes, rules and regulations are applicable to the government authorities only, not human/Creators (sic) in accordance with God's laws. All codes, rules and regulations are unconstitutional and lacking in due process...”*

*“No one needs a license to do his duty to God which includes traveling to his place of service.”* Stockton

**Traffic:** “Commerce, trade, sale or exchange of merchandise, bills, money and the like” – Bouvier’s Law Dictionary 1856 Edition

**TRANSPORTATION, punishment.** In the English law, this punishment is inflicted by virtue of sundry statutes; it was unknown to the common law. 2 H. Bl. 223. It is a part of the judgment or sentence of the court, that the party shall be transported or sent into exile. 1 Ch. Cr. Law, 789 to 796: Princ. of Pen. Law, c. 4 §2. Bouvier’s Law Dictionary 1856 Edition

**Traffic and Transportation** were unknown to the common law, the ONLY law acknowledged by the People in the Bill of Rights. See “Notes on the Magna Carta” - <https://sedm.org/Forms/10-Emancipation/TheMagnaCarta.pdf>

2. All traffic courts are quasi-judicial involving acts of the legislature; that is, they are not de jure judicial article three courts. They are “for-profit” corporation-courts when applied to ordinary Citizens. Further, all “judges” are administrators and clerks and not constitutional, Article III, common law judges. They work for the prosecutor to collect punishment “taxes” so they can retire well. It is a commercial scheme. Why play this game?
3. All traffic codes are enforced against drivers – Semi drivers, taxi drivers, and bus drivers. You are not a driver; rather, you are traveling for personal pleasure of business and, you are **not** driving for “hire.” Never use the term “driver” in court to refer to your activity.

The department shall erect and maintain on the highways and roads of this state appropriate **signs** that show the maximum **lawful speed for commercial motor vehicles, truck tractors, truck trailers, truck semitrailers, and motor vehicles engaged in the business of transporting passengers for compensation**

**or hire** (buses). Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Texas Statutes- Section 201.904: Speed Signs

There is no speed limit at common law. Responsibility demands, however, that you travel at a reasonable, safe speed (See Texas Transportation Code § 545.351):

Sec. 545.351. MAXIMUM SPEED REQUIREMENT. (a) An operator may not drive at a speed greater than is reasonable and prudent under the circumstances then existing. (b) An operator:

(1) may not drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard for actual and potential hazards then existing; and

(2) shall control the speed of the vehicle as necessary to avoid colliding with another person or vehicle that is on or entering the highway in compliance with law and the duty of each person to use due care.

4. If you are stopped by policemen and you are not driving for hire, then IT IS AN "ASSAULT" by the police officer on you because, if there is no injured party, he is acting outside the authority of law.

5. You are not driving a "motor vehicle."

(6) **Motor vehicle.**— The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used **for commercial purposes** on the highways **in the transportation of passengers, passengers and property, or property or cargo.** - 18 U.S. Code § 31 – Definitions (a) (6).

(10) **Used for commercial purposes.**— The term "used for commercial purposes" means the carriage of persons or property **for any fare, fee, rate, charge or other consideration**, or directly or indirectly in connection with any business, or other undertaking intended for profit.

(3) Motor vehicle

The term "motor vehicle" means a self-propelled vehicle which is registered for highway use under the laws of any State or foreign country. – The Federal Tax Lien Act of 1966 at Public Law 89-719 at 80 Stat. 1130-1131.

Remember, these statutes apply to U.S. citizens subject to the jurisdiction of Washington D.C. and its State Corporations. Thus, cops are working for the IRS and collecting revenue for D.C.

You, as a free man, are not subject to them. You are in common law, not their statutory jurisdiction of legislation. You have no contract with these people. No contract, no case.

6. **Lawyers can't testify.** They are not eyewitnesses. Hearsay is not permissible (Rule 802). If they start to talk, object: this man is **not** an eyewitness. Lawyers are not permitted to testify, *Trinsey v. Pagliaro*, DC Pa. 229 F. Supp. 647 (1964)

*"An attorney for the plaintiff cannot admit evidence into the court. He is either an attorney or a witness"*

7. **The Name Game:** This can be tricky, so make sure you know what you are doing.
8. The Court wants to make a parity between the STRAWMAN and the Living Man, to make you the trustee for the debts of the DEBTOR STRAWMAN. Ask, "Are you addressing the decedent (STRAWMAN, dead fictional CORPORATION, CETIQUE TRUST) or the decedent?" If the judge says, "the living man," then you ask, "Where is the injured party." If the judge says, "the decedent," you ask, "Where is the death certificate? I have not seen it. If you are dealing with the decedent, shouldn't this case be in probate court.

# Freedom Travel Documents

Anticipate being pulled over for a traffic ticket.

Therefore, prepare your notarized identification documents and right to travel papers in advance. File them with the County Clerk (agent of the Secretary of State); store two copies in your car. If you are stopped, give the cop a copy of your travel papers.

## Traffic Court Facts

1. All traffic courts are commercial in nature and are doing business for profit by trapping you in their web of deceit.

**Traffic:** Commerce, trade, sale or exchange of merchandise, bills, money and the like” – Bouvier’s Law Dictionary 1856 Edition

**TRANSPORTATION, punishment.** In the English law, this punishment is inflicted by virtue of sundry statutes; it was unknown to the common law. 2 H. Bl. 223. It is a part of the judgment or sentence of the court, that the party shall be transported or sent into exile. 1 Ch. Cr. Law, 789 to 796: Princ. of Pen. Law, c. 4 §2. Bouvier’s Law Dictionary 1856 Edition

**Traffic and Transportation** were unknown to the common law, the ONLY law acknowledged by the People in the Bill of Rights.

2. All traffic courts are quasi-judicial involving acts of the legislature; that is, they are not de jure judicial article three courts. They are kangaroo courts. Further, all “judges” are administrators and clerks, not constitutional, common law judges. They work for the prosecutor to collect punishment “taxes” so they can get paid.
3. All traffic codes are enforced against drivers. You are not a driver; rather, you are traveling for personal pleasure of business and, you are not driving for “hire.” Never use the term “driver” in court to refer to your activity.

The department shall erect and maintain on the highways and roads of this state appropriate **signs** that show the maximum **lawful speed for commercial motor vehicles, truck tractors, truck trailers, truck semitrailers, and motor vehicles engaged in the business of transporting passengers for compensation or hire** (buses). Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Texas Statutes- Section 201.904: Speed Signs

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(2) shall control the speed of the vehicle as necessary to avoid colliding with another person or vehicle that is on or entering the highway in compliance with law and the duty of each person to use due care.

4. If you are stopped by policemen and you are not driving for hire, then IT IS AN "ASSAULT" by the police officer on you because he is acting outside the authority of law. Don't accuse him of this; just know that this is what is happening.
5. You are not driving a "motor vehicle."

(6) **Motor vehicle.**— The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways **in the transportation of passengers, passengers and property, or property or cargo.** - 18 U.S. Code § 31 – Definitions (a) (6).

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The term "motor vehicle" means a self-propelled vehicle which is registered for highway use under the laws of any State or foreign country. – The Federal Tax Lien Act of 1966 at Public Law 89-719 at 80 Stat. 1130-1131.

Remember, these statutes apply to U.S. citizens subject to the jurisdiction of Washington D.C. Thus, cops are working for the IRS and collecting revenue for D.C.

6. Unless you have signed a notice to appear in one of the municipal courts, you do not need to appear. You could, if necessary, prepare a defense package and not go to court . . . or you could go to court with your defense package and do your best to defend yourself in court – always educational.

# Travel Card ID

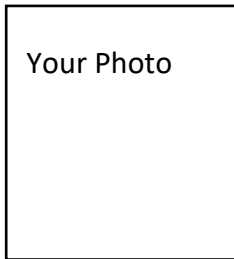
Sample ID card(s) you can run off and put in your vehicles to give to cops who ask for identification and papers.

## Front Side

RIGHT TO TRAVEL .

Not a Driver; Not in Commerce

Owner



Name of Free Man

Servant of His Majesty under the original jurisdiction of Genesis 1:26-

## Back Side

### NOTICE TO COMMERCIAL OFFICER OF CORPORATION

This living soul having turned down all state franchises, declares his right to travel on public roads without harassment. Acceptance of this instrument by an officer **is a license by the Owner** to the Holder to utilize his private name under the condition that the officer, without a copy of his oath of office and a copy of his faithful performance bond, agrees to waive all immunities, thereby constituting a contract wherein the officer accepts personal responsibilities for any violations of Fundamental Law. Holder agrees to pay Owner one-thousand dollars per hour for any commercial demands laid upon Owner by Holder for the commercial benefit of the corporation he serves.

[Note: you are not a driver being paid for hire. You are a living soul traveling on God's green earth doing the business that He has assigned you to do. Further, you are notifying the police man that if he wants to contract with you by giving you a ticket for exercising your right to travel that he accepts the contract to pay you one-thousand dollars an hour for any of the time you have to spend in fighting him in court for trying to trap you in some commercial scheme; that is, you are laying down the foundation for a law suit. When making a claim in a magistrate court, there are limits to the amount of money you can claim in that court. Know the limit, and then sue for an amount under the ceiling limit . . . not to get money but to send a message to the entire police force about their duty to protect the people's rights.



# Fee Schedule

Please be advised the following fees will be charged to any person who violates a contract or by forcing this living soul to defend himself against unlawful civil actions.

\$1,000 per threat or attempt to coerce or entice or seduce.

\$1,000 per demand or collection letter or court document or subpoena or any legal material received.

\$1,000 per hour or letter required to be produced.

\$1,000 per hour for an involuntary court appearance. This includes travel time, preparation, and for a personal appearance in court.

\$1,000 per hour for a voluntary appearance in court necessary as a plaintiff.

\$1,000 per document required to be produced or photo copied by Stockton.

\$1,000 for a document requiring a notary attestation.

\$1,000 for each affidavit produced by Stockton as a defendant or Plaintiff.

\$1,000 per hour for the services of a private investigator or notary or officer of the law.

\$1,000 per hour for fees for services by a lawyer or paralegal or advisor in common law or statutory law.

\$1,000 per request per item to produce information of any kind including but not limited to financial statements, driver's license, social security numbers, bank accounts, age, weight, etc.

\$1,000 per finger for finger prints taken without consent.

\$1,000 per hour of research required.

\$1,000 per hour for defense of frivolous liens or liens lacking my consent.

\$1,000 per hour of time spent rebutting a notice of lien filed with the county or report to credit agency lacking signature or the consent of the Accused.

\$1,000 per violation of this contract by the officer as stated and explained by the Accused.

\$1,000 per hour of detainment or false arrest without a warrant signed in blue ink by a bonafide, bonded judge and \$1,000 dollars per hour spent in jail or prison under color of law, color of process, color of office.

FAIR WARNING, NOT AS A THREAT, pursuant to United States v. Lanier on Certiori 95-1717, hereby informs this agency, its corporation, staff, and personnel, that any violation of this Citizen's Constitutional rights will be enjoined in a lawsuit as "Conspiracy Against Rights" by action under color of law according to 18 U.S.C. Sec. 242, "Deprivation of Rights Under Color of Law" and 18 U.S.C. Sec. 241, "Conspiracy Against Rights" which is punishable by fines and or imprisonment.

With Asseveration of All Rights

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[Note put several of these in your freedom to travel packet in your car and hand it to the cop who seeks to write you a ticket.]

## How to Respond to Photo Tickets

Photo tickets are not lawful nor do they have any constitutional vigor. They are "Please send us Money" instruments designed to trick people out of the money.

They are not common law instruments. They are part of a commercial scheme for the company and the State.

They have no affidavit of probable cause. They are not statements of injury by a living person. They are not statements that property has been damaged.

They are not statements that a real law has been broken. There is no human witness.

They are often rigged to catch people in the crossing zone.

They are not signed by a judge or grand jury or jury or State officer. Thus, they have no authority.

They are not signed under penalties of perjury and therefore have no force of law.

### **How to Deal with Photo Tickets in the Mail**

**Strategy One:** Don't open them and throw them in the trash. This way you can honestly say, "I've never seen one." Without Certified mail return receipt the company sending them has no proof they have been sent and received. If they send another, throw in the trash. They have no force in law and no proof of service. Simply ignore them. If perhaps, for some reason you end up in court over one of these say, "I never received one." (Any you didn't). The court may say

but on \_\_\_\_\_ July 3<sup>rd</sup>, you were sent a Notice. Your respond, “Show me the proof of service.” Case dismissed.

**Strategy Two:** Write on the envelope, “Refused for Cause” and stick it back in a mail box. The cause for refusal is lack of proper service.

**Strategy Three:** Open the letter. Read it. Ask them to verify and validate their claim in writing under penalties of perjury that the dead, fictional, corporation State has been injured by you being in the crossing zone when the photo was snapped.

**Strategy Four:** Go to court. Stand up, face the gallery and ask, “Is there anyone here that I have injured by my actions?” Wait. All will remain silent. Turn to the judge, and say, “Let the record show there are no damaged parties present in this courtroom.” Have fun challenging the judge, the court, the State prosecutor by demanding a signed statement of probable cause.

## A Valid Search Warrant

Definition: a document issued by a legal or government official authorizing the police or some other body to make an arrest, search premises, or carry out some other action relating to the administration of justice.

Justia lists four requirements of a valid search warrant.

1. The warrant must be filed in good faith by the police officer and not punitively;
2. The warrant must contain reliable, factual information in support of showing probable cause – that is, the officer or injured party must be an affiant who has presented a signed affidavit of probable cause. (Note: this is often not done).
3. The warrant must state with specificity and particularity the place to be searched and the items seized.
4. The warrant must be issued by a neutral, detached magistrate, in proper form, and signed with a wet-ink signature by a bonded judge;

### A True Story

A woman named Linda was stopped by a cop and arrested for stealing a vehicle. A policeman was sent to Linda’s house to search her garage. He was met at the door by Linda’s daughter, Jasmine, age 11. The cop explained to Jasmine that he needed to search her mother’s garaged.

Jasmine asked, "Where is your warrant?" The cop explained that he did not need one.

Jasmine said, "Yes, you do." The cop said if you do not let me search the garage you are going to be in big trouble with me. Jasmine responded, "Well, I'd rather be in trouble with you than in trouble with my mother. You need a warrant.

The cop went back to his car and filled out a form warrant. Within minutes he went back to see Jasmine saying, "Here's the warrant." Jasmine looked at it and said, "It is not signed by a judge. Please leave." The cop shook his head and left.

Meanwhile back at the police station the investigator informed Linda that the cops got the wrong license plate number for the stolen vehicle, and, that she was free to go if she just signed the jail's papers. Linda refused to sign them. A judge came down saying she had to sign the documents. She refused. Since the jail door were open, she just walked out of the cell in front of the judge. No one shouted or chased her. They knew they had no authority to hold her.

Sample Search and Seizure Warrant

# UNITED STATES DISTRICT COURT

for the District of \_\_\_\_\_

In the Matter of the Search of  
*(Briefly describe the property to be searched or  
identify the person by name and address)*

)  
) Case No. \_\_\_\_\_  
)  
)

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in \_\_\_\_\_ the District of \_\_\_\_\_ (identify the person or describe the property to be searched and give its location):

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (identify the person or describe the property to be seized):

- YOU ARE COMMANDED to execute this warrant on or before \_\_\_\_\_ (not to exceed 14 days)
- in the daytime 6:00 a.m. to 10:00 p.m.
- at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to

\_\_\_\_\_  
(Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)

For \_\_\_\_ days (not to exceed 30) \_\_\_\_ until, the facts justifying, the later specific date of \_\_\_\_\_.

Date and time issued: \_\_\_\_\_  
 City and state: \_\_\_\_\_

\_\_\_\_\_  
 Judge's signature  
 \_\_\_\_\_  
 Printed Name and Title

<b>Return</b>		
Case No.:	Date and time warrant executed:	Copy if warrant and inventory left with:
Inventory made in the presence of:		

Inventory of the property taken and name of person(s) seized

Certification

I declare under penalty of perjury that this inventory is correct and was returned along with the original war to the designated judge.

Date: \_\_\_\_\_

Executing Officer's signature

# Freedom Documents

Fill out your own Freedom Documents and file them with the County Clerk. Further, you are now in position to make up your own ID cards for banking and travel purposes.

Your Name  
Address  
Edgewood, New Mexico 87015

## Public Notice

---

**Notice to Commercial Officers**  
**Identify Affidavit**  
**Declaration of Rights**  
**Public Announcement**  
**Constructive Notice of Lawful Status**

**Recorded with:**

**SECSTATE**  
**TORRANCE COUNTY CLERK**  
**205 S Ninth Street**  
**ESTANCIA, NEW MEXICO 87016**

## Notice to Commercial Officers of all **State** Corporations

This living soul having turned down all state franchises, reserves ALL his God-given rights including but not limited to the right to travel on public roads without harassment, without permission from the State (“Real ID”) in order to conduct the Lord’s business, and the right to self-defense and defense of friends and loved one.

Acceptance of any ID instrument by an officer of the State **is a license by the Owner** to the Holder to utilize his private name under the condition that the officer, without a copy of his oath of office and a copy of his faithful performance bond, agrees to waive all immunities, thereby constituting a contract wherein the officer accepts personal responsibilities for any violations of Fundamental Law.

Holder / Officer / Accuser of any instrument belonging to **Your Name** agrees to pay Owner one-thousand dollars per hour for any commercial demands laid upon Owner by Holder for the commercial benefit of the corporation he serves, and one million dollars in silver coin (.999 pure) for any and every violation of God-given rights preserve by the Bill of Rights (Amendments I through X).

All Rights Reserved,

---

**Owner**, living soul, under the common law, no  
doulos to the State



First Name		Middle	Family Name	
Sex	DOB	Place of Birth (City, State, Country)		Citizenship
Address		City	State	Zip

## Public Notice

**BY THE GRACE OF GOD, the undersigned, living man, mature in age, competent to testify, “endowed by my Creator with certain unalienable rights,” under “the Laws of nature and of Nature’s God,” entitles me to post my “station” declaring that I was born on the land as a native American; that I am a “Person” per Article 1.2.3 and a “natural born” Citizen of the United States” per Article 1.2.2 and a “State” “Citizen” per Article 4.2 of the organic Constitution for the united States of America; that I am” a member of the body politic “of the people, by the people, and for the people” on the land in **New Mexico.****

**BE IT KNOWN that I am a believer in the Lord Jesus Christ (Romans 15:1-4) and subject to the original jurisdiction of the LORD God (Genesis 1:26-28; Exodus 20; Matthew 28:18-20; Phillipian 1:20).**

**My political status is that of an American State National possessing unalienable, God-given rights that cannot be taken away by an act of the legislature (The Declaration, Bill of Rights).**

**Therefore, I waive all claims that I am a “person(s)” or “citizen(s) of the United States” per Amendment XIV, or a creation of Congress, “subject to the jurisdiction thereof,” a “subject,” a “thing,” a “corporation,” an “individual,” “an entity,” “a U.S. citizen,” “U.S. person,” “officer,” “situs,” “decedent,” a “partnership,” “officer,” “resident,” “resident of the United States,” “estate,” “bankrupt state,” “trust,” “employee,” “foreign entity,” or other artificial creation without the LORD God and any other legalese designed to entrap free men.**

**Any attempt by a U.S. person to deny me my God-given right to elect my political status and the rights connected thereof will be subject criminal penalties of 18 U.S.C. §241, 242; and, one million dollars in silver coin per violation of rights, and \$1,000 per hour of legal fees.**


**Nunc pro tunc to the beginning,**

Without Prejudice,

\_\_\_\_\_ in the year of our Lord \_\_\_\_\_

\_\_\_\_\_  
Your Name

## Government Verified Identify Affidavit

	<b>The Affiant mature in age, competent to testify, being duly sworn, with the Lord Jesus Christ as my witness, state the following facts are true, correct, and not misleading:</b>				
<b>1</b>	<b>Affiant's First Name</b>		<b>Middle</b>	<b>Family Name</b>	
<b>2</b>	<b>Date of Birth</b>	<b>Place of Birth (City, State, Country)</b>			
<b>3</b>	<b>Address</b>		<b>City</b>	<b>State</b>	<b>Zip</b>
<b>4</b>	<b>Mailing Address</b>		<b>City</b>		
<b>5</b>	<b>Sex</b>	<b>Ht</b>	<b>Wt</b>	<b>Eye Color</b>	<b>Hair Color</b>
<b>6</b>	<b>Name of Father</b>			<b>Name of Mother</b>	
	<b>Marriage Status</b>	<b>Citizenship</b>		<b>Your Nickname or Nom de Plume if Applicable</b>	
	<b>Photo ID</b>		<b>Being under the common law, I claim all my God-given rights, waiving none (Declaration of Independence; Bill of Rights).</b>		
			<p><b>I declare that I am a living, breathing human soul, a private sentient being, and not a legal fiction, artificial entity, corporation, "U.S. citizen," "officer," "employee," "individual," "inhabitant," "resident," "person," "taxpayer," "spouse," or any other status due to a civil enactment by the State.</b></p> <p><b>The above statements are true, correct, and not misleading to the best of my knowledge, information, and belief.</b></p> <p><b>All Rights Reserved,</b></p> <p>_____ <b>Date</b> _____</p> <p><b>Affiant Signature</b></p>		

State of New Mexico )  
 Bernalillo County )

Jurat

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ the above signatory, \_\_\_\_\_, personally appeared before me, a notary public, to so swear and to attach his autography to this instrument.

\_\_\_\_\_  
 Bonded State Notary Signature & Seal  
 Exp: \_\_\_\_\_

# Affidavit of Right to Travel

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COMES NOW, **Your Name**, living soul, a free man, born in one of the several states, under the common law, mature in age, competent to testify, hereafter "I", being first duly sworn with the Lord Jesus Christ as my witness, state the following from my personal knowledge:

I hereby claim my God-given right to pursue "life, liberty, and property;" and specifically, the right to travel on public roads without harassment from "swarms of officers" as secured by Article IV, V, IX and X:

"A highway is a public road, which every citizen of the state has a right to use for the purpose of travel." (Spindler v. Toomey 111 N.E. 2d 715, 716 (1953) (1953)

"The right of travel over a street or highway is a primary absolute right of everyone" Foster's Inc. v. Boise City, 118 P. 2d 721, 728.

"Even the legislature has no power to deny to a citizen the right to travel upon the highway and transport his property, in the ordinary course of his business or pleasure, though this right may be regulated in accordance with public interest and convenience", Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22 (1929).

At all times relevant, the term "Driver's License" is used in the Constitutional sense of a free man exercising his right to travel without permission from a State Corporation without regard to its technical complexity in statutes and codes.

**BE IT KNOWN that I hereby claim my unalienable right to travel on public highways without harassment or detention pursuant to my God-given rights as secured by our nation's Constitution. It is self-evident that any law enforcement officer, enforcing the provisions of administrative traffic regulatory statutes, may be proceeding under color of law and color of office, and is, therefore, proceeding in his own personal capacity without protection of the law.**

**BE IT KNOWN that I demand to see officer's proof of bond as required by law pursuant to **NM Constitution XX:1, XXII:19, NMSA 10-2-1 through 10-2-12** of any person posing as a police officer in the State of **New Mexico**.**

All Rights Reserved, Yielding None,

\_\_\_\_\_  
**Your Name**

STATE OF NEW MEXICO )  
 ) ss.: Jurat  
County of Bernalillo )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, \_\_\_\_\_,  
\_\_\_\_\_ appeared before me to so swear and to attach his/her signature  
to this instrument.

\_\_\_\_\_  
Public Notary Seal  
Exp Date: \_\_\_\_\_

## Public Notice: Asseveration of Right to Travel

*Thomas v. Smith*, 154 SE 579 -- "The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness."

*Miller v. U.S.* 230 F, 2d 286, 489 (1939) -- "The claim and exercise of a constitutional right cannot thus be converted into a crime"

*Miranda v. Arizona*, 384 US 436, 491 (1966) -- "Where rights are secured by the constitution are involved, there can be no rule making or legislation which would abrogate them."

*Hale v. Henkel*, 201 U.S. 43 (1906) -- ". . . There is a clear distinction...between an individual and a corporation...The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way...He owes nothing to the public so long as he does not trespass upon their rights. Upon the other hand, the corporation is a creature of the state . . . its powers are limited by law."

*Byars v. U.S.*, 273 U.S. 28, 32 (1927) -- ". . . it is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachment thereon."

### PULBLIC NOTICE TO ALL OFFICERS OF THE STATE

All officers of the STATE must show me proof of authority, their oath of office, and a certified copy of their faithful performance bond (NM Constitution XX:1; XXII:19; NMSA 10-2-2 thru 10-2-7). Any officer of the STATE that seeks to force statutory law upon me for revenue collection constitutes a contract. Officer agrees, by tacit procuration, by handing me a contract instrument to be billed up to \$ 6,000 dollars for my signature, to pay \$1,000 / hour in legal fees, \$6,000 / hour of billed time for my defense, and to pay me one million dollars in silver coin for every violation of my God given rights.

All Rights Reserved,

\_\_\_\_\_  
Your Name

## STATEMENT REGARDING SELF-DEFENSE

First Name		Middle	Family Name	
Sex	DOB	Place of Birth (City, State, Country)		Citizenship
Address		City		State
				Zip

**Public Notice: Asseveration of Right to Self-Defense**

*“The claim and exercise of a constitutional right cannot thus be converted into a crime” (Miller v. U.S. 230 F, 2d 286, 489 (1939))*

BY THE GRACE OF GOD, the undersigned, a follower of the Lord Jesus Christ, mature in age, competent to testify, “endowed by my Creator with certain unalienable rights,” under the common law, do hereby claim all my God-given rights, including, but not limited to the following:

My religion teaches me that defense of life and liberty is a Christian responsibility laid upon all good men in every state of the union (Exodus 20:13, 22:2-3; Nehemiah 4:17-18; Psalm 82:4; 149:6; Proverbs 25:26;; Luke 22:36; Romans 12:19; 13:4; Declaration of Independence; Amendment II, IX, X). Any statute, code, or enactment by any legislature that infringes upon the right to bear arms is null and void (Marbury v. Madison, 5 U.S. 137, 138 (1803)).

BE IT KNOWN that (1) "Where rights secured by the Constitution are involved, there can be no rule-making or legislation that would abrogate them" (Justice Breyer, Miranda v. Arizona, 384 US 436, 491 (1966)); that (2) I am a man deeply committed to being an honorable man and doing my neighbor no harm; (3) that I have never been convicted of a felony by a jury of my peers; (4) that I utilize any means necessary to protect my life and that of my family and friends; (5) that we live in a "fallen world" where some sinners do not respect the life, liberty, and property of others; (6) that I seek to avoid known dangerous situations; (7) that I do not, however, believe I have to give way to evil; i.e., that I have a right to stand my ground and do what a reasonable man would do; (8) that I hope, "Dear God," that I will never be in jeopardy where I have to use force that causes bodily harm; (9) that if "needs be," I will not hesitate to do my duty and to use resources available to protect my life and the life of my companions; that is, I follow the rule, "Deadly force is justified when undertaken to prevent imminent and otherwise unavoidable danger of death or grave bodily harm to the innocent;" (10) that I believe in the "good Samaritan rule" if I can discern the ethics of the circumstances; (11) that I have God's permission to bear arms (Psalm 149:6).

Any attempt by a U.S. person to deny me my God-given right to elect my political status and the rights connected thereof will be subject criminal penalties of 18 U.S.C. §241, 242. I charge up to \$ 6,000 dollars for my signature, \$1,000 / hour in legal fees of billed time for my defense, and one million dollars in silver coin for every violation of my God given rights, and, or every contract forced upon me.

Nunc pro tunc to the beginning,

Without Prejudice, \_\_\_\_\_ in the year of our Lord \_\_\_\_\_

Your Name

# Constructive Notice

<b>To: (Person being served)</b>	<b>Date:</b>
<b>Of: (Name and Address of Institution)</b>	

From the beginning, I, **Your Name, a man**, mature in age, competent to testify, do MAKE THE FOLLOWING NOTICE TO PUBLIC OFFICERS:

BY THE GRACE OF GOD, “endowed by my Creator with certain unalienable rights” under “the Laws of nature and of Nature’s God entitles” me to post my “station” declaring that I was born on the land in Your City State; that I am a “Person” per Article 1.2.3 and a “natural born” “Citizen of the United States” per Article 1.2.2 and a “State” “Citizen” per Article 4.2 of the organic Constitution for the united States of America; that I am a “Citizen” and not a “Resident” of **the STATE OF NEW MEXICO**

NOTICES PUBLIC OFFICERS that I am a Christian man “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” (The Declaration).

The tyrannical practices imposed by the Real ID Act compel me to declare:

Having no duty to the State (Hale V. Henkle – 201 U.S. 43 (1906), I do not consent to be “captured” by biometric, facial, digital image technology to be “retained in electronic storage” because it violates the 5<sup>th</sup> Amendment.

I do not consent to be compelled to produce documents to be scanned and stored in a national database knowing they may well be used against me should the State accuse me of some crime or frivolous violation of some statute –a violation of the 1<sup>st</sup> & 4<sup>th</sup> Amendment; nor do I consent to be fingerprinted or have a GPS or RFID device implanted into my body or ID or blood taken from my body for DNA sampling so I can be tracked, hunted, hounded, hounded, and harassed by STATE OR FEDERAL LAW ENFORCEMENT AGENCIES.

I do not consent to be identified as a “resident,” or “citizen” of any government corporation; and,

I do not consent to the presumptions created by the Real ID Act or its evil twin the DAC that I am a “person(s)” or “citizen(s) of the United States,” or a creation of Congress, “subject to the jurisdiction thereof,” a “subject,” a “thing,” a “corporation,” an “individual,” “an entity,” “a U.S. citizen,” “U.S. person,” “officer,” “situs,” “taxpayer,” “decendent,” a “partnership,” “officer,” “resident,” “resident of the United States,” “estate,” “bankrupt state,” “trust,” “employee,” “foreign entity,” or other artificial entity without the LORD God.

I do not consent to be made “to be made” “subject” to anything by the corporate federal government for identity purposes nor can the State compel me to do so because all such enslavement is against my religious beliefs.

The Real ID Act as it appears on the face to be an act repugnant to the Constitution (Marbury v. Madison, 5 U.S. (1 Cranch) 137; 2 L. Ed. 60 (1803); Miranda v. Arizona, 384 US 436, 491 (1966) and the principles of a republic.

WARNING: Any act by a U.S. person to deny me my God-given rights in order to t subject me to pains and penalties due to violations of civil statutory codes in some commercial scheme will be subject criminal penalties of 18 U.S.C. §241, 242; and, one million dollars in silver coin per violation of rights, and \$1,000 per hour of legal fees.

Nunc pro tunc to the beginning,

All RIGHTS RESERVED,

\_\_\_\_\_ Date \_\_\_\_\_

**Your Name living soul,**  
American National, on the land of **New Mexico state**

# Notice of Right to Travel

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**NOTICE TO AGENT IS NOTICE TO PRINCIPAL,  
NOTICE TO PRINCIPAL IS NOTICE TO AGENT.**

## **Notice and Claim of Rights**

"I reserve my right not to be compelled to perform under any contract, commercial agreement or bankruptcy that I did not enter knowingly, voluntarily, and intentionally. And furthermore, I do not and will not accept the liability of the compelled benefit of any unrevealed contract or commercial agreement or bankruptcy" - Without Prejudice UCC 1-308 (old 1-207)

## **God's Commands are Superior to State Statutes**

Exodus 20:3

*"Thou shalt have no other gods before me".*

James 4:12

*"There is one lawgiver, who is able to save and to destroy: who art thou that judgest another?"*

Robin v. Hardaway, 1 Jefferson 109 (1772)

*"The laws of nature are the laws of God, whose authority can be superseded by no power on earth. A legislature must not obstruct our obedience to him from whose punishments they cannot protect us. All human constitutions which contradict his cannot protect us. All human constitutions which contradict his (God given) laws, we are in conscience bound to disobey."*

Bacahanan v. Wanley, 245 US 60 (1917)

*"The police power of the state must be exercised in subordination to the provision of the U.S. Constitution."*

Waring v. the Mayor of Savannah, 60 Georgia at 93 (1878)

*"People are supreme, not the state."*

## **No Duty to Obey Unlawful Orders**

Stockton

*"If Jesus is Lord, it is not possible or desirable to always obey the State"*

Brookfield Const. Co. v. Stewart, 284 F. Supp. 94 (1964)

*"An officer who acts in violation of the Constitution ceases to represent the government."*

Wright v. Georgia, 373 U.S. 284, 291-2 (1963)

*"Failure to obey the command of a police officer constitutes a traditional form of breach of the peace. Obviously, however, one cannot be punished for failing to obey the command of an officer if that command is itself violative of the constitution."*

11 Am. Jur. (1st) Constitutional Law, Sect. 329. p.1135 (1959)

*"Personal liberty largely consists of the Right of locomotion --to go where and when one pleases-- only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's Rights, he will be protected, not only in his person, but in his safe conduct."*

### **Most People Do Not Operate or own a Motor Vehicle**

18 U.S. Code § 31 - Definitions (6) Motor vehicle.—

*"The term 'motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo"*

18 USC § 31(a)(10)

*"The term "used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit."*



## NO VICTIM NO CRIME!

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.

A Crime is defined as, "That act intended to cause injury to a person or property." (People v. Battle, 50 Cal. App. 3

Sherer v. Cullen 48 1F. 945 (1973)

*"For a crime to exist, there must be a [actual or intended] injured party" (Corpus Delicti)*

Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22 (1929)

*"Traffic infractions are not a crime."*

People v Lopez, 62 Ca. Rptr. 47, 254 C.A.2d 185 (1967)

*Supreme courts ruled "Without Corpus delicti there can be no crime." In every prosecution for crime to is necessary to establish the 'corpus delicti', i.e. the body or elements of the crime.*

Clifford S. v. Superior Court, 45 Cal.Rptr.2d 3, 35 (1995)

*Whether one has standing in a particular case generally revolved around the question whether that person has rights that may suffer some injury, actual or threatened."*

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, McNut .v General Motors Acceptance Corp, 298 U.S. 178 (1936). The origins of this doctrine of law may be found in "Maxfield .v Levy, 4 U.S. 330 (1797), 4 U.S. 330 (Dall.) 2Dal. 381 2 U.S. 381 1L.Ed. 424.

Main V. Thiboutot, 100 S. Ct. 2502 (1980)

*"The law provides that once the State and Federal Jurisdiction has been challenged, it must be proven."*

Hagans V. Lavine, 415 U.S. 533 (1974)

*"Once jurisdiction is challenged, it must be proven."*

*"Without standing, there is no actual or justiciable controversy, and courts will not entertain such cases. ( see also 3 Witlen, Cal. Procedure (3rd ed. 1985) Actions §4, p 70-72.)*

Allen .v Wright, 468 U.S. 737, 752 (1984)

*"Typically . . . the standing inquiry requires careful judicial examination of a complaint's allegations to ascertain whether the particular plaintiff is entitled to an adjudication of the particular claims asserted."*

#### **Do not need to Provide Identification at a Terry Stop<sup>4</sup>**

Kolender v. Lawson 461 U.S. 352 (1983)

The United States Supreme Court ruled that a police officer could not arrest a citizen merely for refusing to present identification. There is no such thing as "Failure to identify."

*"a person who is stopped on less than probable cause cannot be punished for failing to identify himself."*

People v. Battle Appellate Department, Superior Court LA (1975)

*Persons faced with an unconstitutional licensing law which purports to require a license as a prerequisite to exercise of right . . . may ignore the law and engage with impunity in exercise of such right."*

Bouvier's Law Dictionary, 1914, p. 2961.

*"Those who have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless."*

Payne v. Massey 196 SW 2nd 493, 145 Tex 273 (1945)

*"The court makes it clear that a license relates to qualifications to engage in profession, business, trade or calling; thus, when merely traveling without compensation or profit, outside of business enterprise or adventure with the corporate state, no license is required of the natural individual traveling for personal business, pleasure and transportation."*

Shuttlesworth v. City of Birmingham, 394 U.S. 147 (1969)

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<sup>4</sup> Terry v. Ohio, 392 U.S. 1 (1968)

*“And our decisions have made clear that a person faced with such an unconstitutional licensing law may ignore it and engage with impunity in the exercise of the right of free expression for which the law purports to require a license.”*

Simeone v. Lindsay, 65 Atl. 778, 779 (1907); Hannigan v. Wright, 63 Atl. 234, 236 (1905)

*“The RIGHT of the citizen to DRIVE on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts.”*

Miller v. U.S., 230 F. 486, 489 (1956)

*“The claim and exercise of a constitutional Right cannot be converted into a crime.”*

Statutes at Large California Chapter 412 p.83

*“Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen.”*

Barney v. Board of Railroad Commissioners 17 P.2d 82 (1932)

*“The use of the Highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.”*

16 Am Jur 2d 177, 178; State v. Sutton, 63 Minn. 147, 65 NW 262, 30 L.R.A. 630 Am. 459 (1965)

*“When any court violates the clean and unambiguous language of the Constitution, a fraud is perpetrated and no one is bound to obey it.”*

Bennett v. Boggs, 1 Baldw 60 (1830)

*“Statutes that violate the plain and obvious principles of common right and common reason are null and void.”*

Norton v. Shelby County, 118 US 425 (1886)

*“An unconstitutional law is not a law, it confers no rights, imposes no duties, and affords no protection.”*

### **No Registration or Forced Insurance Can be Required by the State to Travel**

Dickey v. Davis 85 SE 781) (Ex Parte) (1915)

*“Every Citizen has an unalienable RIGHT to make use of the public highways of the state; every Citizen has full freedom to travel from place to place in the enjoyment of life and liberty.”*

*People v. Nothaus, 147 Colo. 210 (1961)*

*“No State government entity has the power to allow or deny passage on the highways, byways, nor waterways... transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation i.e., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring licensing, vehicle registration, or forced insurances.”*

N.C. G.S. Article 17, Chapter 20 . . . 58 N.C.A.G. 1

*“Privately owned Buses not engaged in for hire Transportation are outside the jurisdiction of Division of Motor Vehicles enforcement of*

*(It follows that those Citizens not engaged in extraordinary use of the highway for profit or gain are likewise outside the jurisdiction of the Division of Motor Vehicles.)*

See Christy v. Elliot, 216 I 131, 74 HE 1035, LRA NS (1905—1910); and also see California v, Farley 98 CED Rpt. 89, 20 CA 3d 1032 (1971)

*“Traveling in an automobile on the public roads was not a threat to the public safety or health and constituted no hazard to the public, and such a traveler owed no other duty to the public (e.g. the State); he / she and his / her auto, having equal right to and on the roadways / highways as horses and wagons, etc.; this same right is still Substantive Rule, in that speeding, running stop signs, traveling without license plates, or registration, are not threats to the public safety, and thus, are not arrestable offenses.”*

Snerer v. Cullen, 481 F. 946 (1973)

*“There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights.”*

Note: Though no insurance can be required by law, having insurance is a good idea. Cars are dangerous. Being able to pay for fender bender or worse through insurance make sense.

## **CASES ON THE RIGHT TO TRAVEL**

(The) Articles of Confederation included a right to travel

*“The . . . the free inhabitants of each of these States . . . shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively . . .”*

*In the language of the Constitution*

*“The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”*

Adams v. City of Pocatello, 416 P.2d 46, 48; 91 Idaho 99 (1966)

*“A traveler has an equal right to employ an automobile as a means of transportation and to occupy the public highways with other vehicles in common use.”*

American Mutual Liability Ins. Co. v. Chaput, 60 A.2d 118, 120 (1948)

*18 USC Part 1 Chapter 2 section 31 definitions:*

*“(6) Motor vehicle. – The term “motor vehicle” means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways...” 10) The term “used for commercial purposes” means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.*

*“A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received.”*

International Motor Transit Co. v. Seattle, 251 P. 120 (1948)

*“The term ‘motor vehicle’ is different and broader than the word ‘automobile.’”*

*City of Dayton v. DeBrosse, 23 NE.2d 647, 650; 62 Ohio App. 232*

*“Thus self-driven vehicles are classified according to the use to which they are put rather than according to the means by which they are propelled” – Ex Parte Hoffert, 148 NW 20 ”*

Arthur v. Morgan, 112 U.S. 495, 5 S.Ct. 241, 28 L.Ed. 825 (1926)

*“carriages were properly classified as household effects, and we see no reason that automobiles should not be similarly disposed of.”*

International Motor Transit Co. v. Seattle, 251 P. 120 (1926)

*“The owner of an automobile has the same right as the owner of other vehicles to use the highway . . . A traveler on foot has the same right to the use of the public highways as an automobile or any other vehicle.”*

Cases Buchanan v. Warley, 245 U.S. 60 (1917)

*“The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution.”*

Barney v. Board of Railroad Commissioners, 17 P.2d 82 (1932)

*“The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.”*

Berberian v. Lussier 139 A2d 869, 872 (1958), See also: Schecter v. Killingsworth, 380 P.2d 136, 140; 93 Ariz. 273 (1963)

*“The right to operate a motor vehicle [an automobile] upon the public streets and highways is not a mere privilege. It is a right of liberty, the enjoyment of which is protected by the guarantees of the federal and state constitutions.”*

Boyd v. United States, 116 US 616 (1886)

*“It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon.”*

Brinkman v. Pacholike, 84 N.E. 762, 764, 41 Ind. App. 662, 66 (1908)

*“The law does not denounce motor carriages, as such, on public ways. They have an equal right with other vehicles in common use to occupy the streets and roads. It is improper to say that the driver of the horse has rights in the roads superior to the driver of the automobile. Both have the right to use the easement.”*

Byars v. U.S., 273 U.S. 28, 32 (1927)

*“Constitutional provisions to be liberally construed, and ‘it is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon.’”*

Caneisha Mills v. D.C. (2009)

*“The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the interest of realism to conclude that the RIGHT to use an automobile on the public highways partakes of the nature of a liberty within the meaning of the Constitutional guarantees . . .”*

Cecchi v. Lindsay, 75 Atl. 376, 377, 1 Boyce (Del.) 185 (1911)

*“Automotive vehicles are lawful means of conveyance and have equal rights upon the streets with horses and carriages.”*

*Likewise, Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 205; See also: Christy v. Elliot, 216 Ill. 31; Ward v. Meredith, 202 Ill. 66; Shinkle v. McCullough, 116 Ky. 960; Butler v. Cabe, 116 Ark. 26, 28-29 . . .*

*“automobiles are lawful vehicles and have equal rights on the highways with horses and carriages.” See Daily v. Maxwell, 133 S.W. 351, 354 (1911).*

Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22 (1929); Ligare v. Chicago. 28 NE 934; Boon v. Clark. 214 SSW 607 (1891)

*“The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.”*

City of Chicago v Collins 51 NE 907, 910 (1898)

*“A license means leave to do a thing which the licensor could prevent.”*

Blatz Brewing Co. v. Collins, 160 P.2d 37, 39; 69 Cal. A. 2d 639 (1948)

*“The object of a license is to confer a right or power, which does not exist without it.”*

Connolly v. Union Sewer Pipe Co., 184 US 540 (1902)k

*“With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority.”*

Cumberland Telephone. & Telegraph Co. v Yeiser 141 Kentucky 15 (1910)

*“Each citizen has the absolute right to choose for himself the mode of conveyance he desires, whether it be by wagon or carriage, by horse, motor or*

*electric car, or by bicycle, or astride of a horse, subject to the sole condition that he will observe all those requirements that are known as the law of the road.”*

Draffin v. Massey, 92 S.E.2d 38, 42 (1956)

*“The right of a citizen to travel upon the public highways and to transport his property thereon, by horsedrawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty and the pursuit of happiness. Under this constitutional guaranty one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another’s rights, he will be protected, not only in his person, but in his safe conduct.”*

*“Persons may lawfully ride in automobiles, as they may lawfully ride on bicycles.”*

*See also Doherty v. Ayer, 83 N.E. 677, 197 Mass. 241, 246*

Dunn v. Blumstein, 405 U.S. 330, 334 (1972)

*“Inasmuch as the right to travel is implicated by state distinctions between residents and nonresidents, the relevant constitutional provision is the privileges and immunities clause, Article IV, § 2, cl. 1.”*

Escobedo v. State 35 C2d 870 in 8 Cal Jur 3d p.27 (1950)

*“RIGHT — A legal RIGHT, a constitutional RIGHT means a RIGHT protected by the law, by the constitution, but government does not create the idea of RIGHT or original RIGHTS; it acknowledges them. . .*

Fourteenth Amendment, Section 1:

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. **No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;** nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

Hale v. Henkel, 201 U.S. 43 (1906)



*“We are of the opinion that there’s a clear distinction . . . between an individual and a corporation.... The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State.... He owes no such duty to the State, since he receives nothing therefrom beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution.”*

Hillhouse v United States, 152 F. 163, 164 (2nd Cir. (1907)

*“. . . a citizen has the right to travel upon the public highways and to transport his property thereon . . .”*

*See also: State v. Johnson, 243 P. 1073; Cummins v. Homes, 155 P. 171; Packard v. Banton, 44 S.Ct. 256; Hadfield v. Lundin, 98 Wash 516, Willis v. Buck, 263 P. 1 982;*

Holland v. Shackelford, 137 S.E. 2d 298 Ga. 104 (1964); Stavola v. Palmer, 73 A.2d 831, 838, 136 Conn. 670 (1950)

*“There can be no question of the right of automobile owners to occupy and use the public streets of cities, or highways in the rural districts.”*

*Liebrecht v. Crandall, 126 N.W. 69, 110 Minn. 454, 456*

*“citizens have a right to drive upon the public streets of the District of Columbia or any other city absent a constitutionally sound reason for limiting their access.”*

*“The word ‘automobile’ connotes a pleasure vehicle designed for the transportation of persons on highways.”*

House v. Cramer (1907); Farnsworth v. Tampa Electric Co. 57 So. 233, 237, 62 Fla. 166 (1912)

*“The automobile may be used with safety to others users of the highway, and in its proper use upon the highways there is an equal right with the users of other vehicles properly upon the highways. The law recognizes such right of use upon general principles.*

Hurtado v. California, 110 U.S. 516 (1884)

*“The state cannot diminish Rights of the people.” Due process of law is process of law according to the law of the land, i.e. the U.S. Constitution as exercised*

*within the limits prescribed and interpreted according to the principles of common law.*

Kent v. Dulles, 357 U.S. 116 (1958)

*“(a) The right to travel is a part of the “liberty” of which a citizen cannot be deprived without due process of law under the Fifth Amendment. Pp. 357 U. S. 125-127.”*

*“The validity of restrictions on the freedom of movement of particular individuals, both substantively and procedurally, is precisely the sort of matter that is the peculiar domain of the courts.”*

*Comment, 61 Yale L.J. at page 187.*

*“a person detained for an investigatory stop can be questioned but is “not obliged to answer, answers may not be compelled, and refusal to answer furnishes no basis for an arrest.”*

*Justice White, Hiibel*

*“Automobiles have the right to use the highways of the State on an equal footing with other vehicles.”*

Magna Carta (1215)

*The phrase “due process of law” (5<sup>th</sup> Amendment) was a 1354 re-formulation of the “law of the land” clause in Magna Carta (1215). Its sole purpose was to stop arbitrary government legal proceedings.*

Marbury v. Madison, 5 U.S. 137 (1803)

*“A Law repugnant to the Constitution is void.”*

*Constitution is the Supreme Law of the land. Any law in conflict is null and void.*

Matson v. Dawson, 178 N.W. 2d 588, 591 (1970)

*“A farmer has the same right to the use of the highways of the state, whether on foot or in a motor vehicle, as any other citizen.”*

Miller v. U.S. 230 F, 2d 286, 489 (1939)

*“The claim and exercise of a Constitutional Right cannot be converted into a crime.”*

Miranda v. Arizona, 384 US 436, 491 (1966)

*"Where rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them."*

Murdock v. Pennsylvania, 319 US 105 (1943)

*"The state may not convert a secured liberty into a privilege, and issue a license and fee for it."*

People v. Horton 14 Cal. App. 3rd 667 (1971)

*"The right to make use of an automobile as a vehicle of travel along the highways of the state, is no longer an open question. The owners thereof have the same rights in the roads and streets as the drivers of horses or those riding a bicycle or traveling in some other vehicle."*

Paul v. Virginia 75 U.S. 168 (1869)

*"[T]he right to travel freely from State to State ... is a right broadly assertable against private interference as well as governmental action. Like the right of association, it is a virtually unconditional personal right, guaranteed by the Constitution to us all." (U.S. Supreme Court,*

Saenz v. Roe, 526 U.S. 489 (1999)

*"For the purposes of this case, we need not identify the source of [the right to travel] in the text of the Constitution. The right of free ingress and regress to and from' neighboring states which was expressly mentioned in the text of the Article of Confederation, may simply have been conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created.'" Id. at 501 (citations omitted).*

Shapiro v. Thompson 394 U.S. 618 (1969)

*"The right of a citizen to travel upon the public highways and to transport his property thereon, by horsedrawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty and the pursuit of happiness. Under this constitutional guaranty one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's rights, he will be protected, not only in his person, but in his safe conduct."*

Sherbert v. Vemer, 374, U.S. 398 (1963)

*First Amendment case, U.S. Supreme Ct. overturned South Carolina Supreme Court. The court created the Sherbert Test to determine whether government acts infringe upon religious freedoms. Of note: "compelling interest" and "narrowly tailored" are key requirements for strict scrutiny - to be applied where a law may be infringing on individual freedoms.*

Shuttlesworth v. Birmingham, Alabama, 373 U.S. 262 (1963)

*"If the state does convert your right into a privilege and issue a license and charge a fee for it, you can ignore the license and fee and engage in the right with impunity."*

Simmons v. United States, 390 US 389 (1969)

*"We find it intolerable that one Constitutional Right should have to be surrendered in order to assert another."*

Sherar v. Cullen, 481 F. 2d 945 (1973))

*"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights."*

Stephenson v. Binford, 287 US 251 (1932)

*Explains distinction between "Right" to use public roads and "privilege"*

Swift v City of Topeka, 43 U.S. (1890)

*The U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets*

U.S. v. Mersky (1960) 361 U.S. 431 (1960)

*"An administrative regulation, of course, is not a 'statute.' A traveler on foot has the same right to use of the public highway as an automobile or any other vehicle."*

Thompson v. Smith, 154 SE 579 (1930)

*"The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing,*

*to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business."*

*"The Right of the citizen to travel...is not a mere privilege...but a common Right which he has under the right to life, liberty, and the pursuit of happiness."*  
*United States v. Carolene Products Co., 304 U.S. 144 (1938)*

Thompson v. Smith, 154 SE 579 (1930), 11 American Jurisprudence, Constitutional Law, section 329, page 1135

*"The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business."*

U.S. Constitution 4:2:1

*"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."*

U.S. v. Bishop, 412 US 346 (1973)

*Regarding criminal elements required to be proven - willfulness is one of the major elements defined as an "evil motive or intent to avoid a known duty...under the law".*

Williams v. Fears, 179 U.S. 270 (1900)

*"Our nation has thrived on the principle that, outside areas of plainly harmful conduct, every American is left to shape his own life as he thinks best, do what he pleases, go where he pleases." Id., at 197.*

Wingfield v. Fielder 2d Ca. 3d 213 (1972).

*"If [state] officials construe a vague statute unconstitutionally, the citizen may take them at their word, and act on the assumption that the statute is void."*

## **NOTICE OF FEE SCHEDULE**

**Public Notice:** I charge up to one million dollars in silver coin per violation of my God-given rights and any hindrance of doing my God-given duty which may be obstructed by an officer / employee of the State or municipal corporation who is operating under color of authority or color of law in violation of my rights as protected by the Declaration of Independence; the Bill of Rights, Amendment 9, 10, 13, 14 (Example: 18 U.S.C. §241-243; 42 U.S.C. 1983).

Further more saith naught,

All Rights Reserved,

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His Majesty's Servant

# Going to Court



The following briefs are highly educational and deserve study. They demonstrate how to proceed in court and why you cannot be charged with a traffic violation.

My law group filed these briefs or modifications of these motions and used them to win over 300 cases. It is not the written motion that is so powerful, but your competence in understanding your case and why the court has no jurisdiction to rule on your traffic matters.

Read the briefs. If you choose to use some are part of these motions, YOU MUST modify them to fit your facts.

Check the references for accuracy, spelling, and applicability to your set of circumstances.

# Rules of Going to Court

**First Rule:** Stay out of Court. The cop, the prosecutor, and the judge all work for the State and are paid by the State; that is, they have a financial interest in finding you “guilty as charged.” Can you say “bias,” “prejudice,” “favoritism,” and partisanship? These are equity-statutory courts and not courts of law. Avoid this wolf den.

**Second Rule:** If you have to go to court, file your brief written defense with the court clerk.

**Third Rule:** Be your own lawyer. Study the law. Know the law better than cops. Learn the rules of cross examination.

**Fourth Rule:** Going to court is all about proof of claim. If a cop makes a claim, make him prove it. Merely making a claim is not proof of claim. Demand strict proof of claim. A defendant does not have to prove his innocence. Create doubt.

**Fifth Rule:** Get off the defensive and go on the offensive. Identify what the cop did wrong and charge him for violating the law.

**Sixth Rule:** Be polite, reasonable, and show respect. Don’t act like a proud, braying jackass or you will be treated like one.

**Seventh Rule:** Object! Recognize when the opposition violates court rules and the rules of evidence.

- Objections: “hearsay!”
- Objection: Leading
- Objection: Argumentative
- Objection: Assumes facts not in evidence . . . speculation . . . ambiguous . . .
- Objection: the Attorney is testifying.
- Objection: Lack of personal knowledge

**Eighth Rule: In cross examination use the CLIP Rule. Challenge . . .**

- Credibility: Is the witness bias for the other side? Exaggerated? Past history lying?
- Lack of knowledge: testified about one thing, but lacks knowledge in another?
- Implausible statement that doesn’t ring true based on common sense?
- Prior inconsistent statements in a deposition, orally, or written?

**Rule Nine: Kiss -- Set witnesses up with yes answers AND KEEP QUESTIONS SIMPLE.**



## General Facts About Magistrate Courts

1. Magistrate Courts are products of the legislature, but the people did not give the legislature judicial authority to establish courts. In New Mexico the authority for the existence of Magistrate and Municipal Courts are found at NMSA, 2014, Chapter 25, Section one (35-1-1). Check your State statute. Magistrate court is not a court of record and does not function according to the rules of common law. Therefore, smart people learn how to escape this money-grabbing jurisdiction.
2. All criminal cases start in Magistrate Court because Magistrate Courts, in part, know how to manufacture crimes by charging people with contempt of court and other “offenses.”
3. Magistrate Courts can hear cases between corporations and legal “persons,” and when people agree, or contract with the court to hear a dispute . . . but they have no authority to hear a case where a free man claims his plenary rights and does not consent to the jurisdiction of a Magistrate or Municipal Court.
4. The free man is under “common law” which has the power to fine and imprison, and common law crimes require a court of record. The problem is that cops give people “citations,” call it “crime” where no common law crime has been committed. So, if you are being charged with a frivolous “crime” under some commercial scheme, you will want to claim your right to be heard in a court of competent jurisdiction; that is, a court of record.
5. The free man has the right to plenary process, access to all His God-given rights, to face his real accusers face-to-face in an Article III Court.
6. Magistrate Court deals with summary offenses, usually by-passing plenary Constitutional requirements, for quick, speedy judgments that favor the commercial interest of the State rather than the poor sap citizen.
7. Many magistrates are not members of the BAR Association and only receive meager training; and, therefore, conduct their affairs under advisement.
8. Magistrate courts are courts of limited jurisdiction<sup>5</sup>. These administrative agencies have no authority over a man who claims his God-given, constitutionally protected rights. Most importantly, you don’t have to prove the Magistrate or Municipal Court DOES NOT have jurisdiction over YOU, the Magistrate Court has authority over YOU. So, always challenge

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<sup>55</sup>Limited jurisdiction is a term that applies to courts. It means that the court can only hear, or preside over, certain types of cases. Within the United States, most courts are courts of limited jurisdiction. In order to rule on a case, or to make a decision, the court must have jurisdiction over the parties and the subject matter involved in the dispute.

jurisdiction. The burden of proof is on them, NOT YOU! Where is the contract? Where is the injured body? Where is the affidavit of probable cause?

John F. Jelko Co. v. Emery, 193 Wisc. 311; 214 N.W. 369, 53 A.L.R., 463; Lemon v. Langlin, 45 Wash. 2d 82, 273 P.2d 464.

*“The state constitution is the mandate of a sovereign people to its servants and representatives. Not one of them has a right to ignore or disregard these mandates...”*

9. Magistrate courts will hear the following case types: traffic violations including: DWI/DUI; misdemeanors; civil issues from \$0-\$10,000; felony preliminary hearings; and county, and city ordinance violations; torts, contracts, and real property rights (less than \$10,000).
10. In NM Magistrate judges are elected officials who serve a four-year term. They operate under the direction and control of the New Mexico Supreme Court, with the Administrative Office of the Courts providing administrative support.
11. Magistrate courts are not courts of record. You are entitled to a court record and plenary judicial proceedings, but if you do not object, challenge the jurisdiction of the Magistrate Court, you will be trapped in its summary process for the pre-determined results to the advantage of a for-profit corporation. The courts are highly religious. You come into the holy place, see a high priest in a black robe, with court deacons, and discover that you are the sacrifice.
12. Parties aggrieved by any judgment of the magistrate court may appeal to district court within fifteen days after the judgement is rendered to request a trial de novo (new trial).
13. Magistrate and Municipal courts are defective, but continue to operate if not challenged. If you do not know your rights, you have no rights. The following material will help you in any Magistrate, Municipal, or State District Court . . . but this material has to be studied.
14. In Magistrate Court, NEVER CONVICT YOURSELF. Never admit guilt. Plead ignorance or remain silent.
15. In Magistrate Court, KNOW THE ELEMENTS OF THE ALLEGED CRIME. The prosecution has the burden of proof.
16. In Magistrate Court, NEVER bad mouth the judge. State facts, ask questions, be firm and unyielding, but never disrespectful.
17. In Magistrate Court, NEVER accept presumptions, statements, and facts presented. Question everything, every definition, every presumption. Make them prove their facts,

their claim, their laws and their applicability to you, a non-driver who was not driving for hire or dangerously. The officer is the Plaintiff and must prove injury.

# Motion for Claim of Constitutional Rights

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**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

<p>STATE OF NEW MEXICO,  Plaintiff in Error<sup>6</sup>,</p> <p>v.</p> <p>Free Man Name  Defendant in Error<sup>7</sup>.</p> <p>Citing statute/ordinance: _____</p>	<p>Citation No. _____</p> <p>Case No. _____</p> <p style="text-align: center;"><b>MOTION WITH CLAIM AND EXERCISE CONSTITUTIONAL RIGHTS and DEMAND TO REQUIRE ALL PUBLIC OFFICERS OF THIS COURT TO UPHOLD GOD-GIVEN RIGHTS OF THE ACCUSED</b></p>
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**MOTION WITH CLAIM AND EXERCISE CONSTITUTIONAL RIGHTS and DEMAND  
TO REQUIRE ALL PUBLIC OFFICERS OF THIS COURT TO UPHOLD GOD-GIVEN  
RIGHTS OF THE ACCUSED**

**COMES NOW** Defendant in Error, Free Man Name, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico Article II, Section 2 & 4), hereinafter "the ACCUSED," and moves the court, without accepting the jurisdiction of the court, pursuant to oaths sworn by the presiding judge and the attending public officers to wit:

**The Accused moves this Court**

1. To acknowledge the Accused's God-given rights as expressed in the Declaration of Independence and as secured by both national and state constitutions; and,

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<sup>6</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>7</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

2. To assure the Accused the court will conduct these proceeding with integrity as a trustee of the powers granted by the sovereign people of the State of New Mexico in accord with the United States Federal Court ruling to wit:

“The claim and exercise of a Constitutional Right cannot be converted into a crime.” Miller v. U.S. 230 F, 2d 286, 489 (1939);

3. To conduct these proceedings pursuant to your oath(s) of office. NOTICES ALL COURT OFFICERS the Accused accepts your oath(s) of office; and, further NOTICES ALL COURT OFFICERS of your DUTY TO honor your sacred pledge to uphold the Constitution of the United States of America, Article VI, Clauses 2 and 3, and the Constitution of the Republic of New Mexico, Article 20, Section One, to protect the rights of the Accused, and to limit the State’s interest in this matter to the written constraints of both constitutions; and,
4. To provide plenary due process of law, pursuant to the Constitution of the United States of America, First, Fourth, Fifth, Sixth, Seventh, Ninth, Tenth, Thirteenth, and Fourteenth Amendments, the ,required by the aforementioned oaths taken by the presiding administrative officer and attending court officers, in this matter; and,
5. To exercise “just powers” as derived from “the consent of the governed” as a gift of the people which was carefully expressed in the written law(s) of the National and state Constitutions for their trustees; and, To acknowledge supremacy of inherent political powers of the people, the primacy of the rights of the people as expressed prior to any grant of power by the people to the trustees holding in their hands the political trust by the people, to accurately limit the powers of the State per the Constitution of the United States of America and the Constitution of the State of New Mexico, Article II as “the supreme law of the land;” and,
6. To acknowledge the right of the Accused to present evidence in his favor, howbeit imperfectly performed as a non-attorney, in any hearing or trial; and (B) to accept the Accused’s un rebutted affidavits as truth which has been previously sent to the Plaintiff. Since neither Plaintiff nor counsel rebutted this evidence it stands as truth. Subsequently, there is no dispute, and since there is no dispute, there is no controversy, and since there is no controversy, charges must be dismissed; to do otherwise, is perjury of oath and denial of due process of law.
7. Should this case go further, to direct the Prosecutor to answer all the Defendant’s pleadings in writing per the Defendant’s plenary due process rights, and to quash any verbal pleadings not backed by written legal authority called an “Answer” in order to prevent a fraud being perpetrated upon the court by legal flimflam at a hearing. See *Trinsey v. Pagliaro*, D. C. Pa. (1964), 229 F. Supp. 647.

8. To acknowledge the duty of judges and court officers to serve in the “fear of God” which is a requirement of all men (Exodus 18:21; Deuteronomy 6:13) ; and for duty of all court officers understanding to this court to present evidence under oath to the Same; and,
9. To acknowledge and so rule that this court and no other court and no judge in New Mexico has jurisdiction over or can issue a court order against an American Citizen if that court and/or judge:(a) do not provide due process of law; (b) do not provide equal protection under the law; (c) do not respect and uphold the Constitutional Rights of American Citizens, and in the instant action, the Rights of the Defendant in Error, an American Citizen, pursuant to the Rights guaranteed in the Constitutions of the United States of America and the Republic of New Mexico; (d) act with sufficient force so as to deny the powers of the National and state Constitutions.

**Wherefore** FREE MAN respectfully moves this Court to grant this Motion for the aforesaid reasons.

Dated this \_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, \_\_\_\_\_

With all rights reserved, to the glory of God,

\_\_\_\_\_  
Free Man, Accused/Defendant in Error,  
proceeding under the authority of His Majesty in  
Heaven

DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

# Motion To Demand Court Read All Pleadings

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**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>8</sup> ,  v.  Free Man Name  Defendant in Error <sup>9</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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**MOTION TO DEMAND THIS COURT READ ALL PLEADINGS PLAINTIFF FILES WITH THIS COURT, AND ADHERE ONLY TO CONSTITUTIONALLY COMPLIANT LAW AND CASE LAW, AND MORE PARTICULARLY, THE BILL OF RIGHTS, IN ITS RULINGS**

**COMES NOW** Defendant in Error, Free Man Name, hereafter "Accused" or "Defendant," one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico Article II, Section 2 & 4), hereinafter "the ACCUSED," and moves the court with a **DEMAND THIS COURT READ ALL PLEADINGS PLAINTIFF FILES WITH THIS COURT, AND ADHERE ONLY TO CONSTITUTIONALLY COMPLIANT LAW AND CASE LAW, AND MORE PARTICULARLY, THE BILL OF RIGHTS, IN ITS RULINGS** to wit:

1. To read, consider, comprehend and rule upon all motions and pleadings Defendant files with this Court, with Court rulings based only in and supported by laws, statutes and case law in agreement with, and not in opposition or contradiction to, the National Constitution, specifically, the Bill of Rights; and,

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<sup>8</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>9</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.



To honor and abide by the oaths taken by the presiding court administrator and attending court officers, pursuant to the Constitution of the United States of America, Article VI, Clauses 2 and 3, and Constitutional requirements thereof;

2. To base and support all rulings in law or case law which is **Constitutionally compliant** and which will **not**: (A) deny the principle that all Citizens have unalienable, God-given Rights secured by the National Constitution; (B) deny God-given Rights to American Citizens, in the instant case, to this Defendant; (C) violate federal and/or state Constitutionally compliant laws passed by the legislature and legislature only; (D) deny that American Citizens, in the instant case, the Defendant, are the sovereign holders of political power which existed before the formation of any state government, and that court officers are now trustees of delegated power; (E) to deny the powers of this court are *limited* powers restrained by both national and state Constitution, which delegated powers are *derived from the People*; (
3. To acknowledge the duty of this court to shield and protect the Defendant from over-reaching administrative agencies and the ultra vires acts of the commercial, for-profit corporations involved in this accusation; and, to exercise no power the people did not grant or which the people had no power to grant.

*"State Constitutions **are not grants of power** to the legislature, executive, and judicial branches, **but are limitations on the powers** of each, and no branch of the State may add to, nor detract from, its clear mandate." State ex Rel. Hovey Concrete Prods. v. Meachem, 63 NM 250.316 P2d 1069(1957).*

**Wherefore**, since the Constitution is the **Supreme Law of this Land**, to which this Court and presiding judge are sworn, Defendant in Error, respectfully moves this Court to grant this Motion, based in and supported by the federal Constitution, for the aforesaid reasons, to honor and uphold her Constitutional Rights during all judicial proceedings, to read the Defendant's pleadings and rule based only in law and case law compliant with, and not in opposition or contradictory to, the Constitution

**Wherefore** Defendant respectfully moves this Court to grant this Motion for the aforesaid reasons.

Dated this \_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, \_\_\_\_\_

With all rights reserved, to the glory of God,

\_\_\_\_\_  
Free Man, Accused/Defendant in Error,  
proceeding under the authority of His Majesty in  
Heaven

DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

# Certified Demand to Show the Nature of Cause of the Accusation

## STATE OF NEW MEXICO COUNTY OF BERNALILLO IN THE METROPOLITAN COURT

STATE OF NEW MEXICO  Plaintiff in Error <sup>10</sup> ,  v.  Free Man Name  Defendant in Error <sup>11</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____  <p style="text-align: center;"><b>CERTIFIED DEMAND TO SHOW THE NATURE AND CAUSE OF THE ACCUSATION</b></p>
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COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico Article II, Section 2 & 4), hereinafter ACCUSED, being duly sworn, and **makes his certified demand** as of right as said holder to be informed of the **nature and cause of the accusation**, in the instant case.

AND WHEREAS THIS demand is asserted pursuant to Accused's right to know as a political trustor of the State of New Mexico in matters of any claims against him by any political trustee of the State of New Mexico.

AND WHEREAS the Judge, Prosecuting Attorney, and accusing officer **are holding themselves out as political trustees** in the instant matter, hence by mandate of their respective political trusteeships on behalf of the Accused and all other political trustors, who are the State of New Mexico, **have no discretion but to answer all particulars of this challenge of their presumptions of subject-matter jurisdiction** in the instant case. Accused's political trustees, in

<sup>10</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>11</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

the instant case, are further **reminded of their respective duties** and obligations in the instant matter as expressly evidenced in the Constitution of the State of New Mexico, Article II Sections 14, of and in Articles IV, V, VI, VII, VIII, and the Constitution of the United States, Article IX through Article XIV, and as further evidenced by , *Miranda v. Arizona*, 384 US 436, 491 (1966) and elsewhere in the people's common law.

AND WHEREAS THE Accused makes this demand herein all and in the particulars of **his averments made as his sworn statements under penalties of perjury** as a political trustor of the State of New Mexico--and positively can expect no less from his political trustees in the instant matter who are the judge, prosecuting attorney - and accusing Police **Officer than their sworn answer to the particularities of his averments by their sworn statements**, inasmuch as anything less **would be treason against the people who are the State of New Mexico.**

Whereas Plaintiff has failed to state a claim upon which relief can be granted and Defendant, therefore, draws attention to the fact that there is no accuser who has submitted an affidavit of cause to this court in regards to this case swearing under penalties of perjury that they have been injured or that their property has been damaged. This fact alone mandates this case be dismissed. Furthermore states:

WHEREFORE THE ACCUSED states as follows:

1. It is an undisputed fact that on Date Day Year the Accused was issued MVDTRD Uniform Traffic Citation No. \_\_\_\_\_ hereafter CITATION, by Accuser DONUT hereinafter officer DONUT on said citation, officer DONUT alleges Accused has violated New Mexico statute/ordinance Number Code hereafter statute/ordinance.
2. It is an undisputed fact that **NMMVD statute/ordinances are New Mexico administrative law administered** and enforced by the N.M. Motor Vehicle Division of Taxation and Revenue Department (MVDTRD), an administrative agency of the New Mexico state legislature charged with raising revenue for the STATE FOR-PROFIT CORPORATION. This fact is established in **Accused's Memorandum of Law in Matter of "What is the Motor Vehicle Division of Taxation and Revenue Department and Who is Subject to its Jurisdiction"** filed on Date Day Year with the Clerk of the Court, in support of this demand.
3. It is an undisputed fact that ACCUSED was **engaged in no driving<sup>12</sup> activity**, or other activity, **either regulatable** or in fact N.M. administrative law, regulated by MVDTRD when Accused was stopped, detained, and ticketed; hence, it is an undisputed material fact that **Accused was not subject to the administrative jurisdiction** wherein NMMVD statute/ordinances may be enforced.

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<sup>12</sup> Driver: One who is being hired in commerce in a for-profit venture using public highways.

4. It is an undisputed fact that ACCUSED has a **common law unalienable right to use the public roads without any form of licensure**, a.k.a. permission, of any agency of his state government. This fact is established in Accused's Memorandum of Law Regarding the Right to Travel filed on Date Day Year with the Clerk of the Court in support of this demand.
5. It is an undisputed fact that officer DONUT **has alleged no nexus** connecting Accused to the MVDTRD administrative jurisdiction.
6. It is an undisputed fact from the foregoing there is **no nexus between** Accused and the MVDTRD in the instant case.
7. It is an undisputed fact that neither officer DONUT nor any other MVDTRD agent, nor any other accusing party has ever made a verified complaint, information, indictment, affidavit, or any other form of verified statement<sup>13</sup> alleging Accused has committed a criminal act or any other manner of act.
8. It is an undisputed fact that Officer DONUT filed a **statement of hearsay** when he executed and filed said Citation on DATE, in a New Mexico state administrative law matter, prima facie.
9. It is an undisputed fact that this proceeding is **not being conducted as a civil matter**<sup>14</sup>, **pursuant to the Constitution of the State of New Mexico**, in a judicial power court having a civil jurisdictional authority, which is prima facie evident from the form of citation, and the fact that proceedings are **not being conducted pursuant to the published New Mexico Rules of Civil Procedure**.
10. It is an undisputed fact that this proceeding is **not being conducted as a criminal matter**<sup>15</sup>, pursuant to the Constitution of the State of New Mexico, **in a judicial power court**<sup>16</sup> having criminal jurisdiction authority, which is prima facie evident from the form of citation, and

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<sup>13</sup> Verified Complaint: A complaint declaring a personal injury or damage to property made under oath, in proper affidavit form and signed under penalties of perjury. DONUT cops do not submit verified complaints because no crime is committed in traffic citations. Citations are not about crime or law, but MONEY!

<sup>14</sup> Civil Matter: An issue related to a violation of contract wherein an obligee has failed to fulfill some known, written agreed upon duty in contract. The State proceeds in Magistrate Courts and State Courts under the presumption the operator of a truck or car is under some kind of contract with the vulture State.

<sup>15</sup> Criminal: Predatory judges, cop accusers, and attorneys throw the term "criminal" around as some kind of catch-all phrase to trap victims in their web of deceit. A common law crime involves real and substantial injury to a living person or his property. No injured body, no crime; no damaged property, no crime.

<sup>16</sup> Judicial Power Court: meaning that they owe their charter, and the basis for their authority, to constitutional empowerment by and through the people. A judicial court is opposed to an executive or legislative magistrate courts.

the fact that proceedings<sup>17</sup> are **not being conducted pursuant to the published New Mexico Rules of Criminal Procedure.**

11. It is an undisputed fact that this proceeding is not being conducted pursuant to the requirements of the **New Mexico Administrative Procedures Act**, statutized as New Mexico Statutes 12-8-1 to 12-8-25, NMSA 1978, and its attendant promulgated rules published in the New Mexico Administrative Code Annotated, notwithstanding<sup>18</sup> in no circumstance can Accused be offered anything less than his unalienable right to full due process.
12. It is an undisputed fact from the foregoing that the Accused is **compelled to appear in an ad hoc<sup>19</sup> summary proceeding<sup>20</sup>**, wherein the rules of court are unpublished; **the nature of the proceeding is intentionally being withheld** from the Accused, and Accused is **unable to prepare his defense for want of knowledge of the nature and cause of the accusation**, absolutely; yet is compelled to make his own appearance in what is, prima facie, an ad hoc, de facto jurisdiction, under threat of loss of life, liberty and property, pursuant to **ad hoc, de facto police power, expressly in violation of the New Mexico Constitution, Article II Sec.14**, and the due process, and the police power provisions of his state and national constitutions, whereas there **are no jurisdictional facts in evidence that he is subject to the ad hoc, de facto jurisdiction** evidenced from the face of the charging documents, or any other part of the public record before the above-styled forum, nor the administrative jurisdiction evidenced from the face of the naked statute he is charged with violating.
13. It is an undisputed fact that American Citizens are the holders of the inherent political power<sup>21</sup> of their respective states and nation, and in said capacity absolutely cannot be subject to any ad hoc, summary proceeding, which is to say that no American can ever be subject to an ad hoc jurisdiction, wherein procedural rules are misrepresented, and

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<sup>17</sup> Proceedings: A quick meeting, void of normal rules and law and procedure, usually by force and coercion, for the purpose of a quick result—the financial gain of the court’s principals.

<sup>18</sup> Notwithstanding: a preposition meaning with no authority to be heard or argued or cited. Any statute cited in competition with the constitution notwithstanding.

<sup>19</sup> Ad hoc is one established for a particular purpose for the interest of a single agency and not the good of the whole or the people of a State. When the judge is paid by the city; the judge paid by the city; and the DONUT cop paid by the city, you have an ad hoc proceeding—a slight conflict of interest. A feast is being held by legal predators and the poor sap Citizen is the meal.

<sup>20</sup> Summary proceeding means a quick, short, operation where the outcome is predetermined and advanced in favor of the State; that is, the entire operation is conducted under the color of process, color of law, and color of authority against God’s sheep by State predators trying to fleece the lamb going to slaughter.

<sup>21</sup> Holder of Power: All powers of the government proceed from the consent of WE THE PEOPLE, true sovereigns. Government officers are public servants, and not sovereign; under duty to fulfill the contract between WE THE PEOPLE and their public servants. WE THE PEOPLE have not duty to these public servants; they have a duty to us to obey the law. WE THE PEOPLE, do however, have a duty to true law, Biblical law, or common law, the Law of our Creator . . . and so do our public servants.

unpublished and unknowable to the Accused, and proceedings are conducted at the whim of the participants, and the jurisdiction exists only presumptively, but neither as a matter of state constitutional fact nor as a de facto state legislative fact.

AND IN CONSEQUENCE, **ACCUSED DEMANDS**, pursuant to his unalienable right as a holder of the inherent political power of the State of New Mexico:

14. To know **the nature and cause of the accusation in the instant case**; specifically, what is the **nature of this jurisdiction**, and its proceedings, and **how is he subject to it**, in light of the foregoing undisputed jurisdictional facts in the record, in the instant case.

AND, FURTHERMORE, **WHAT is the cause**, if Accused is not subject to the jurisdiction in the first instance?

That the Prosecutor, in the instant case, comply with N.M.R.CR.P. Article 2, Rule 5-201 A - D and 205 A - B, if the instant charges are alleged to be a misdemeanor or a felony crime, and that he shall include in any information to which **he shall swear his oath**, pursuant to Federal Rules of Criminal Procedure, Title 18, Rule 3, Section 10, that he has knowledge that the statute/ordinances are administrative law of the State of New Mexico and that, if he shall fail to state whether statute/ordinances are, or are not, administrative law, then he shall admit by his silence, the undisputed jurisdictional fact that Accused is **being charged with violating administrative laws of the State of New Mexico, to which Accused is not subject for want of a nexus connecting Accused to the administrative agency of said law**, namely, the Motor Vehicle Division of Taxation and Revenue Department in the first instance, and, notwithstanding the want of the legislature of the State of New Mexico to convert any unalienable right of the Accused into a privilege in any case.

That if the Prosecutor, and Judge, and police officer are paid by the same for-profit corporation, that the Prosecutor man-up, declare the conflict of interests in the instant matter, and recuse himself. Further, to demand the judge recuse himself for conflicts of interest and the charge of taking a bribe (salary) from the Plaintiff in the instant case for the purpose of personal enrichment.

### **Actual and Constructive Notice in the Instant Matter**

IN THE MATTER of your individual political trusteeships as public office holders in the gift of the people of the State of New Mexico, if you fail to lawfully answer this Demand, you will have no later defense that you were without knowledge of your duties and obligations to the people of the State of New Mexico, and specifically to the Accused in the instant matter. It would be understatement in the extreme to say: "it is well settled" that the Accused has a unalienable right, pursuant to his unwritten state constitution, the common law, a.k.a. the law of the land, protected by his written state and federal constitutions, respectively, within their

sovereign jurisdictions, also known as the organic law of the land, to have this demand answered; and whereas, this demand is a challenge of the above styled forum's presumption of subject-matter jurisdiction. State and federal courts acknowledge a most solemn fundamental of American political theory, upon which the body of American jurisprudence is absolutely and totally dependent, to wit:

*"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather should dismiss the action" - Melo v. US., 505 F. 2d 1026 (1974) (1974)*

*"There is no discretion to ignore lack of jurisdiction" - Joyce v U.S. 474 2d 215 (1973)*

*"The burden shifts to the court to prove jurisdiction"- Rosemound Sand Gravel Co. v. Lambert Sand 469 F 2d 416 (1972) (1972)*

*"Where there are no depositions, admissions, or affidavits the court has no facts to rely on for a summary determination." Trinsey v. Pagliaro, D.C. Pa. (1964), 229 F. Supp. 647.*

*"Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." Latana v. Hopper, 102 F. 2d 188 (1939)*

*"A judgment or order is not "void" unless made or entered without authority or law, or without jurisdiction" - Rico v. Nasser Bros. Realty Co., 137 P.2d 861, 863, 58 Cal. App. 2d 878 (1963).*

*"The law provides that once State and Federal Jurisdiction has been challenged, it must be proven" -100 S. Ct. 2502(1980).*

*"Jurisdiction can be challenged at any time" - Basso V. Utah Power & Light Co. 495 F 2nd 906, 910 (1974).*

*"A court has no jurisdiction to determine its own jurisdiction, for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question in the first instance." Rescue Army v. Municipal Court of Los Angeles, 171 P2d 8; 331 US 549, 91 L. ed. 1666, 67 S.Ct. 1409.*

I declare that in the Name of the Lord Jesus Christ my statements in the foregoing demand are true, correct, and not misleading to the best of my knowledge and ability.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, \_\_\_\_\_



With all rights reserved, to the glory of God,

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Free Man, Accused/Defendant in Error,  
proceeding under the authority of His Majesty in  
Heaven

State of New Mexico )

)ss.: **Jurat**

County of Bernalillo )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, \_\_\_\_\_,  
\_\_\_\_\_ appeared before me to so swear and to attach  
his/her signature to this instrument.

\_\_\_\_\_ Seal

Public Notary

Exp Date: \_\_\_\_\_

DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

# Sworn Demand to Dismiss for Want of Subject-Matter Jurisdiction

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO IN THE METROPOLITAN COURT

STATE OF NEW MEXICO  Plaintiff in Error <sup>22</sup> ,  v.  Free Man Name  Defendant in Error <sup>23</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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## SWORN DEMAND TO DISMISS FOR WANT OF SUBJECT-MATTER JURISDICTION

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico Article II, Section 2 & 4), hereinafter ACCUSED, being duly sworn, and makes his sworn demand as of right as said holder, that the above-styled matter be dismissed for want of subject-matter jurisdiction of the above-styled Traffic Court, as follows:

**WHEREAS ACCUSED HAS** made his demand to know the nature and cause this same said day, and neither the judge, nor the prosecutor, nor the accusing officer have answered according to law as required in their individual, respective capacities as political trustees of the State of New Mexico, and on this ground alone this matter must be dismissed for want of subject-matter

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<sup>22</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>23</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

**WHEREAS THIS DEMAND** is made pursuant to Accused's right to know, as a political trustor of the State of New Mexico, in matters of any claims against him by any political trustee of the State of New Mexico; and,

**WHEREAS THIS DEMAND** is made to allow the Prosecuting Attorney, the Judge, and the accusing officer a second and final opportunity to answer this challenge by Accused, if they have reason to believe, or to know, that they exercise a lawful authority attendant to their

**WHEREAS THE PROSECUTING** Attorney and Judge are holding themselves out as **political trustees** in the instant matter, for otherwise they instantly proceed against Accused as mere state actors, hence by mandate of their respective political trusteeships on behalf of the Accused and all other political trustors, who are the State of New Mexico, they have no discretion but to answer all particulars of this challenge of their presumptions of subject - matter jurisdiction in the instant case, and,

WHEREAS ACCUSED'S AFORESAID political trustees are further on notice of their respective duties and obligations in the instant matter, as expressly evidenced in the Constitution of the State of New Mexico, Article II, Section 14, and in the Articles in Amendments IV, V, VI, VII, VIII, and IX, by and through Article XIV of the Constitution of the United States, and as further evidenced by New Mexico Rules of Criminal Procedure, subsections (a), (b), (c), (d), (e), (f), (g), (m), (n), and (o), *Miranda v. Arizona*, 384 US 436, 491 (1966) and elsewhere in the people's common law; and,

WHEREAS ACCUSED MAKES this demand herein all, and in the particulars of his below averments as his sworn statements, under penalty of perjury, as **a political trustor**<sup>24</sup> of the State of New Mexico, and positively can expect no less from his political trustees in the instant matter, who are the judge, prosecutor and accusing officer, than their sworn<sup>25</sup> answer to the particulars of his averments by their sworn statements, inasmuch as anything less would be treason against the people who are the State of New Mexico; and,

Whereas Plaintiff has failed to state a claim upon which relief can be granted and Defendant, therefore, draws attention to the fact that there is no accuser who has submitted an affidavit of cause to this court in regards to this case swearing under penalties of perjury that they have

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<sup>24</sup> This living soul is an American Citizen, a member of WE THE PEOPLE, who trusts their public servants to uphold common law, fundamental law, and to fulfill their duties as prescribed by both constitutions, and at all times, to protect the rights of the trustors by not permitting State actors to overreach by permitting statutory codes applicable to persons in contract to be misapplied toward free men.

<sup>25</sup> Public officers are required by fundamental law to support, protect, and defend the United States Constitution, no alleged law, state code, or statute withstanding; and, to support the State Constitution, no state code or statute withstanding.

been injured or that their property has been damaged. This fact alone mandates this case be dismissed. Furthermore states:

WHEREAS ACCUSED HAS filed with the Clerk of the Court the following Memoranda of Law, and each of these memoranda shall be considered as incorporated into this demand as fully as though physically written on the pages of this demand, to wit:

A. **Memorandum of Law On the Right to Travel**, filed with the Clerk of the Court on the Date Day Year.

B. Memorandum of Law In Matter of What is the Motor Vehicle Division of the Taxation and Revenue Department and Who is Subject to Its Jurisdiction, filed with the Clerk of the Court on the Date Day Year.

C. Memorandum of Law In Support of Demand to Dismiss for Want of Subject-Matter Jurisdiction, filed with the Clerk of the Court on the Date Day Year; and,

WHEREAS, ACCUSED MAKES this demand from his Position of Primacy, as a holder of the inherent political power of the State of New Mexico, that the above-styled court dismiss Uniform Traffic Citations No \_\_\_\_\_ in the above-styled cause, pursuant to the Constitution of the State of New Mexico, Article II, Sections 2 & 4, and in the Constitution of the United States Articles in Amendments IV, V, VI, VII, VIII, and IX, by and through Article XIV, and as further evidenced by New Mexico Rules of Criminal Procedure, subsections (a), (b),(c), (d), (e), (f), (g), (m), (n), and (o), and as evidenced in *Miranda v. Arizona*, 384 US 436, 491 (1966)and elsewhere in the people's common law.

AS GROUNDS IN support herein, Accused makes his below numbered sworn averments that the above-styled STATE OF NEW MEXICO has no standing to sue or otherwise prosecute, in the instant case, For Want of Jurisdictional Prerequisites, as made clear from the political, material, and jurisdictional facts which establish the prima facie case, that no jurisdictional prerequisites are in evidence, upon which invocation of the jurisdiction of the above-styled court can be maintained, namely:

1. IT IS AN undisputed fact that the Accused is a citizen of the State of New Mexico, a republic comprised of the people; hence he is one of the people who are the State of New Mexico, and one of the holders of the inherent political power of the State of New Mexico. (See the Constitution of the State of New Mexico, Article II, Section 2 & 4)
2. IT IS AN undisputed fact that, as a holder of the inherent political power, the Accused is entitled to all the unalienable rights of said citizens, pursuant to the common law of immemorial antiquity, which rights are antecedent to the people's creation of their state government, as an instrument of their political trust, in which the people are the political trustors, and the political beneficiaries, and the national government, as an instrument of

their national political trust in which the people of all the states of the Union are political trustors and political beneficiaries, and which rights are protected by the New Mexico constitution, the people's written instrument of their state political trust, and the federal constitution, the people's written instrument of their national political trust.

3. IT IS AN undisputed fact that, among Accused's unalienable rights, is his right to use the public roadways of New Mexico for his personal pleasure and business, as of common right<sup>26</sup>, without first receiving permission to use said roads as mere privilege granted by any officer of the aforesaid state government, pursuant to any licensure scheme<sup>27</sup> which may be conceived, devised, and enacted by state legislators, serving only as political trustees of the afore-said state political trust, within offices of the state government, a legal fiction<sup>28</sup> styled as the State of New Mexico<sup>29</sup>, but not to be confused as being the state of New Mexico **which can only be the people.**
4. IT IS ALSO an undisputed fact that, among those unalienable rights<sup>30</sup> is the right of the ACCUSED to unabridged full, a. k. a. plenary, due process of law<sup>31</sup> in a judicial power court of general jurisdiction, pursuant to the constitution and laws of the aforesaid people and their aforesaid political trust, in the event he is charged with any alleged crime<sup>32</sup> by any person.

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<sup>26</sup> Rights come from the Creator, not government: Privileges come from governments toward those in contract for some benefit.

<sup>27</sup> A license is permission to do that which would otherwise be illegal (Black's Law Dictionary). A license scheme is a trick, spiritual sorcery, used by the government to deceive people into thinking that the application of God-given rights is illegal; and, to perform a God-given right one must gain permission by the State; that is, to contract with the State and obey their rules to perform a God-given right. This is chicanery, a deception, a fraud practiced by state actors.

<sup>28</sup> Legal fiction: A dead, fictional entity which does not exist in reality or in fact; a legal "person" that only exists in the mind; an assumption; a presumption in the mind of court officers; a fiction that has no will of its own, that can't be hurt or damaged in any way, a "thing" that has no God-given rights.

<sup>29</sup> The state of New Mexico refers to the people living within the arbitrary boundaries of the land called "New Mexico;" the State of New Mexico or "STATE OF NEW MEXICO" refers to the for-profit corporation masquerading as a legitimate government; a person or corporation created by and under the authority of the UNITED STATES, Inc., another for-profit, fictional, dead corpus.

<sup>30</sup> Unalienable rights are those that can't be alienated by the powers of State Corporations operating some commercial scheme for the enrichment of the State; rights given by God that one has no right to give up or surrender to tyrants, bullies, and power brokers. All commands in Scripture applicable to the living soul create rights for the living man.

<sup>31</sup> A fundamental, constitutional guarantee that all legal proceedings will be fair, impartial, and according to common law or the law of contract per published State statutes, rules, and laws passed by the legislature of the state; that is there will be no judicial tricks or chicanery to pluck the goose under color of law, color of office, and color of authority.

<sup>32</sup> Crime: an actual, measurable injury to another human being or his property; A crime is opposed to an "offense" will is a breach of the will of the State for those in a bonafide contract with the corporation. A crime is a violation

5. IT IS AN undisputed fact that said people, as political trustors, merely **delegate** certain of **their** inherent political powers<sup>33</sup> and authorities in legislative matters to fellow citizens, by electing said fellow citizens to be their representatives in a state legislative body, and whereupon said fellow citizens hold legislative offices of trust as political trustees.
6. IT IS AN undisputed fact that said people, as political trustors, merely delegate certain of their inherent political powers and authorities in executive matters to fellow citizens, by electing said fellow citizens to be their representatives in a state executive body, and whereupon said fellow citizens hold executive offices of trust as political trustees.
7. IT IS AN undisputed fact that said people, as political trustors, merely delegate certain of their inherent political powers and authorities in judicial matters to fellow citizens, by electing said fellow citizens to be their representatives in a state judicial body and whereupon said fellow citizens hold judicial offices of trust as political trustees.
8. IT IS AN undisputed fact of American jurisprudence that the afore -said people of the State of New Mexico can delegate no authorities or powers to their fellow citizens, serving as political trustees in offices of the aforesaid political trust, which the people, themselves, do not possess.<sup>34</sup>
9. IT IS AN undisputed fact that the unalienable rights and liberties of the people of the State of New Mexico are expressed in their entirety in said people's common law<sup>35</sup> of immemorial antiquity and said body of law constitutes their unwritten state constitution.
10. IT IS AN undisputed fact that the unalienable rights and liberties of the people of the State of New Mexico **are not limited**, abbreviated, or any manner diminished to only those rights expressly declared in Article II, styled as the Declaration of Rights, of the aforesaid written state constitution, inasmuch as the people are, themselves, without power and authority to derogate<sup>36</sup> or abrogate<sup>37</sup> their unalienable rights. See the Tenth Amendment.

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of common law: a violation is violation of some statute or code of a commercial for-profit business corporation acting as a de facto government.

<sup>33</sup> All powers belong to the people; but certain numerated powers are granted to public trustees; those not delegated, are retained by the people. See the Tenth Amendment.

<sup>34</sup> All powers of government are limited. Trustees can not create "powers" not granted to them by the people or enlarge their powers to usurp their will over the people.

<sup>35</sup> For the purpose of this instrument, common law is founded on Biblical law, the Ten Commandments. It is the ONLY law to which the people are responsible. Statues, codes, and such, are regulations passed as rules for those in contract with the State. Furthermore, common law usurps all man-made statutes, codes, and rules; that is, all men, including public officers, are accountable to God's law-order.

<sup>36</sup> Derogate: to insult, belittle, to berate as unimportant or not worthy of respect.



11. IT IS AN undisputed fact that the aforesaid people of the State of New Mexico have **no authority to convert** any of their unalienable rights, or the unalienable rights of their fellow citizens, into privileges or into crimes, or otherwise derogate or abrogate said rights.<sup>38</sup>
12. IT IS AN undisputed fact that the members of the New Mexico state legislative, executive, and judicial offices of trust **serve as political trustees** of the aforesaid political trust, hence have **no authority to convert** either their own unalienable rights, or the unalienable rights of their fellow citizens, into privileges or into crimes, or otherwise derogate or abrogate said rights.
13. IT IS AN undisputed fact that officers of the aforesaid state legislative body may represent to have authority to create new classes of misdemeanor or felony crimes<sup>39</sup>, but **no laws** which they may enact **can have the "force and effect of law"** upon the aforesaid people **if** the provisions of said laws derogate or abrogate the unalienable rights of the aforesaid people.<sup>40</sup>
14. IT IS AN undisputed fact that the officers of the aforesaid state legislative body represent to have authority to create new powers or authorities of governance vested in new governing offices, a. k. a. administrative agencies and the like, created by act of said legislators, but no such delegated power derives from the people! For the people, as political trustors, have no power to delegate their political trust power to any of their state political trustees to create new offices within their state government pursuant to their political trust.
15. IT IS AN undisputed fact the Constitution of the State of New Mexico, Article II of (Bill of Rights) holds primacy of position over all other articles of said constitution, meaning that **no provision** of the remaining articles of said constitution **may confer authority to the government** which would be in derogation or abrogation of any Section or provision of Article II of said constitution, or in derogation or abrogation of any of their unalienable rights, pursuant to their aforesaid unwritten state constitution.

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<sup>37</sup> Abrogate: to unlawfully end or cancel or nullify or quash a Citizen's rights or motions by an order of the court in order to vex, discourage, and pummel a Citizen into submission to the will of the court administrator.

<sup>38</sup> All men are under command to love the LORD God, to obey His Law-word, and to serve him. Any statute, code, or rule that seeks to usurp authority over the commandment of the LORD God is idolatrous and treasonous to the Creator.

<sup>39</sup> State governments are limited. To multiply laws in order to control society and enrich State Actors not only have the potential to make every man a "criminal," but every State agency a tyrant and an enemy of the people.

<sup>40</sup> No State legislature can eliminate or nullify unalienable rights by the stroke of pen. Such regulation would be null and void upon its face . . . with resistance required as duty to God and fellow Citizens.

16. IT IS AN undisputed fact that the members of the New Mexico state legislature have **adopted a scheme** whereby **they represent to have authority and power to create governing bodies**, generically known as “**administrative agencies**,” wherein each combines<sup>41</sup> the three powers of governance, namely, the legislative function, the executive function and the judicial function, under one executive head who reports to the Governor.<sup>42</sup>

17. IT IS AN undisputed fact that the aforesaid people established a state government to serve as an instrument of their state political trust, in which the legislative function, the executive function and the judicial function were **to operate as separate powers**, pursuant to the American jurisprudence principle known as the **Doctrine of Separation of Powers**.

*In Murray's Lessee v. Hoboken Land & Improvement Co.* (1856), the Supreme Court held that a legislative court may not decide "a suit at the common law, or in equity, or admiralty," as such a suit is inherently judicial

18. IT IS AN undisputed fact that officers of said state legislative body expressly create separate bodies of administrative law to be administered and enforced within expressly created administrative jurisdictions of expressly created, separate governing bodies, a. k. a. administrative agencies.

19. IT IS AN undisputed fact that NMSA Chapter 66, its statutes and its provisions are evidence of administrative laws enacted by officers of said state legislative body<sup>43</sup>, with intent that said laws be administered and enforced by the Motor Vehicle Division of the Taxation and Revenue Department, hereinafter, MVDTRD.

20. IT IS AN undisputed fact that the MVDTRD is merely the creature of officers of said state legislative body, inasmuch as it was created by said officers, and that said officers delegated to it certain duties and obligations afore-described, but that **said officers have no power to create constitutional offices of governance**, pursuant to the aforesaid state political trust, and such acts are beyond the powers of said legislators' political trusteeship. See *State ex rel. Cartwright v. Southwestern Bell Tel. Co.*, 662 P.2d 675, 679 (Okla. 1983);

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<sup>41</sup> Fundamental law requires a separation of powers.

<sup>42</sup> The executive branch of government is in place to enforce the laws of the legislature. When the executive branch rewrites the laws, form its own administrative courts, finances its own prosecutor, judge, and professional accuser, it commits treason against both national and State constitutions.

<sup>43</sup> When agencies create law or rewrite the law of the legislature, they are in effect creating law and usurping the duties of the legislature. The MVDTRD in effect ends up enforcing codes and statutes not passed by the legislature—a practice which is destructive to the freedom of the people an injurious to the rule of law.

*ⓂIf an administrative agency head is vested with powers related to personal trust or confidence and s/he should exercise that power on the basis of his/her judgment or discretion, then that power cannot be delegated.[i]*

*ⓂAn agency head can delegate an authorized employee with administrative as well as ministerial powers, but he is not permitted to delegate discretionary and quasi-judicial powers and functions unless there is a statute expressly permits such delegation.[ii] - See more at USLegal*

21. IT IS AN undisputed fact that the administrative laws charged to the MVDTRD with administration and enforcement are intended to be a **licensure scheme** in the nature of a **traffic regulatory scheme**, wherein persons subject to said scheme are required to obtain various permits and permissions, and be subject to the scheme's licensure provisions, in order to use the public roadways of New Mexico. This scheme turns a right into a privilege.
22. IT IS AN undisputed fact that provisions of the aforesaid New Mexico Statutes may not derogate or abrogate the unalienable rights of the aforesaid people, **or create new classes of crimes, which said provisions may classify as misdemeanors or felonies, by licensure schemes**, to which allegedly said people are universally subject. These powers to “manufacture” new classes of crimes have no basis in fundamental law because the Creator did not give men authority to create new classes of crimes. **Powers not given by the Creator cannot be delegated by the people to their representatives, the officers of said legislative body, serving as state political trustees, who may then re-delegate said powers to their own creatures and, specifically, in the instant case, to the MVDTRD.**
23. IT IS AN undisputed fact that officers of said state legislative body, by operation of legal wizardry, **presume authority** to create administrative agencies and administrative laws for said creatures to administer and enforce. This presumed authority being the case, the heads of said agencies must promulgate rules which implement, interpret, and make specific the provisions of statutes, which evidence the will and intent of the members of the aforesaid state legislature when they enact administrative laws. Thus, the necessity for promulgating such rules arises from the inescapable political fact that said political trustees have NO AUTHORITY OR POWER to impose regulatory schemes comprehensively **upon the state's political trustors**, a.k.a. the people, **thus converting their unalienable rights into mere privileges**. Such abuse of power is an *ultra vires act*<sup>44</sup>, the illegal creation of a contract with said underlings that is beyond the scope of its officers’ corporate powers.

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<sup>44</sup> “The doctrine of ultra vires played an important role in the development of corporate powers. Though largely obsolete in modern private corporation law, the doctrine remains in full force for government entities. An ultra vires act is one beyond the purposes or powers of a corporation.” (Free Dictionary, online Resource).

24. IT IS AN undisputed fact that it is a fundamental principle of administrative law that the head of the MVDTRD must promulgate rules which implement, interpret, and make specific the provisions of the aforesaid Chapters of the New Mexico Statutes. These provisions are delegated to the MVDTRD for administration and enforcement. But, the officers of the state legislative body, serving as political trustees, **have no authority or powers** to convert the **unalienable right of the political trustors**, a.k.a. the people, to use the public roads (held in public trust for the people) for their personal business or pleasure **into a mere privilege.**
25. IT IS AN undisputed fact that any court of the State of New Mexico, when hearing a matter charging a citizen with violation of any provision of statutes in Chapter 66 of the New Mexico Statutes, is prima facie sitting **as a legislative court**, pursuant to alleged delegated authority from the aforesaid officers of the state legislative body, and **not** as officers of a **judicial power court**<sup>45</sup>, pursuant to delegated authority of the people, by and through their Constitution of the State of New Mexico.
26. IT IS AN undisputed fact that any court of the State of New Mexico, when hearing a matter charging a citizen with violation of any provision of statutes in Chapter 66 of the New Mexico Statutes as aforesaid, is **at best** sitting as **a legislative court**, hence a quasi-judicial power court, and not as a judicial power court, and the officer sitting on the bench is, at best, sitting in a ministerial office, and a quasi-judicial power office, and not in a judicial power office, and most commonly sits as a state actor conducting ad hoc summary proceedings<sup>46</sup>.
27. IT IS AN undisputed fact that any court of the State of New Mexico, when hearing a matter charging a citizen with violation of any provision of statutes in Chapter 66 of the New Mexico Statutes as aforesaid, has no subject-matter jurisdiction to hear and rule upon the cause in the second instance, if the Accused person is not subject to the administrative jurisdiction of the MVDTRD in the first instance.
28. IT IS AN undisputed fact that positively **in no case** can the Accused, a holder of the inherent political power of the State of New Mexico in the first instance, **be a person subject to appear and be tried before a quasi-judicial, a.k.a. administrative court, a.k.a. legislative court, when no nexus is in evidence connecting the Accused to any activity regulated and regulatable by the MVDTRD.** This violation of authority is evidenced by promulgated administrative rules, which make specific the intent of the legislature regarding the specific

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<sup>45</sup> Judicial Power Court is one that operates under the judiciary, separate from the interests of the executive branch of government; and, separate from the legislative interests of the State legislature.

<sup>46</sup> Summary proceedings are prompt, efficient, non-cumbersome ventures which aid the State to the detriment of the private Citizen.

provision of the aforesaid chapters of the New Mexico Statutes, which enumerate traffic regulatory-related statutes, which Accused is alleged to have violated. To so argue would be to assert the absurdity that officers of said state legislative body, when sitting as political trustees, are also sitting as holders (gods) of an absolute political power. Such a political twist asserts the view that in this capacity the legislative body has authorities and powers of an absolute sovereign over the people: that is, they presume to be gods over the people. Such an argument is nonsense! It is not possible in a republic for the trustees of a public trust to have greater powers than the trustors. Any claim that trustees have sovereign powers over the people through their legislative courts notwithstanding in law and any such claim makes them de facto courts and de jure.

29. IT IS AN undisputed fact that the Accused, prima facie, was engaged in no activity regulated or regulatable by officers of the aforesaid state legislative body, or any creature of said body at the time he was stopped, detained, and arrested by Officer DONUT hereafter Officer DONUT of the \_\_\_\_\_ Department on Time Day Year.
30. IT IS AN undisputed fact that Officer DONUT, hereinafter Accuser, stated no probable cause, known to the common law, to stop or detain the Accused, much less physically arrest him. Though he did cite violation(s) of a provision of statute, charged by officers of the aforesaid state legislative body to their creature, the MVDTRD, with administration and enforcement.
31. IT IS AN undisputed fact that the Accuser, Officer DONUT, had no prima facie probable cause to believe that the Accused was subject to the aforesaid administrative jurisdiction of the MVDTRD at the time he was stopped, detained, and arrested. He turned on his “emergency lights” when there was no emergency. Officer DONUT is fully funded profession accuser of the State, by the State, and for the commercial gain of the State. Such a scenario is in violation of the fundamental principles set forth in the Magna Carta which forbid King John from using his paid accusers to arrest barons, to try them in the king’s court by judges paid from the king’s treasury, with the intent of fleecing the baron under color of law, color of authority, and color of process. You Judge \_\_\_\_\_, and You Mr. Prosecutor, and You Mr. Donut are obliged to dismiss out of conflict of interest as well as for participating in a legal gang operating a commercial scheme wanting in separation of powers and its opposition to common law.
32. IT IS AN undisputed fact that the Accuser cited the Accused with alleged violation of a naked provision of the traffic regulatory statutes of New Mexico, namely: statute/ordinance \_\_\_\_\_.
33. IT IS AN undisputed fact that the alleged charge was made on a New Mexico MVDTRD Citation numbered \_\_\_\_\_ and not pursuant to any published rules for either a

civil or criminal matter cognizable in a judicial power court of the people's judicial branch of government.

34. IT IS AN undisputed fact that Accuser failed to cite a promulgated rule, with the naked provision of statute cite on said MVDTRD Citation, that presumptively might have given the "force and effect of law" to said provision of statute. Furthermore, the Accused did not see the enacting clause preceding said statute citation.
35. IT IS AN undisputed fact that the above-styled MVDTRD Citation, presumptively issued by Accuser, is merely hearsay, for want of any properly sworn statement by Accuser, verifying that statements made in said citation instrument are true and correct. Further, the above-styled MVDTRD Citation was issued by a professional Accuser, Officer DONUT, to be tried in the "king's court" by the "king's prosecutor" before the "king's judge" listening to the "king's professional paid Accuser," Officer DONUT, for the purpose of fleecing this sheep of his wool and yarn while minding his own business.
36. IT IS AN undisputed fact that neither the Accuser nor any prosecutor has brought any indictment, complaint, or other manner of formal charges, specifically, accurately, and clearly averring any common law crime committed by Accused, nor identification of any victim, nor has said Accuser prepared a duly sworn affidavit in support of any indictment or complaint, stating specific facts regarding specific acts committed by the Accused. Where there is no affidavit of probable cause, there is no warrant for prosecution.
37. IT IS AN undisputed fact that all proceedings in the instant case are of neither a civil nor a criminal nature that may be heard in a judicial power court of the State of New Mexico, as either a civil proceeding or a criminal proceeding. Since no common law was broken by the Accused, how could this matter have standing in a judicial power court?
38. IT IS AN undisputed fact that all proceedings in the instant matter pertain to an allegation by the Accuser that the Accused has violated a provision of an administrative law statute/ordinance \_\_\_\_\_ which statute/ordinance is charged to the MVDTRD with the duty to administer and enforce by its creators, the officers of the aforesaid state legislative body.
39. IT IS AN undisputed fact that Accuser has **failed to support** his aforesaid allegation with **any facts alleging existence of a nexus between Accused and the MVDTRD** at the time that Accuser issued the above-styled citation.<sup>47</sup>

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<sup>47</sup> Nexus: A connection-- some kind of instrument like a contract declaring the Citizen's consent to be obligated to the rules of the MVDTRD. Where there is no consent, there is no duty; where there is no contract, there is no obligation. No contract, no case.

40. IT IS AN undisputed fact that no nexus is in evidence connecting Accused to any activity presumptively regulated by MVDTRD.
41. IT IS AN undisputed fact the Accused is not a slave duty bound to MVDTRD, and, therefore, **there must be a nexus** between Accused and the MVDTRD **before** there could even be a presumption that statute/ordinance \_\_\_\_\_ might have the "force and effect of law" upon Accused.
42. IT IS AN undisputed fact **there must be a promulgating rule** for the cited provision of statute inasmuch as said statute is a provision of administrative law, hence requiring a rule be issued by the head of the MVDTRD, **showing the intention of the state legislators** making specific the classes of persons or thing engaged in an activity regulated by the MVDTRD who are subject to the provision.
43. IT IS AN undisputed fact that no promulgating rule has been cited in conjunction with the citing of statute/ordinance \_\_\_\_\_ which might give the force and effect of law to said citation by allegedly establishing a licensure nexus.
44. IT IS AN undisputed fact that statute/ordinance \_\_\_\_\_ are merely prima facie evidence of law, for **in no case** are they duly enacted laws of the officers of the aforesaid state legislative body.
45. IT IS AN undisputed fact that **no statute or code**, enacted by state political trustees, who sit in offices of the aforesaid state legislature, **is a duly enacted law**, unless it contains an **enacting clause** which shall read: "Be it Enacted by the Legislature of the State of New Mexico", pursuant to the Constitution of the State of New Mexico, Article IV, Section 15, because this is a term and condition of the state political, trust expressed in the aforesaid state constitution.
46. IT IS AN undisputed fact that no rule or code created by an agency of the legislature has the force and effect of law.
47. IT IS AN undisputed fact that the Accused was cited with violating no law duly enacted by officers of the aforesaid state legislative body, as must be evidenced by the enacting clause, which is set out in the New Mexico Constitution, Article IV, Section 15.
48. IT IS AN undisputed fact that the proceedings in the instant case are **not being conducted as a civil matter**, either in form or substance. State actors in the above-styled cause are not proceeding against Accused pursuant to the New Mexico Rules of Civil Procedure, promulgated by the New Mexico Supreme Court.
49. IT IS AN undisputed fact that the proceedings in the instant case are **not being conducted as a criminal matter**, either in form or substance, and state actors in the above-styled

cause are not proceeding against Accused pursuant to the New Mexico Rules of Criminal Procedure promulgated by the New Mexico Supreme Court.

50. IT IS AN undisputed fact that the proceedings in the instant matter are being conducted as **ad hoc, summary proceedings**, pursuant to no specific promulgated and published rules for either a judicial power proceeding or a quasi-judicial power proceeding.
51. IT IS AN undisputed fact that ad hoc, summary proceedings against a holder of the inherent political power **are a violation of all due process of law** considerations, substantively and procedurally. Such ad hoc, summary proceeding amount to unrestrained constitutional and common law **lawlessness** by state actors. **This ad hoc process amounts to treason** against the sovereign people, who are the state of New Mexico, and that state actors in the instant case are so proceeding against Accused with willful, malicious, lawless intent to irreparably harm, damage, injure and destroy the Accused.
52. IT IS AN undisputed fact that the Accused is being prosecuted in the instant matter for alleged violation of an administrative law which is really no law at all, namely statute/ordinance \_\_\_\_\_. No **express declaration** of the indispensable administrative **subject-matter jurisdiction**<sup>48</sup>, **to include a nexus, has been entered into evidence**, which would even presumptively demonstrate subject-matter jurisdiction of the above-styled court to hear and make decisions in the instant matter.
53. IT IS AN undisputed fact that the proceedings in the above-styled action are, prima facie, a violation of the Accused's common law due process of law rights. These rights are antecedent to the people's establishment of their state political trust, and their instrument of the trust, their state government, by and through their aforesaid written instrument documenting said trust, their state constitution.
54. IT IS AN undisputed fact that **Accused's due process of law rights are antecedent to the creation of the aforesaid state political trust** and state government, and the aforesaid national political trust and national government. All of the Accused's unalienable rights, to include said due process of law rights, are protected by his state and national

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<sup>48</sup>Subject matter jurisdiction: Jurisdiction of the subject matter involves the actual thing involved in the controversy. In civil matters it is usually some property or money in dispute, or it might be the tort or the wrong one committed against another, or it might be for a contract, marriage, bankruptcy, lien, or Last Will that is in dispute. But, if the property or thing in dispute never existed there would be no subject matter jurisdiction.



constitutions<sup>49</sup>. Due process law rights by the aforesaid instruments are in place in the event that state actors in the instant case could demonstrate, for the record, the existence of a nexus, afore-discussed, and by such hypothetical statement aver administrative jurisdiction exists in the instant case.

55. IT IS AN undisputed fact that the aforesaid protected due process of law rights are being violated, both in form and in substance, in the instant proceeding, and that all proceedings in the instant case are being conducted solely upon **hearsay evidence, presumptions of law and jurisdiction**, which, upon challenge, must be demonstrated, and pursuant to ad hoc rules of court, in the fashion of a Star Chamber Proceeding<sup>50</sup>, hence with willful intent to irreparably harm, damage, injure and destroy the Accused.

56. WHEREFORE, PURSUANT TO the Constitution of the State of New Mexico, Article II, Section 14, and the , and as further evidenced by New Mexico Rules of Criminal Procedure, subsections (a), (b), (c), (d), (e), (f), (g), (m), (n), and (o), and as evidenced in *Miranda v. Arizona*, 384 US 436, 491 (1966) and elsewhere in the people's common law. This demand is made timely, and the foregoing factual matters (averments 1 through 56) must be deemed admitted as true, as a matter of duty and obligation by the judge, prosecutor, and accusing officer, pursuant to their political trusteeship, unless specifically denied by the prosecution by verified statements, either admitting or denying each individual averment, notwithstanding that, in no case, can a citizen's rights be derogated or abrogated by legislation or rule-making; and,

57. WHEREUPON, FOR ALL of the foregoing undisputed political, material and jurisdictional facts above stated, it is undisputed that:

a) IN THE FIRST instance, the Accuser has **not** charged Accused with violating any duly enacted law of the State of New Mexico in the first instance; and,

b) IN THE SECOND instance, arguendo for the moment, that statute/ordinance \_\_\_\_\_ and \_\_\_\_\_ were duly enacted laws of the aforesaid New Mexico state legislature, then the fore-going undisputed political, material, and jurisdictional facts in the record show that statute/ordinance \_\_\_\_\_ are **administrative laws, to which the Accused is not subject for want of a nexus**, as aforesaid, and

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<sup>49</sup> The Declaration of Independence states that the purpose of government is to protect the rights of the people (and to punish those who abuse those rights)—rights antecedent to the creation of the Constitution and to the political trusts thereunder.

<sup>50</sup> Star Chamber Proceeding: any judicial or quasi-judicial action, trial, or hearing which so grossly violates standards of "due process" that a party appearing in the proceedings (hearing or trial) is denied a fair hearing.

c) IN THE THIRD instance, the instant case is neither a civil matter nor a criminal matter known to the people's common law, and these proceedings are being conducted in neither the civil jurisdiction nor the criminal jurisdiction known to the people's common law, which are the only jurisdictions in which holders of the inherent political power of the State of New Mexico may be held accountable in civil matters and criminal matters, but instead is an ad hoc, summary proceeding, being conducted contrary to any constitutional grant of power by the people to any judicial office of the State of New Mexico, and to which, in no case, can any sovereign citizen, a holder of the inherent political power, be subjected by any lawful, legal or legitimate authority.

58. THEREFORE, UPON THE face of the record, it is undisputed that the allegation(s) of the Accuser in the above-styled action is/are fundamentally and substantively defective on its/their face(s) for want of subject-matter jurisdiction; hence, in consequence of the foregoing undisputed political, material and jurisdictional facts, the above-styled New Mexico MVDTRD Citation and case must be dismissed.

I have read the above statements and they are true and correct to the best of my knowledge.

SUBMITTED WITH ALL due respect on \_\_\_\_\_, in the year of our Lord,  
\_\_\_\_\_.

\_\_\_\_\_  
Free Man, living soul, Accused

State of New Mexico )

)ss.: **Jurat**

County of Bernalillo )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, \_\_\_\_\_,  
\_\_\_\_\_ appeared before me to so swear and to attach  
his/her signature to this instrument.

\_\_\_\_\_ Seal

Public Notary

Exp Date: \_\_\_\_\_

DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

# Memorandum of Law on Subject-Matter Jurisdiction

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**STATE OF NEW MEXICO**  
**COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>51</sup> ,  v.  Free Man Name  Defendant in Error <sup>52</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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**MEMORANDUM OF LAW IN SUPPORT OF SWORN DEMAND TO DISMISSFOR WANT OF SUBJECT-MATTER JURISDICTION**

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see the Constitution of the State of New Mexico, Article II, Section 2 & 4), hereinafter ACCUSED, respectfully submits this MEMORANDUM OF LAW IN SUPPORT OF SWORN DEMAND TO DISMISSFOR WANT OF SUBJECT-MATTER JURISDICTION as evidence and proof of the prevailing and controlling law regarding the matter now before the Court.

ALL PARTIES HAVING an interest in this memorandum are hereby noticed that Accused has filed the following listed memoranda of law with the Clerk of the Court, and they are

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<sup>51</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>52</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

incorporated herein by reference as fully as though typed-entry parts of this memorandum of law:

(a) Memorandum of Law in Matter of What is the Motor Vehicle Division of the Taxation and Revenue Department and Who is Subject to its Jurisdiction

(b) Memorandum of Law on the Right to Travel

THIS MEMORANDUM AND the above referenced memoranda of law are in support of the Accused's Sworn Demand to Dismiss for Want of Subject-Matter Jurisdiction filed with the Clerk of Court on DAY YEAR TIME.

THE AFORESAID DEMAND is a part of the Accused's challenge of subject-matter jurisdiction of the above-styled court. Because the Accused is a holder of the inherent political power of the State of New Mexico, he makes his challenge in the form of demands as of right rather than as motions to the magistrate/metropolitan court. Upon the face of the record, the Accused is not subject to the jurisdiction of said magistrate/metropolitan court, and cannot be, until such time as the magistrate/metropolitan court is able to absolutely prove it has subject-matter jurisdiction, by making a proper answer to said challenge.

THE BURDEN TO prove said jurisdiction is absolutely on the judge and the prosecutor once it has been challenged, as in the instant case. Inasmuch as these "officers of the court" proceed as political trustees, they have a mandatory duty to answer Accused's jurisdictional challenge, and to ensure that his unalienable right to due process of law is unabridged, with respect to his challenge now, and, absolutely, at all times.

CONTRAWISE, ACCUSED STANDS before said court as one of the state's political trustors and, therefore, has an unbridgeable right to plenary, due process of law; and, consequently, to have his challenge of this court's subject-matter jurisdiction properly answered.

UNTIL SUCH TIME as the above-styled court answers Accused's challenge with specific, relevant answers to the individual averments of his demand, which absolutely prove jurisdiction, this court has no jurisdiction in the instant case. Said court cannot rest its jurisdictional authority on presumptions or silence without being in violation of its political trusteeship to the Accused, and all the people of the State of New Mexico.

### **POINTS AND AUTHORITIES**

THE GROUNDS ON which Accused's challenge of subject-matter jurisdiction rests are several, and include the following counts.

#### **COUNT ONE:**

THE ABOVE-STYLED COURT HAS NO AUTHORITY TO DENY THE ACCUSED HIS UNALIENABLE RIGHT TO PLENARY DUE PROCESS OF LAW, AND ACCUSED IS ENTITLED TO A PROPER, DIRECT ANSWER TO HIS DIRECT CHALLENGE OF SAID COURT'S PRESUMPTION OF SUBJECT-MATTER JURISDICTION

Upon Accused's instant challenge, now before the court, and until and unless there is an answer to said challenge, proving jurisdiction, **the only authority of this court in this case is the authority to dismiss**. The aforesaid is a fundamental of American jurisprudence, arising from the fundamentals of American political theory, pursuant to which the people are sovereigns of their land, a.k.a. nation, a.k.a. community, and their governments are their servants, having sovereignty in matters of governance delegated by the people in the second instance, which they have power to delegate in the first instance<sup>53</sup>, wherein, at no time, do their fellow citizens, serving in official capacity pursuant to their political trusteeship, have authority to derogate or abrogate any of the unalienable rights of a citizen. It can only be a political absurdity, which leads to a legal absurdity, to argue that the above-styled court has subject-matter jurisdiction, upon mere presumptions, or by holding silent, following a direct challenge of said presumptions of jurisdiction.

THE FOLLOWING RULINGS are not merely judicial opinions; **they express political truisms as valid in one state as in every state of the Union**. Said rulings are acknowledgments of the foregoing political facts, inherent in American jural society, regarding the unalienable right of the citizen to challenge a court's subject-matter jurisdiction, and the absolute duty and the obligation of the court to properly answer the challenge namely:

*"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather should dismiss the action." Melo v. US., 505 F. 2d 1026*

*"There is no discretion to ignore lack of jurisdiction." Joyce v. U.S., 474 F. 2d 215 (1993)*

*"The burden shifts to the court to prove jurisdiction." Rosemont v. Lambert, 469 F 2d 416*

*"Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted Latana v. Hopper, 102 F. 2d 188 (1939)39).*

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<sup>53</sup> WE THE PEOPLE cannot delegate authority to trustees which God has not given us; that is, because we have no authority to disparage the rights of free men in compliance with God's law-order, we cannot grant powers to the holders of our political trust to disparage or abrogate the rights of fellow Citizens.

*"Since jurisdiction is fundamental, and it is jurisdiction alone that gives a court power to hear, determine, and pronounce judgment on the issues before it, jurisdiction must be continuing in the court throughout the proceedings." Re. Cavitt, 1257 N.W. 254 P.599 (1968)*

*"Since jurisdiction is fundamental to any valid judicial proceeding, the first question that must be determined by a trial court in any case is that of jurisdiction. Dillon v. Dillon, 187 p. 27 (1951)*

TO FAIL TO answer specifically and directly the individual averments of Accused's aforesaid demand is denial of his unalienable right to plenary, due process of law, and there can be no derogation or abrogation of any citizen's unalienable rights. Rulings in American courts on this political fact, hence fact of American jurisprudence, are as valid in one state or the nation as any other because they are political, hence, legal, truisms meaning that they are not only evidence of the law of the land, they are the ruling courts' acknowledgment of the eternal law of the land, and the mandatory duty and obligation of every court in the nation. No political trustee is above the law of the land, from which it follows that no political trustee is above his state and national organic law of the land, a.k.a. the written constitutions, and nothing could be more fundamental to said law than that no public official can derogate or abrogate the unalienable rights of the citizens, When law enforcement officers receive training to read arrestees a "Miranda warning", a.k.a. "read them their Miranda rights," are they also instructed regarding the following political truism, hence mandatory point of law, from Miranda Namely:

*"Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them. "Miranda v. Arizona, 384 US 436, 491 (1966)*

COURTS OF THE State of New Mexico, as every state, are bound to the foregoing points regarding American jurisprudence.

## **COUNT TWO:**

ACCUSED IS SUMMONED TO APPEAR ON CHARGE OF VIOLATING  
STATUTE/ORDINANCE \_\_\_\_\_ STATUTES NOT BEING DULY ENACTED LAW,  
HENCE NULL AND VOID ON ITS FACE.

On DAY TIME YEAR, Officer DONUT of the \_\_\_\_\_ Department, cited the undersigned with violating Statute/Ordinances \_\_\_\_\_.



**New Mexico Statutes Chapter 66 is Not Duly Enacted Law of the State of New Mexico.** Hence it is Null and Void in its entirety as law. No living person<sup>54</sup> or Thing may be the subject or object of its provisions.

However it is an undisputed, American political fact and American common law fact, from which it follows to be a state and national constitutional law fact, and, therefore, an undisputed jurisdictional fact, that New Mexico Statutes, Chapter 66, hence its provision at statute/ordinance \_\_\_\_\_ and \_\_\_\_\_ is not duly enacted law of the State of New Mexico. The following points and authorities establish the foregoing, from which it follows that said provision of statute is not a duly enacted law, and, therefore, is null and void, hence, unenforceable, in the instant case, widespread misrepresentations to the contrary notwithstanding, namely:

The Necessity of an Enacting Clause for Duly Enacted Laws of the State of New Mexico Is a Common Law Requirement Which Cannot be Derogated or Abrogated, and Is Either Express or Implied in All Written State Constitutions. It is Expressly Stated in the Constitution of the State of New Mexico Article IV, Section 15.

IT IS WELL established, pursuant to the Constitution of the State of New Mexico, Article IV, Section 15, that every law of the state shall have an enacting clause, to wit:

*"The enacting clause of every law shall read: Be it Enacted by the Legislature of the State of New Mexico . . ." -- the Constitution of the State of New Mexico, Article IV, Section 15.*

THE REQUIREMENT THAT all laws have an enacting clause is deeply rooted in our common law as a precedent to be observed by America's legislative bodies. This requirement was passed on as a part of America's common law heritage from the English common law.

The enacting clause is a form of testimony by the law's legislative authors. Whereby, they admit they are the law's true authors, to be held responsible and accountable for its provisions. By it, they admit it was considered and enacted by them as pursuant to duties and obligations of their political trusteeship, and they do not knowingly exceed the bounds of said trusteeship in drafting and enacting said law, and that they have authority to impose its provisions, by naming the subjects and objects of its provisions.

AN ALLEGED LAW WHICH has no such enacting clause is a fraud upon any person or thing charged with its violation. It testifies and admits to no official authority pursuant to the people's political trust. It is a violation of the people's political trust to impose a law with no

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<sup>54</sup> Person here is a living soul, distinguished from legalese which call corporation a "person."

enacting clause upon any person or thing. To charge a holder of the inherent political power with being in violation of an alleged law, represented to be the product of the people of the State of New Mexico, or their state legislature, or any derivative legislative body of the State of New Mexico, when said law has no enacting law, as in the instant case with the provisions of the New Mexico Statutes Chapter 66, is not merely a fraud against the Accused, but a crime committed against his person and property, and treason against him and all of the people of

HOW HAVE STATE courts pronounced on this mandatory requirement of an enacting clause if their state laws are to have the force and effect of law?

The following cases are instructive that the point is well understood regarding the want of authority of any legislatively created law or law represented to be legislatively created, namely:

*"Upon looking into the constitution, it will be observed that "The style of the laws of this State shall be: 'Be it enacted by the People of the State of Illinois, represented in the General Assembly.' (Art. 3 Section 11).\*\*\* The foregoing sections of Articles 2, 4, and 5 of the Constitution are the only ones in that instrument prescribing the mode in which the will of the people, acting through the legislative and executive departments of the government, can become law. \*\*\*That these provisions, giving the form and mode by which \*\*\* valid and binding laws are enacted are, in the highest sense mandatory, cannot be doubted. \*\*\* Then it follows that this resolution cannot be held to be law. It is not the will of the people, constitutionally expressed, in the only mode and manner by which that will can acquire the force and validity, under the constitution, of law, for this legislative act is without a title, has no enacting clause,\*\*\* and is sufficient to deprive this expression of the legislative will of the force and effect of law; and the same did not become, therefore, and is not, legally binding and obligatory upon the respondents. "City of Carlyle v Nicola, 165 NE. 211, 215, 216 (1929) , Nat. Bank of Chicago v Metrick, 1102 N.E. 2d 308, 310,410-1. 429(1951)*

*"As long ago as 1871, this court, in Vinsant v. Knox, 27 Ark. 266, held that the constitutional provision that the style of all bills should be, "Be it enacted by the General Assembly of the state of Arkansas," was mandatory, and that a bill without this style was void, although otherwise regularly passed and approved:"- Ferrill v. Keel, 151 SE. 269, 273, 105 Ark. 380 (1912)*

*"[T]he said section of the Constitution is imperative and mandatory, and a law contravening its provisions is null and void. If one or more of the positive provisions of the Constitution may be disregarded as being directory, why not all? And if all, it certainly requires no argument to show what the result would*

*be. The constitution, which is the paramount law, would soon be looked upon and treated by the legislature as devoid of all moral obligations; without any binding force or effect; a mere 'rope of sand,' to be held together or pulled to pieces at its will and pleasure. We think the provisions under consideration must be treated as mandatory. "Every person at all familiar with the practice of legislative bodies is aware that one of the most common methods adopted to kill a bill and prevent its becoming a law, is for a member to move to strike out the enacting clause. If such a motion is carried, the bill is lost. Can it be seriously contended that such a bill, with its head cut off; could thereafter by any legislative action become a law? Certainly NO!. Nevada v. Rogers, 10 Nev. 250, 255, 256, (1875); proved in Caine v. Robbins 131 P. 2d 516, 518, 61 Nev. 4126 (1942)*

EVEN IN STATES where no express statement of a requirement for an enacting clause is part of the state constitution, it has been held that such a clause is necessary. It cannot be otherwise, for **the absence of an enacting clause evidences that the law has no sponsor whose authority can be verified.**

IN GEORGIA, FOR example, the state constitution does not so expressly state. However the Georgia Supreme Court ruled that an enacting clause is essential; and, that without such clause the act of the legislature was **"a nullity and of no force and effect as law"** pursuant to *Joiner v. State*, 155 SE. 2d 8, 10, 223 Ga. 367(1967).What was the basis for the Georgia Court's ruling?

IT IS BASED upon the immutable requirement of Georgia's unwritten state constitution by and through Georgians' common law of immemorial antiquity. The citizens of Georgia, themselves, have no authority to reject the political principle found in their common law which holds that **they cannot be subject to the laws of men, a.k.a. legislative acts, which do not bear upon the face of each legislative act the authority of said act**, identifying it as an act of legislation of the named legislative body. This point is another political fact, hence **a fact of American jurisprudence**, which stands as a political truism, hence a legal truism, valid in every state, and at the national level of legislative endeavors. The following rulings, therefore, are as valid in the State of New Mexico as in every state of the Union of states, namely.

*Preckel v. Byrne*, 243 N.W. 823, 826, 62 N.D.356 (1932)

*"The purpose of an enacting clause in legislation is to express on the face of the legislation itself the authority behind the act and identity it as an act of legislation." "It is necessary that every law should show on its fact the authority by which it is adopted and promulgated, and that it should clearly appear that it is intended by the legislative power that enacts it that it should take effect as a*

*law." People v Dettenthaler, 77 N.W. 450,451, 118 Mich. 595 (1898), citing Swan v. Buck, 40 Miss. 268 (1866)*

The truth regarding the New Mexico Statutes Chapter 66 is that they are a restyling and re-codification of session(s) laws of the New Mexico state legislature. As such, Chapter 66, and all of the chapters of the New Mexico Statutes, is the work product of **committees of private citizens**, proceeding in **no official capacity**, and having **no authority** to enact laws to which anyone is subject. It is for this reason that neither NMSA Chapter 66, nor any other chapter of said statutes, has an enacting clause styled in the manner prescribed in the New Mexico Constitution, Article IV, Section 15. **All provisions of the said Chapter 66 are, therefore, null and void, and represent no law to which the Accused is subject upon any lawful grounds whatsoever.**

WHEREFORE, IN LIGHT of the foregoing, it is an undisputed fact that Accused has been charged with violating no provision of any duly enacted law of the State of New Mexico. The undisputed jurisdictional fact is that all provisions of the New Mexico Statutes Chapter 66 are null and void law, to include statute/ordinance \_\_\_\_\_, and \_\_\_\_\_, and no holder of the inherent political power can be either the subject or object of the provisions of statutes found within said chapter.

### **COUNT THREE:**

ARGUENDO, FOR THE MOMENT, THAT STATUTE/ORDINANCE \_\_\_\_\_ and \_\_\_\_\_ IS DULY ENACTED LAW, NEVERTHELESS ACCUSED IS UNLAWFULLY CHARGED WITH VIOLATION OF ADMINISTRATIVE LAW IN ABSENCE OF SHOWING OF A NEXUS CONNECTING ACCUSED TO A RELEVANT ADMINISTRATIVE JURISDICTION

It is a prima facie fact that when the Accused, a holder of the inherent political power of the State of New Mexico, was charged with violation of statute/ordinance \_\_\_\_\_ and - \_\_\_\_\_ he was Accused of violation of a provision of administrative law. As stated in the foregoing, **the citation named no duly enacted law; hence was null and void on that ground alone and therefore, ab initio, had no authority of law on any terms.**

However, **arguendo for the moment** that said provision was cited as a provision of duly enacted law. Then, it is further a prima facie fact that it is a provision of a body of administrative law, intended by the state legislature to be administered and enforced within an administrative jurisdiction, created by the state legislature, expressly to be the domain of the Motor Vehicle Division of the Taxation and Revenue Department, hereinafter MVDTRD. And , whereas said legislature's creature, the MVDTRD, is expressly to have jurisdictional dominion over Chapter 66 and certain other chapters of the New Mexico Statutes, which fact is prima facie evidenced in the New Mexico Procedures Act, hereinafter NMAC, promulgated rules New Mexico Administrative Code Annotated, statutized as NMSA 197812-8-1 to 12-8-25

THIS MATTER OF the administrative law nature of the body of laws of which the provisions of New Mexico Statutes, Chapter 66 are a part, is fully established in the undersigned Accused's Memorandum of Law in the Matter of What is the Motor Vehicles Division of the Taxation and Revenue Department and Who is Subject to Its Jurisdiction. This was filed with the clerk of the court in the above-styled matter, as afore-referenced, wherein it is also established that the MVDTRD is an administrative agency, and that there must be nexus connecting any person to the jurisdiction of said agency. The afore-referenced memorandum of law, in its entirety, is made a part of this memorandum of law by reference.

**Arguendo, for the moment**, that any holder of the inherent political power could, upon any terms and conditions, be subject to the jurisdiction of any administrative agency creature of the aforesaid state legislature, or any other state political trustee(s), **there must be a nexus showing the subject person is engaged in an activity regulated and regulatable by the agency at issue.** This point is established in the aforesaid memorandum of law. In the instant case, it is a fact **there is nothing in the record of the charging documents**, now a part of the public record, which show the undersigned/Accused is so engaged with the MVDTRD, by a nexus to the MVDTRD, or any other agency. On this ground alone this case must be dismissed forthwith.

COUNT FOUR:

NO STATE POLITICAL TRUSTEE HAS POWER TO ENGAGE THE ACCUSED IN ANY MANNER OF ADJUDICATION, CONDUCTED AS AN AD HOC, SUMMARY PROCEEDING, AS IN THE INSTANT CASE

THE ACCUSED IS a holder of the inherent political power of the State of New Mexico, pursuant to the people's common law of immemorial antiquity and the unwritten constitution of the State of New Mexico, which political fact of primacy is evidenced at the Constitution of the State of New Mexico, Article II, his written state constitution. In said capacity, his so-called fundamental rights are unalienable.

PURSUANT TO AMERICAN political theory inherent in the American people's aforesaid common law, Accused's unalienable rights are granted by no man, but instead are the gift of a sovereign Creator to each and all of the American people. Among these unalienable rights is the right of all of the American people's to full, a.k.a. plenary, due process of law, whenever summoned to defend in either a civil matter or a criminal matter.

PURSUANT TO THEIR unalienable rights to plenary, due process of law, the people of the State of New Mexico ordained and established a judicial department of their state government comprised of judicial offices, to be occupied by fellow Citizens serving as political trustees to the people, when acting in official judicial capacities.

WITHIN SAID JUDICIAL department, the people establish courts having either a civil or a criminal jurisdiction known to the people's common law. Said judicial officers are to conduct civil proceedings and criminal proceedings, pursuant to terms and conditions of the people's political trust, as set forth in their aforesaid written state constitution. And whereas said constitution is the written and ratified document evidencing the terms and conditions of said political trust.

THE SOLE PURPOSE of the creation of said department is to provide a regulated system of judicial courts for every holder of the inherent political power, to adjudicate disputes with fellow holders of said power in civil matters, and to defend against charges of criminal acts known to the people's aforesaid common law.

ALL COURTS SO created within said department are said to be judicial power courts, meaning that they owe their charter, and the basis for their authority, to constitutional empowerment by and through the people.

THEREFORE IT IS a political absurdity, from which it follows that it is a legal absurdity, to argue that any holder of the inherent political power of the State of New Mexico can be summoned to appear in any court but a judicial power court, of either the civil jurisdiction or the criminal jurisdiction, wherein are observed the unalienable, plenary, due process of law rights of holders of the inherent political power, whether appearing as plaintiff or defendant in civil matters, or as defendant in criminal matters.

IT WOULD BE an exercise in pathetic tautology and ridiculous irrelevancy to argue that court rulings must be evidenced in support of the foregoing. **For what is said is drawn directly from the prima facie facts of American political theory upon which the entire body of governing principles and laws pertaining to the business of governing are dependent in their entirety.** Nevertheless, the following court rulings are presented as representative of the political fact points afore-stated, namely:

State v. Shumaker, 63 A.L.R. 218; 200 Ind. 716, 164 N.E. 408

*"All sovereign power is vested in the citizens of the state, who are limited only as expressed in the Constitution."*

FURTHER THE DECLARATION of Rights article of the constitution of every one of the 50 states of the American Union of states proclaims, in the matter of the people's common law, unalienable rights. Court cases have declared this self-evident jurisdictional fact.

"PRIMACY OF POSITION" means that no provision of any of the succeeding Articles of the New Mexico state constitution may be interpreted as meaning that any power whatsoever has been conferred therein to any office of the New Mexico state government, which can only be occupied by a state political trustee, which may operate to derogate or abrogate any of the

people's common law unalienable rights. This same fact of life exists in each and every one of the aforesaid states.

IN THE INSTANT case, it is **prima facie evident from the record**, that the proceedings to which the undersigned/Accused is summoned to appear, **are ad hoc, summary proceedings**, meaning that they are in violation of Accused's unalienable, plenary, due process of law right. It is evident that this instant matter is **neither** being conducted in a civil jurisdiction known to the people's common law, nor a criminal jurisdiction known to said law, because parties to the proceeding are following neither the Rules of Civil Procedure, nor the Rules of Criminal Procedure, promulgated for the conduct of judicial proceedings, according to plenary, due process of law requirements of the people. Nor is this proceeding being conducted pursuant to any promulgated rules for a summary proceeding known to the MVDTRD or any other agency creature of the aforesaid state legislature.

WHEREFORE, IT IS prima facie evident from the record, that Accused is summoned to appear in an ad hoc, summary proceeding, in the nature of a Star Chamber proceeding, contrary to all delegation of judicial powers authorized by the people, to include their common law, their state constitutional law and their national constitution.

ARGUENDO, FOR THE MOMENT, that Accused, by and through suspension of the political theories inherently a part of the people's aforesaid common law, and their unwritten state constitution, and as expressed in their aforesaid written constitution, and therefore could be subject to the jurisdiction of the MVDTRD and its summary proceedings, **an absurdity on its face**. The instant case goes beyond that degree of violation of the people's political trust, a.k.a. the public trust, and **operates wholly and fully to abrogate the Accused's unalienable right to plenary, due process of law**, by proceeding in the manner of a Star Chamber, **denying** his unalienable right, as said holder of the inherent political power, to challenge the above-styled court's presumption of subject-matter jurisdiction, including **denying** his right to directly ask relevant, jurisdictional prerequisite questions, and his right to get direct, relevant answers to each of his questions, and **denying** every other facet and requirement of his procedural and substantive due process rights.

PURSUANT TO THE foregoing, the judge, the prosecutor, and all other parties engaged in the instant case, are in absolute violation of the duties and obligations of their respective state political trusteeships. And, consequently, they proceed in their personal capacities, without recourse to a defense, or claim, of so-called absolute or partial sovereign immunity, attendant to their political trusteeships, when engaged in matters of their respective political trusts, a.k.a. official business.

THEREFORE, ON THE face of the record, the accusing officer, the prosecutor and the judge, in the instant matter, proceed against Accused in their personal capacities, in criminal trespass, and treasonably against the people of the State of New Mexico.

SUBMITTED WITH ALL due respect on this day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_.

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Free Man Name, Accused/Defendant in Error  
Proceeding in propria persona  
Address and phone number



DECLARATION OF SERVICE

I, \_\_\_\_\_ . hereby declare that on \_\_\_\_\_, \_\_\_\_\_, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge, NAME AND ADDRESS

Prosecutor NAME AND ADDRESS

OTHER DEPARTMENTS, AGENTS, AGENCIES NAME AND ADDRESS.

\_\_\_\_\_  
Your Free Man Name  
List Cases and Authorities

# Memorandum of Law on the Right to Travel

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**STATE OF NEW MEXICO**  
**COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>55</sup> ,  v.  Free Man Name  Defendant in Error <sup>56</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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## MEMORANDUM OF LAW ON THE RIGHT TO TRAVEL

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico, Article II, Section 2 & 4), hereinafter ACCUSED, and, ipso facto, a citizen of the body politic, comprised solely of the people, who are the State of New Mexico, and, ipso facto, an American Citizen, and, further, coming under said people's law of the land, the common law of immemorial antiquity, and submits this memorandum, with all due respect, as evidence and proof of the prevailing and controlling law regarding the matter now before the Court.

THIS MEMORANDUM ADDRESSES the matter of the American Citizens' unalienable right to use the public highways and byways within the geographical boundaries of the State of New Mexico, and every state of the American Union of States, a.k.a. these united States of America, and within the territories of these United States, to include the District of Columbia, as a

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<sup>55</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>56</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

matter of sovereign right, as holders of the inherent political power of their states and their nation, notwithstanding each citizen's duty and obligation to observe, respect, and obey the common law rules of the road.

THIS MEMORANDUM FURTHER addresses the political fundamental fact that there can be no law making or rule making, intended to convert the sovereign citizens' right to use the public roads into a mere privilege, for want of such authority, by any office holder, within any one of the three constitutional branches of governance of the state government of the State of New Mexico.

THIS MEMORANDUM OF law is filed with the Clerk of the Court, in the instant matter, on DAY TIME YEAR, in support of his Certified Demand to be Informed of the Nature and Cause of the Accusation, filed with the aforesaid clerk on the same day, and his Sworn Demand to Dismiss for Want of Subject Matter Jurisdiction, likewise filed on the same day.

WITH RESPECT TO the aforesaid, also reference Accused's Memorandum of Law in Matter of What is the Motor Vehicle Division of the Taxation and Revenue Department and Who is Subject to Its Jurisdiction, also filed with aforesaid clerk on the same day in the instant matter, which memorandum of law is herewith incorporated in this memorandum of law by reference.

## INTRODUCTION

IN AMERICA, THE people waged a successful campaign for their independence from an earthly prince, said to be the Crown of England. The campaign, a.k.a. the American War of Independence, a.k.a. the American Revolutionary War, was waged by flesh and blood mortals, a.k.a. the American people.

IN CONSEQUENCE OF said war of independence, the American people presumed themselves to be the only sovereigns of their land -- their nation. No longer were they subjects of any earthly prince. The fundamental political principles, upon which said Americans founded their nation-states, were declared in the Declaration of Independence (1776)).The aforesaid document states in part:

*"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 by Men, deriving their just powers from the consent of the governed..." Declaration of Independence (1776)*

IT IS WELL established that the people of each state of the American Union of States, a.k.a. the(se) united States of America, hold inherent political power; and hence, are the state. In New Mexico this fact is in the Constitution of the State of New Mexico, namely:

*"All political power is vested in and derived from the people; All government of right originates with the people, it is founded upon their will and is instituted solely for their good." Constitution of the State of New Mexico 1910, Article II Section 4.*

The exact wording is used in the present day version, Article II, Section 2, compiled 1978.

*"All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness." New Mexico Constitution, Article II, Section 4.*

IT IS FURTHER well established that the entire body of American jurisprudence, upon which governance in these United States of America is wholly dependent, at the local, state, and national levels, is itself wholly dependent upon political principles, **to include the un-rebuttable presumption the people are the holders of the political power**; hence are the political trustors of their states and their nation, with the power of sovereigns to create, alter or abolish their governments by and through their respective state political trust-deeds, a.k.a./ their written state constitutions, at the state level, and by and through their national political trust-deed, a.k.a. their written Constitution of the United States, at the national level.

IT IS FURTHER well established that all offices of governance in America, whether at the local, state, or national levels, are said to be offices of public trust in the gift of the people, meaning that **each office holder is a political trustee**, having no powers and authorities but those which the people, as sovereigns, are capable of granting to the office, in the first place, and which have been granted to the office, in the second place, by and through the people's aforesaid political trust deeds.

IT IS FURTHER well established that **no power or authority** is vested in any local, state, or national public office which **would derogate or abrogate any unalienable right of the sovereign citizens**, a.k.a. political trustors, for want of the power of the sovereign people, themselves, to derogate or abrogate any of their unalienable rights, in the first instance, or power to delegate such a power of authority in the second place.

IT IS TAUTOLOGICAL<sup>57</sup> argument for the Accused to have to remind State of New Mexico public office holders, and their agents, of any of the aforesaid political facts, upon which all authority of government in America are wholly dependent, for **they are self-evident from the face of the public record**.

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<sup>57</sup> Tautology is a logical argument constructed in such a way, generally by repeating the same concept or assertion using different phrasing or terminology

IT IS TAUTOLOGICAL argument for the Accused to have to remind State of New Mexico public office holders, and their agents, that all law upon which they rely in support of their official powers and authorities, in their respective state political trusteeships, is wholly dependent upon the aforesaid self- evident political facts of American governance, whether at the local, state, or national levels.

IT IS TAUTOLOGICAL argument for the Accused to have to remind State of New Mexico public office holders, and their agents, that when any office holder of the State of New Mexico government, or its so-called instrumentalities, **exercise any powers not delegated**, in the first instance, by the people, said office holders **commit treason** against the people, and commit **criminal fraud, criminal extortion**, and other **felony criminal acts**<sup>58</sup>.

REGRETTABLY, THE AMERICAN people are **now reduced to such a state of witlessness** that few within or without public offices (1) understand the nature of the people's authority, (2) understand the nature and limitations of public office holders authority, (3) have meaningful understanding of the political facts of governance, to include the fact that the laws of governance in America are wholly dependent upon the political facts of governance first.

THEREFORE, IN LIGHT of the foregoing, this memo of law is further ACTUAL and constructive NOTICE to all parties of:

Accused's right to use the public roads, so long as he observes the common law rules of the road, and respects the right of his fellow sovereigns to use the road; and,

Accused's right to use the public roads, without first obtaining the permission of any official or agent of the State of New Mexico government, or any of its instrumentalities, by way of any manner of licensure scheme, vehicle registration scheme, insurance scheme or any other manner of scheme which may be devised by his state legislators, proceeding pursuant to no authority granted by the people, for want of a power held by the people to exercise the authority themselves; and,

Accused's right to answer to no charge of violation of law of statutory origin, if said law is not duly enacted, according to the people's common law of immemorial antiquity (wherefore the unwritten state constitution of the State of New Mexico is part of the people's common law), and as further evidenced at Article II Section 4 of the written Constitution of the State of New Mexico; and,

Accused's right to answer to no charge of violation of law in the nature of administrative law, administered and enforced by administrative agency creature of the state legislature, having

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<sup>58</sup> Terms like "fraud", "extortion," and "felony criminal acts" are not political rhetoric, but legal terms used appropriately to describe the criminal conduct of State trustees.

only a legislatively created administrative jurisdictional reach, and existing outside any constitutional office created by the people of the State of New Mexico, by and through their political trust-deed, the Constitution of the State of New Mexico, hence extra constitutional law, hence private law, to which no sovereign citizen holder of the political power of the State of New Mexico may be subject, notwithstanding no nexus is in evidence, which presumptively connects the Accused's to the extra constitutional scheme in the first instance, nor promulgated rule in evidence purporting to make specific the intent of the state legislators, when they presumptively duly enacted a law allegedly violated, inasmuch as the accusing officer cited merely evidence of law when said officer cited MVDTRD statute/ordinance \_\_\_\_\_; and,

Accused's right to challenge any law duly enacted by his state legislators as unconstitutional, if he being charged with violating a duly enacted law, notwithstanding, in the instant case, that he has been charged with violating merely evidence of law, and no law has been averred in a proper charge of violation of law - a matter having serious **felony consequences** to say nothing of being an **act of treason** as aforesaid; and,

Accused's right to answer to charges in **no other forum** than **a civil or criminal jurisdiction**, pursuant to his common law, and provided for by his aforesaid political trust-deed, the Constitution of the State of New Mexico, wherein he shall enjoy his unalienable right to full, a.k.a. plenary, due process of law; and,

Accused's right to challenge any proceeding of a summary nature, as a violation of his unalienable right to plenary, due process of law, including his right to bring criminal charges, if he be compelled to such a forum, and his challenge of its authority left unanswered, and, more especially, if he be compelled to submit to the treasonous outrage of an ad hoc, summary proceeding, as in the instant matter: and,

Accused's right to challenge the subject-matter jurisdiction of any court or office of the State of New Mexico government, when said office holder(s) presume to have subject-matter jurisdiction over him, in a matter affecting his sovereign unalienable rights; and,

Accused's right to see his aforesaid challenge duly answered, as a matter of the absolute duty and obligation of the office holder(s) to duly answer said challenge, and not remain silent in any manner whatsoever, to include, but not limited to, evasion of the challenge by failing to directly answer the specific points of Accused's averments in his demands, in the first instance, and the specific questions in his depositions, in the second instance, if he be compelled to employ his right to discovery, to get the jurisdictional fact answers, as a consequence of state actors ignoring their duty to forthrightly answer the challenge set forth in his aforesaid demands.

## THE LIMITATIONS OF AMERICAN GOVERNMENTS

INNUMERABLE RULINGS OF American state and federal courts may be cited, which give testimony and evidence to these self-evident truths of governance in every American state, and under the national government; namely, the matter of who are the inherent holders of the political power, a.k.a. the sovereigns, in America, and the concomitant inherent limitations of said governance in America, to wit:

*"All sovereign power is vested in the citizens of the state, who are limited only as expressed in the Constitution." State v. Shumaker, 63 A.L.R 218, 200 Ind. 716, 164 N.E. 408 (1928)*

*"Government is not sovereignty. Government is the machinery or expedient for expressing the will of the sovereign power." Chisholm v. Georgia, 2 Dallas (2 U.S.) 419, 472 (1793)*

*"[T]he sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty, and property, and when the government assumes other functions it is usurpation and oppression." City Council v. Kelly, 30 So. 67, 69, 142 Ala. 552 (1905)*

*"The office and purpose of the constitution is to shape and fix the limits of governmental activity. It thus proclaims, safeguards and preserves in basic form the pre-existing laws rights mores, habits and modes of thought and life of the people as developed under the common law and as existing at the adoption to the extent and as therein stated. Dean v. Paolicelli 72 S.E. 2d 506, 510; 194 Va. 219 (1952)*

*"Hence, it may be said with great propriety, that a constitution **"measures the powers of the rulers, but it does not measure the rights of the governed;"** that it is not the origin of rights, nor the fountain of law-but it is the 'framework of the political government, and necessarily based upon the pre-existing condition of laws rights habits, modes of thought." Cooley Con. Lim., 37. Atchison & Nebraska R.R. Co. v. Baty, 6 Neb. 37, 41 (1989).*

*"There is nothing primitive about a State Constitution. It is based upon the pre-existing laws rights, habits, and modes of thought of the people who ordained it, \*\*\*and must be construed in the light of this fact." Commonwealth v. City Newport News, 164 S.E. 689, 696 (1932).*

*"Where fundamental personal liberties are involved, they may not be abridged by the States simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose. Where there is a significant encroachment upon personal liberty, the State may prevail only upon*

*showing a subordinating interest which is compelling. City of Carmel-By-The-Sea v. Young, 466 P. 2d 225, 232; 85 Cal. Rptr. 1(1970)*

*"A man may not barter away his life, freedom, or substantial rights (Constitution, Article1, para.1) [Reference here is to the New Jersey state constitution]*

*"The constitutional rights of liberty and property may be limited only to the extent necessary to subserve the public interest. Cameron v. International Alliance, Etc., 176 Atl. 692, 700; 118 N.J. Eq. 11(1935)*

*"The rights of the individual **are not derived from government agencies**, either municipal, state or federal, or even from the Constitution. **They exist inherently in every man**, by endowment of the Creator, and are merely reaffirmed in the Constitution, **and restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government**. The people's rights are not derived from the government, but the government's authority comes from the people. The Constitution but states again these rights already existing, and **when legislative encroachment** by the nation, state, or municipality **invade these original and permanent rights, it is the duty of the courts to so declare, and to afford the necessary relief"** City of Dallas, et al. v Mitchell, 245 S.W. 944, 945-46 (Tex - 1922).*

NOTE WELL IN the aforementioned City of Dallas the statement ". . . restricted only to the extent that they have been voluntarily surrendered by the citizenship [sic] to the agencies of government." This statement touches on a theme honed in the last eighty, or more years by a multitude of privately endowed, private law commissions grinding out ever more feverishly their private uniform code systems and other bodies of private law<sup>59</sup> for incorporation into de facto corporate statutes enacted by puppet state governments and the puppet Congress of the United States - all allegedly in the name of the people.

A GREAT BULK of these laws are of a peculiar variety, generically known as "administrative laws" which depend, for their de facto, corpora ficta authority, upon the presumption of a legal doctrine that the people may voluntarily relinquish, convey, grant, barter, sell, abandon, bequeath, ad nauseam their unalienable rights, and enter into every manner of outrageous agreements in return for benefits, privileges, ad nauseam, being offered by de facto Santa

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<sup>59</sup> Private law: **Private law** is that part of a civil **law legal** system which is part of the jus commune that involves relationships between individuals, **such as the law of contracts or torts** (as it is called in the common **law**), and the **law** of obligations (as it is called in civil **legal** systems). Private law is opposed to common law. Private law involves duties mutually agreed upon by the signers of a contract. It applies to the parties of the contract, but not to the whole world.



Claus government instrumentalities, whether federal, state or local, which were never theirs to offer, in the first instance. Prima facie, as discussed above, Americans cannot surrender their unalienable, a.k.a. natural, a.k.a. common law, rights in exchange for privileges from administrative agency creatures "ordained" and "established" by allegedly duly enacted laws, of their own state, or federal legislatures - a legal absurdity on its face.

IT IS NON SEQUITUR to acknowledge on the one hand the American citizen holds the inherent political power in his nation and over governments which he creates, and to believe and so state that such a citizen's rights could be nothing else but unalienable; otherwise the individual is not really the sovereign, . . . and then argue, on the other hand, the proposition that said sovereign can "voluntarily surrender" any part of his sovereign rights to any instrument of his government. Such a statement implies transfer of sovereignty, a political impossibility for the sovereign American citizen, hence a political and legal absurdity on the face of the statement. The statement in City of Dallas is seen to be even more absurd if the citizen is politically and jurally literate enough to know that all "agencies" of American local, state, and federal governments are created by office holders in legislative departments most often, and may even be created by office holders in the executive or judicial departments, but in no case do said office holders have delegated authority to create constitutional offices, because only the people have this power. And, the people do not re-delegate it to their delegated office holders. Hence said offices are quasi offices of government, generically known as agencies, which is to say that they are private in nature because they are extra constitutional.

THE AFORESAID NON sequitur in City of Dallas is an all-too- typical example of the **treasonous criminal fraud** practiced daily in courtrooms across America.

IN EVERY INSTANCE, as is implied in City of Dallas (supra), **fraudulent doctrines** are entertained by state (same said for federal) actors, that the citizenry may somehow surrender or abandon their unalienable rights, in exchange for privileges and benefits offered by administrative agencies, created by their delegates in state legislatures (or in Congress, where federal agencies are concerned). Such statements are possible **only from incompetents** who do not understand the meaning of the language they use, or the duties and obligations of their political trusteeships. Or, they are the utterances of willful men, intent upon **conspiring against the people** by causing them through judicial pressure to resign their sovereign citizenship, as a matter of treason practiced.

Take special note of the meaning of the term "unalienable", to wit:

*"UNALIENABLE". [Adjective]. NOT alienable; that cannot be alienated; that may not be transferred; as unalienable rights." Webster's American Dictionary of the English Language, 1st Ed. Vol. II, pg. 101(1828)*

*"Unalienable". Inalienable; incapable of being alienated, that is, sold and transferred. Inalienable rights. Rights which can never be abridged because they are so fundamental." Black's Law Dictionary, 6th Ed. Pg. 1523. (1990)*

ANY EXERCISE IN **legal solecisms**<sup>60</sup>; that is, executive legislative or judicial constructions, erected by the artful manipulations of private lawyers and others, either trained or gifted, in the science of jurisprudence; which, by sophistry<sup>61</sup>, craft and illusion<sup>62</sup>, may establish in the minds of the public the proposition that an activity, or an act, which an American has an unalienable right to do, can be reduced to criminal activity, or acts requiring licensure by representatives of the people, sitting in public offices; and, which offices were created by the people, in the first instance, in order to make said activity, or acts legal, is the practice of common law treason by said office holders, lawyers, their principles, and their accomplices against the sovereign people.

*Revelation 9:21 nor did they repent of their murders or **their sorceries** (political, legal tricks) or their sexual immorality or their thefts (commercial schemes).*

7 (in reference to mystical Babylon). . . and all nations were deceived by your sorcery (political, legal tricks).

## **THE PEOPLE'S STATE AND THE PEOPLE'S STATE GOVERNMENTS VERSUS THE LEGAL WIZARD'S "FOURTH BRANCH OF GOVERNMENT" STATE**

AS AFORESAID, IT is well established that the offices of state governments are created by the sovereign people, by and through their respective state constitutions, hence are said to be **constitutional offices**<sup>63</sup>. Holders of such offices serve as political **trustees** to the people. It is well established that said offices are entrusted with **limited** and **enumerated** powers<sup>64</sup>, but that, in no case, can any powers within said offices be greater than the powers of the people, as political trustors, who created them. This is a fundamental of the common law of agency, wherein prima facie, the people's constitutions are common law instruments, written in the language of the common law. **It would be a legal absurdity to argue** that the people's state and federal constitutions are not common law documents, written in the language of the

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<sup>60</sup> Legal solecisms: an intentional, deliberate speech designed to empower fraudulent doctrines in favor of the State's unlawful actions.

<sup>61</sup> Sophistry: specious arguments displaying ingenuity in reasoning for the purpose of deceiving someone.

<sup>62</sup> Illusion: the practice of sorcery, a trick of the mind.

<sup>63</sup> A constitutional office is one created by a State constitution which was in turn created by the sovereign people, under the LORD God, under the Ten Commandments, for the good of the people.

<sup>64</sup> Political powers are a grant of the people; and, such powers are enumerated in clear, precise sentences contained in a state's constitution; and, are therefore, limited by the true meaning of its words and terms. If it is not written, it is not law.

common law; and, ipso facto<sup>65</sup>, **it would be a legal absurdity to argue** that the people's delegated representatives, sitting in legislative offices created by the will of the people, have powers and authorities, which they may allegedly re-delegate, which are greater than those possessed by the people who created their public offices.

THEREFORE, when the people's delegated representatives, sitting in their state legislatures, assume authorities which the people did not grant or which the people had no power to grant, then said delegated representatives **proceed under self-assumed authority, in de facto capacity**. **Such is the case when** state legislators create administrative agencies, presumptively having executive, legislative, and judicial authorities, under a single appointed executive head. **No state legislator has the authority to create new offices of government**; but, when these legislative bodies create administrative agencies, they do just that, **notwithstanding** widespread representations to the contrary. **No state legislator has the authority to create a legislative office, an executive office, or a judicial office**. It is a legal absurdity and sophistry to argue that they do.

THEREFORE, the legal wizards, practicing sorcery according to the Scripture, by legal<sup>66</sup> metaphysical<sup>67</sup> flimflam<sup>68</sup>, say that these creatures have **quasi-legislative, quasi-executive, and quasi-judicial powers<sup>69</sup>**; and, pursuant to their legal metaphysical flimflam, and in their efforts to provide the patina of legitimacy to these de facto governing creatures, the legal wizards have devised an ad hoc Delegation Doctrine, pursuant to which it is argued that these creatures are instrumentalities of government, having an administrative jurisdiction over persons or objects where there is found to be a licensure nexus.

FURTHER, THE LEGAL wizards, and their legal lackeys and stooges, sitting as the people's elected representatives, have, ex-post facto, enacted Administrative Procedures Acts, in each of the state legislatures, in a further attempt to explain a prima facie, unexplainable constitutional absurdity, namely, the existence of these "fourth branch" of governance creatures, wherein it is proposed to their de facto Delegation Doctrine, that there must be rules promulgated by the head of each administrative agency, which make specific, and otherwise explain, who is subject to said administrative law statutes, allegedly enacted by the

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<sup>65</sup> ***Ipso facto*** is a Latin phrase. It is directly translated as "by the fact itself," which means is a *direct* consequence, a resultant *effect*, of the action in question, instead of being brought about by a previous action.

<sup>66</sup> Legal: something permitted or authorized by men, but not something necessarily approved or authorized by the LORD God in His Law-word.

<sup>67</sup> Metaphysical: existing in the realm of ideas, but not in creation; an idea, not a thing; a thought, whether right or wrong that cannot be seen, but that can be spoken and heard.

<sup>68</sup> Flimflam is dishonest behavior meant to defraud and deceive for commercial gain in violation of the Tenth Commandment in God's law-order.

<sup>69</sup> Quazi means "resembling;" "having some, but not all of the features" of legitimate political powers; and, therefore, is unconstitutional on its face; and, its rulings void.

state legislatures. But, in practice, state agency bureaucrats routinely practice administration and enforcement of their legislatively assigned administrative laws upon all citizens, upon whom they **presumptively** choose to set their sights, as though every citizen were subject to their specific and peculiar administrative jurisdiction.

**IT IS NOT** exaggeration to say that agents of these "fourth branch" instrumentalities of government, at the state and federal level, have a "Jurisdiction-For-Us" mentality, almost invariably, and really don't have a clue as to how limited their administrative jurisdiction happens to be. Consequently, they not only violate constitutional provisions, but God's law by violating God's law-order through enforcement of man-made codes and statutes:

*Can wicked rulers be allied with you, those **who frame injustice by statute?**  
(Psalm 94:20)*

HEREINAFTER, IN THIS memorandum, when referring to these de facto, corpora ficta creatures of state legislatures, the phrase, "the State," will be used. "The State" refers to ultra vires created governing bodies, generically known as administrative agencies--sometimes described as being "entities," a.k.a. "instrumentalities," "commercial franchises<sup>70</sup>," within a "fourth branch" of state governments, which state legislatures create, pursuant to their aforesaid self-assumed authority, for innumerable purposes; and, as deemed necessary, to meet the needs or fancies, of America's legal wizard class and their sponsors. Promoters and sponsors of the State propagandize the idea that the people are the subjects of the State, or commercial slaves, or political concubines, or the host upon which parasitical agencies feed, when patently the American people cannot be subjects of any sovereign governing power, except in the most limited of senses, to wit:

"Sovereignty is the right to govern, ~ In Europe the sovereignty is generally ascribed to the Prince; here it rests with the people; there, the sovereign actually administers the Government; here, never in a single instance; our governors are the agents of the people, \*\*\* Their Princes have personal powers, dignities, and pre-eminencies, our rulers have none but official."  
Chishoim v. Georgia, 2 Dallas (2 U.S.) 419, 472 (1793)

**HOW MUCH SOVEREIGN power does any agent of any administrative agency have?** None that is not granted by the state legislature which created the agency or that operates to derogate or abrogate unalienable rights belonging to the people.

How much sovereignty do the state legislators have to grant to their de facto, corpora ficta creatures, generically known as administrative agencies? NONE! Why? Because State

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<sup>70</sup> Commercial franchises are concoctions of administrative agencies that proceed against American Citizens on the presumption that Citizens are under contract with the State.

legislators are delegated no powers of a sovereign from the people, in the first instance, therefore, State legislators have no power to grant sovereign powers to new governing creatures, which they presume to have sovereign power to create in the first instance. Further, State legislators have no authority to delegate their duties to State agencies any more that a married man can delegate his duties of husband to another man.

Therefore, can a state legislator require the citizen to be subject to the jurisdiction of new government offices, which it presumes to have authority to create? Does a state legislator have power to require the state citizen to get a driver license from the government instrumentality, which he presumes to create, in order to use the public highways?

Can a state legislator convert a citizen's right to use the public highways into a privilege, and make it a crime if said citizen uses said road without permission of the state legislators, or fails to meet any of the state legislators' other terms and conditions attendant to their presumption of power to create the citizen's right into a mere privilege?

Can a state legislator create an administrative agency with authority to administer and enforce such requirements?

Can legal wizards invent legal metaphysical grounds for any of the aforesaid presumptions of sovereignty and law?

Can legal wizards lawfully invent a legal metaphysical government, a fiction of the mind, to which the American people are mere subjects?

It appears that most of the business of modern American state governments is founded on legal absurdities, legal sorcery, and are extra constitutional. It appears that the practice of treason against the sovereign people, pursuant to the people's law of the land, who are the political trustors and beneficiaries of their state political trusts, is wide-spread by their political trustees, a.k.a. public servants, and functions a treasonous public policy which thrives on ignorance and witless minds.

### **THE STATE'S AUTHORITY TO LICENSE THE PEOPLE'S USE OF THEIR PUBLIC HIGHWAYS AND TO REGULATE SAID USE PURSUANT TO "FOURTH BRANCH" OF GOVERNMENT LAWS GENERALLY**

IN THE NAME of alleged licensure-based government regulatory authority and like kind of extra-constitutional, hence treasonous, de facto doctrines, the following authorities provide insight.

*"A license is merely a permit or privilege to do what otherwise would be unlawful". Payne v. Massey, 196 S.W. 2d 493; 145 Tex 237, 241 (1945).*

*"The purpose of a license is to make lawful what would be unlawful without it."*  
*State v. Minneapolis-St. Paul Metro Airports Corn 'n, 25 NW. 2d 718, 725 (1994)*

*"A license is a right granted by some competent authority to do an act which, without such a license, would be illegal."* *Beard v. City of Atlanta, 86 S.E. 2d 672, 676; Ga. App.584 (1955)*

*"A license confers the right to do that which without the license would be unlawful"* *Littleton v. Burgess, 82 P.864, 866; 14 Wyo. 173 (1878) .*

*Generally, a license is a permit to do what, without a license, would not be lawful."* *Bateman V. City of Winter Park; 37 So. 2d 362, 363; 160 Fla. 906 (1948)*

## LICENSE

*In Governmental Regulations. Authority to do some act or carry on some trade or business, in its nature lawful but prohibited by statute, except with the permission of civil authority or which would otherwise be unlawful."* *Bouvier's Law Dictionary 8th Ed., 3rd Rev. Vol.2, pg 1976 (1914)*

## License

*"A permit granted by an appropriate governmental body, generally for a consideration, to a person, firm, or corporation to pursue some occupation or to carry on some business subject to regulation under the police power. A license is not a contract between the state and the licensee, but is a mere personal permit. Rosenblatt v. Cal. State Board of Pharmacy, 69 CaL App. 2d 69, 159 P 2d 199, 203 (1945) Neither is it property or a property right. American States Water Service Co. of Cali. v. Johnson, 31 Cal. App. 2d 606, 88 P.2d 770, 774 (1939)."*  
*Black's Law Dictionary, 6th Ed. Pgs. 919, 920.*

IN PASSING, ONE can hardly avoid the observation that any class of deeds, acts, activities, conduct or behavior, et cetera, which would be unlawful, hence mala in se crimes, pursuant to common law and the law of nature and the creator, are, and must, immutably remain, crimes against the society of men. It necessarily follows that any enterprise, which sets itself up as the rightful authority to override undertakings by issuing licenses, must be declaring itself above the sovereign people's common law, where their unalienable rights are to be found, as well as the so-called laws of nature.

AND, SINCE ITS declared business is the issuance of such privileges or permissions, to persons it judges to be worthy, in order that they may proceed in what is, prima facie; inherently unlawful, or otherwise criminal in nature, pursuant to the common law and/or the laws of

nature, then this self-appointed sovereign licensor, namely public office holders of the State of New Mexico, must be engaged in a criminal syndicate.

WHEN ANY OFFICER or any instrumentality, or agent of the state government, conducts such a licensing business in the name of the people, no matter under what banner, when the people, themselves, have no such power, then said persons exceed their authority and power granted by the people, and entrusted to them as political trustees, and each "official" act of enforcement of the licensing scheme, and prosecution of alleged violation of the licensing scheme, is a separate act of violating the political trust, and a crime against the individual, and against the people.

IT IS A foundational principle of the American law of the land, a.k.a. the common law, that a right possessed by one party cannot be converted to a mere privilege by another party, whereupon the second party may package the right as a privilege, which the second party may then grant to the first party as a privilege., This proposition is both a common law and a constitutional absurdity, on its face, where the first and second parties are American citizens, who, by birthright, are political equals [See Declaration of Independence, supra]., Such a proposition could only be conceived by criminal minded schemers. This proposition is a compounded absurdity, in those instances, where the first party is an American citizen, a.k.a. holder of the inherent political power, and the second party is nothing more than a corpora ficta, that is, a de facto, private, corporate creature, being masqueraded as a governmental entity. This is, prima facie, a fraudulent representation of the people's government--the political trusteeship.

THEREFORE, APPRECIATE THE American common law absurdity and American constitutional absurdity, a.k.a. political trusteeship absurdity, inherent in any presumption that a state office holder may have the right to require the citizen to have a license in some particular matter, based upon such grounds as the following:

"The object of a license is to confer a right or power which does not exist without it." *Payne v. Massey*, 196 S.W. 2d 493; 145 Tex 237, 241 (1945).

"To license means to confer on a person the right to do something which otherwise he would not have the right to do." *City of Louisville v. Sebree*, 214 S.W. 2d 248,253; 308 Ky. 420 (1948).

"The object of a license is to confer right or power which does not exist without it and exercise of which without license would be illegal." *Inter City Coach Lines v. Harrison*, 157 S.E. 673, 676; 172 Ga. 390.

IT SHOULD BE obvious that, if the activity, requiring licensure, is of a kind which would be criminal to engage in, pursuant to the common interests of the people, then to propose that some citizens may be able to obtain a license to do it, is a proposal for a license to injure the people, and can only be seen as criminality on the part of the office holder. If engaging in the

activity is not criminal in the eyes of the people, but instead may be engaged in as of common right, then to require a license, is equally an act of criminality on the part of the office holder.

IT IS THE mere practice of legal sophistry, for legal wizards to argue that a state legislator has power to convert his constituents' rights to privileges, and, then offer their rights back in the form of licenses, or other instruments of privilege, with stipulations that the licenses may be revoked at the pleasure of the licensor, that the licensee agrees to pay periodic fees for the privileges, and be subject to fines and all manner of penalties and punishments upon the judgment of the licensor or his agents, if the licensee fails in some manner, or degree, to perform as required.

AND IT WOULD be equally a political trusteeship absurdity, hence a constitutional absurdity, and legal absurdity to argue that there is no conversion of a right, per se, yet a man may voluntarily agree to abandon his unalienable right to travel on the public highways, and become a licensee in the business of traveling, by requesting, petitioning, or otherwise, asking The State to issue him a license for the privilege of traveling, and that the man does thereby also agree to be liable for necessarily unspecified and unlimited prospective liabilities, attendant to the licensing agreement.

THE PROPOSITION THAT state legislators have power to create fictional bodies to be instrumentalities of state government, and that these corpora ficta entities may issue licenses to the sovereign people granting them a privilege to travel on the public highways, in pursuit of their own private affairs and business, and regulate their use of said highways pursuant to terms of the license, cannot be demonstrated as within the authority of any state political trustee, and is nothing but the unbridled practice of private, unprincipled legal metaphysical flimflam, and is treasonous criminal behavior.

**IT IS A PRINCIPAL OF LAW**, extending into antiquity, that no man can grant to another a license which he does not have the power to grant. Further, no man can confer to another the authority to issue a license, when he himself lacks the power to issue the license. It follows that, where a man determines to create a legal fiction, it is equally **absurd** that he can endow his newly minted legal fiction with powers which he himself does not possess.

**IT IS AN ABSURDITY** to say that a man, or a group of men, may create a legal fiction (Like a municipal corporation or magistrate court) which he, or they, may empower with a sovereign, or jurisdictional authority, which power he, or they, does, or do, not possess himself, or themselves; and which he, or they, cannot exercise in his, or their, own sovereign natural right. The **presumption** that men can invent corporations, or any other legal fiction device of like nature, and grant these man-made creations with sovereign powers over their fellow man, is a common law **absurdity**, and a political trusteeship **absurdity**, hence it is a constitutional **absurdity**. The practice of such behavior is nothing more than legal flimflam, in the name of



the science of jurisprudence. **Neither** can a collection of men determine to create a legal fiction and endow it with powers which they, as individuals, do not possess.

IT IS A FACT of our political body politic, that the people themselves have **no power** to create a government, and then bestow upon said government the power to grant or deny licenses to their fellow man, **where** they had as individuals **no power** to practice the granting or denying of licenses, or, which is to add insult to the injury, **to have the power to reclassify** certain natural rights of their fellow man as being illegal; and hence, only permissible upon the grant of license from the people's government, pursuant to a police power, which could have only originated in the people in the first place. Said proposition is an insult, an outrage, and a treason upon the people at large. It is the practice of criminal syndicalism<sup>71</sup>.

"Nothing that is against reason is lawful" Coke on Littleton 97b England (1628).

"If a man grant that which is not his, the grant is void." Black's Law Dictionary (Second Edition)

## RIGHTS OF THE PEOPLE

IT SHOULD BE clear, by now, The State's propaganda to the contrary, backed by The State's private de facto army of "criminal justice practitioners," trained primarily, if not exclusively, by all available evidence, in the ways and means of the Great American Legal Fiction, The State, reigning in regal de facto corpora ficta splendor, that, in truth, in America, the people are the sovereigns, and public office holders are merely trustees and servants. Rights, which are unalienable, are merely protected by constitutions. Protected from whom? Obviously, in modern America, the threat arises most frequently from public office holders and their hiring wizards, lackeys, and stooges employed within the de facto, corpora ficta instrumentalities, which they have presumed to have authority to create. In any case, those rights are protected by the various sections and provisions of Article II of the Constitution of the State of New Mexico, which sets forth the terms and conditions of the people's state-level political trust, and the rights are further protected by the 9th Amendment to the U.S. Constitution, which sets forth the terms and conditions of the people's national level political trust, by and through the de facto Fourteenth Amendment of said constitution. And what have earlier courts had to say about the unalienable right to travel?

## POINTS AND AUTHORITIES

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<sup>71</sup> Syndicalism: a type of proposed economic system, a form of Marxism, a form of socialism, considered a replacement for capitalism. It suggests that industries be organized into confederations or syndicates. It is "a system of economic organization in which today's government agencies are owned and managed by the government workers for the welfare of government employees to the detriment of Citizens.

IN THE MATTER of the right of the American citizen to use his public highways, without permission of his public office holders, American courts have, many times over, ruled upon the self-evident truth, to wit:

"Even the legislature has no power to deny to a citizen the right to travel upon the highway and transport his property, in the ordinary course of his business or pleasure, though this right may be regulated in accordance with public interest and convenience." *Chicago Coach Co. v. City of Chicago*, 337 Ill. 200, 169 N.E. 22 (1929)

"No state government entity has the power to allow or deny passage on the highways, byways, nor waterways... transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation, Le., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring licensing, vehicle registration, or forced insurance. *Chicago Coach Co. v. City of Chicago*, 337 Ill. 200, 169 N.E. 22 (1929).

"Regulations, fees, taxes - may not be applied to natural person using common highways as it is in derogation of common right of public to use highways as an avenue upon which vehicles for transportation of goods, passengers, freight and traffic of all kinds may be freely moved, having due regard for rights of others, while this, or other provisions of statute, should be fairly, liberally construed to promote the effect the evident purpose for which it was intended, care should be exercised not to unduly extend its effect." *Young v. Madison County*, 115 N.W. 23 (1908).

*"Our Court has stressed the basic right of the transit public and abutting property owners to the free passage of vehicles on public highways and the paramount function of travel as overriding all other subordinate uses of our streets."* *State v. Perry*, 269 Min. 204,206 (1964).

*"The right of a citizen to travel upon the public highways and to transport his property thereon, by horsedrawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty and the pursuit of happiness. Under this constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing IX another's rights."* 11 Am. Jur. (1st) Constitutional Law, Sec. 329, p. 1135

*"Personal liberty largely consists of the right of locomotion -to go where and when one pleases - only so far restrained as the rights of others may make it*

*necessary for the welfare of all other citizens.*" 11 Am. Jur. (1st) Constitutional Law, Sec. 329, p. 1135

"The right of travel over a street or highway is a primary absolute right of everyone." *Foster's Inc. v. Boise City*, 118 P. 2d 721, 728.

## THE PEOPLE'S PROPERTY VERSUS THE STATE'S PROPERTY

STATE LEGISLATORS CAN make **no claim** that the public highways are property belonging to them, nor can they claim said highways are the property of any fictional instrumentality (corporation or agency) created by them. The public highways belong to the people at large. **State office holders are only political trustees, holding the people's highways in political trust for the people.**

THE CASE HISTORY of the automobile shows that it has always been lawful to travel on the public roads and streets with an automobile, for it cannot be otherwise. The obvious reasons why it is lawful to travel on the public roads, by whatever means of conveyance available, is that **the public roads belong to the people**, and are built for, and dedicated to, the purpose of common travel. The court cites are numerous:

"It is well established law that the highways of the state are public property; and their primary and preferred use is for private purposes," *Stephenson v. Binford*, 287 U.S. 251, 264, et al.

"It is settled that the streets of a city belong to the people of a state and the use thereof is an inalienable right of every citizen of the state." *Whyte v. City of Sacramento*, 165 Cal. App. 534, 547 (1924).

## CONCLUSION

NO HOLDER OF any state or local public office, nor any instrumentality which they may create, has a sovereign right, a.k.a. power, a.k.a. authority, to dictate to the people, who are the holders of the inherent political power, and, therefore, who are the State of New Mexico, when, and on what terms and conditions, they may use the public highways for their own private use, and in the pursuit of their own livelihood, notwithstanding the treasonous acts of the officials, officers, employees, and agents of state and local governing bodies against said people, the felonious misappropriation and criminal conversion of the sovereign people's own money for expenditure by said officials, officers, employees and agents of state and local governing bodies to propagandize and bamboozle said people, and create, by legalistic sophistries, the illusion that said people are required to have driver licenses, vehicle registrations and mandatory insurance.

NO STATE LEGISLATOR has power to enact laws requiring the people, who are the political trustors, to have driver licenses, issued by any instrumentality of the state government, nor

register their vehicles with such instrumentality, nor have vehicular insurance, nor any like kind of licensure schemes and terms and conditions which must be fulfilled before the individual citizen, a.k.a. political trustor and political beneficiary, may use the public roads, merely held in political trust for his private pleasure and business.

THERE CAN BE no law making, rulemaking, or rulings which require the sovereign citizen to obtain the permission of any office holder, or instrumentality of state or local government, in order to use the public highways for his private personal or business travel.

THE FOLLOWING CASES bear witness to the fundamental and self-evident political and jural facts of every state of the American nation, including the State of New Mexico:

"Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda v. Arizona*, 384 US 436, 491 (1966)

"The claim and exercise of a constitutional right cannot be converted to a crime," *Miller v. U.S.* 230 F, 2d 286, 489 (1939).

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." *Sherer v. Cullen* 48 1F. 945 (1973).

SUBMITTED WITH ALL due respect on \_\_\_\_\_, in the year of our Lord \_\_\_\_\_.

\_\_\_\_\_

Name of Free ManAccused/Defendant in Error

Proceeding in propria persona

Address and Phone Number

## DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on \_\_\_\_\_, in the year of our Lord \_\_\_\_\_, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge, NAME AND ADDRESS

Prosecutor NAME AND ADDRESS

OTHER DEPARTMENTS, AGENTS, AGENCIES NAME AND ADDRESS.

\_\_\_\_\_

Your Free Man Name

List Cases and Authorities

## Constructive Notice: Challenge of Jurisdiction

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**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>72</sup> ,  v.  Free Man Name  Defendant in Error <sup>73</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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**ACTUAL AND CONSTRUCTIVE NOTICE OF ACCUSED'S CHALLENGE OF SUBJECT-MATTER JURISDICTION & MANDATORY DUTY OF STATE POLITICAL TRUSTEES TO ANSWER**

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused", one of the holders of the inherent political power of the State of New Mexico, (see, Constitution of the State of New Mexico, Article II, Section 2 & 4), hereinafter ACCUSED, and gives ACTUAL AND CONSTRUCTIVE NOTICE OF ACCUSED'S CHALLENGE OF SUBJECT-MATTER JURISDICTION & MANDATORY DUTY OF STATE POLITICAL TRUSTEES TO ANSWER. This Notice is

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<sup>72</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>73</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

to all parties proceeding in any capacity in the above-styled matter, to include, but not limited to, the below named individuals, that Accused challenges their presumptions of subject-matter jurisdiction, and they must answer said challenge by proving their aforesaid presumptions have a lawfully verifiable basis. The following individuals are specifically herewith on notice:

And the accusing officer, DONUT Department, in the matter of his presumption of subject-matter jurisdictional authority to charge Accused in the instant case with violation of New Mexico statute/ordinance \_\_\_\_\_.

b. The Prosecuting Attorney, \_\_\_\_\_, in the matter of his presumption of subject-matter jurisdictional authority to prosecute the instant case, and,

c. The Judge, \_\_\_\_\_ upon his presumption of subject-matter jurisdictional authority to prosecute the instant case, including hearing and making rulings on any issue, other than a demand or motion to dismiss, for want of subject-matter jurisdiction, in the event said challenge cannot be answered in the affirmative.

d. The aforesaid individuals' supervisors and superior officers, to whom they report, and who are responsible for their training and their conduct.

1. PLEASE TAKE NOTICE, Accused makes his challenge, pursuant to his common law, unalienable right to have the jurisdictional facts, upon which the accusing officer, the prosecutor, and the above-styled court presume to rely as existing, which give each of them, respectively, the authority to charge Accused with violating statute/ordinance \_\_\_\_\_ and \_\_\_\_\_, and the authority of a prosecuting attorney and judge to prosecute the instant matter arising from said charge.
2. PLEASE TAKE NOTICE, said challenge includes Accused's Certified Demand to Know the Nature and Cause of the Accusation, filed with the Clerk of the Court on DAY TIME YEAR and Accused's Sworn Demand to Dismiss for Want of Subject-Matter Jurisdiction, filed with said clerk on DAY TIME YEAR.
3. PLEASE TAKE NOTICE, the averments in the aforesaid sworn demands are presently the un-rebutted and only sworn testimony of jurisdictional facts in the record of the instant case, and those un-rebutted jurisdictional facts show the aforesaid individuals have no subject-matter jurisdiction, and must dismiss the instant case. Further reminds the court that an un-rebutted affidavit stands as truth.
4. PLEASE TAKE NOTICE, it is fundamental of American jurisprudence that sworn testimony must stand as the factual truth in a matter, unless it is impeached by sworn testimony in rebuttal which proves to be un-rebuttable.

5. PLEASE TAKE NOTICE, it is both **treason** to the political trustors, a.k.a. the people, who are the State of New Mexico, and criminal conduct against the Accused, for his political trustees in the instant case to refuse to answer his aforesaid challenge.
6. PLEASE TAKE NOTICE, the accusing officer, the prosecuting attorney and the judge in the instant Case have mandatory duties and obligations, as state political trustees for the State of New Mexico, pursuant to their State of New Mexico political trust deed, namely the Constitution of the State of New Mexico, to forthrightly answer Accused's challenge of their aforesaid presumptions of subject-matter jurisdiction, and that failure to answer is a fundamental violation of their political trusteeship with said people.
7. PLEASE TAKE NOTICE, the accusing officer, the prosecuting attorney and the judge in the instant case are **state political trustees when acting in their official capacities**, and will be in **criminal violation** of their political trusteeship to the people, and to the Accused, **if** they fail to answer his sworn averments in his aforesaid demands.
8. PLEASE TAKE NOTICE, **if** the aforesaid political trustees fail to answer the individual averments in Accused's aforesaid sworn demands, by either standing mute or by any manner of evasive response, then they are admitting that the averments of Accused's aforesaid sworn demands are true. Silence is a form of communication to wit:

*"Silence can be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading. . . We cannot condone this shocking behavior by the IRS. Our revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the same from the government in its enforcement and collection activities. "U.S. v. Tweel , 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032 (1970); Carmine v. Bowen, 64 A. 932 (1906) .*

9. PLEASE TAKE NOTICE, **if** the aforesaid political trustees believe that any, or all, of said averments in said sworn demands are false, then they must answer to each said averment, saying that they deny it, and, in so doing, they must stand ready to argue the grounds for their denial of said averments.
10. PLEASE TAKE NOTICE, **if** the aforesaid political trustees fail to answer said averments of said demands, then they shall fail to answer Accused's aforesaid challenge, and, in so doing, the aforesaid state political trustees **will be in violation of their respective public offices**, a.k.a. their respective political trusteeships, and shall be guilty of treason to the State of New Mexico, a.k.a. the people, and of knowing and willful criminal acts against Accused's sovereign right to his life, his liberty, and his property and shall be subject to such remedies as are available, pursuant to the peoples' Rule of Law, a.k.a. the law of the land, and such other law as they are found to be subject to.



11. PLEASE TAKE NOTICE, **if** the aforesaid state political trustees stand mute, or answer evasively with respect to Accused's aforesaid challenge, **then they shall be admitting they proceed with no authority of law known to the State of New Mexico**, or these United States of America, for there **cannot** be two standards for lawful conduct in this nation - one for the people, and a second for their public servants, a.k.a. political trustees.
12. PLEASE TAKE NOTICE, the accusing officer, the prosecuting attorney and the judge are holding themselves out to be political trustees in the instant matter, when, from the face of the record, they proceed merely as state actors, and in either case they are under a mandatory duty to prove they proceed in official capacity, by answering all particulars of Accused's aforesaid challenge of their presumptions of subject-matter jurisdiction in the instant case.
13. PLEASE TAKE NOTICE, the above referenced state political trustees, in the instant case, are further reminded of their absolutely mandatory duties and obligations in the instant matter, as expressly evidenced in the Constitution of the State of New Mexico, in Article II, section 14, and in Articles IV, V, VI, VII, VIII, and IX by the Constitution of the United States, Article XIV; and, as further evidenced by New Mexico Rules of Criminal Procedure, subsections (a), (b), (c), (d), (e), (l), (g), (m), (n), and (o), and as evidenced in innumerable court rulings, including *Miranda v. Arizona*, 384 US 436, 491 (1966), and elsewhere in the people's common law.
14. PLEASE TAKE NOTICE that, **if** the above referenced state political trustees fail to lawfully answer Accused's aforesaid challenge of their presumptions of subject-matter jurisdiction, in the instant case, they **shall be criminally denying Accused's common law, unalienable right to plenary, due process of law.**
15. PLEASE TAKE NOTICE that, **if** the above referenced state political trustees prosecute Accused in anything less than a plenary judicial proceeding, they shall criminally deny Accused's common law, unalienable right to plenary, due process of law.
16. PLEASE TAKE NOTICE that, on the face of the record, in the instant case, the above referenced state political trustees have unlawfully deprived Accused of his liberty and property, by false arrest and false imprisonment of his person and property at the common law, and **if** their presumption of jurisdictional authority cannot be proven, then **they are parties depriving Accused of his unalienable rights to his life, his liberty and his property, without due process of law.**
17. PLEASE TAKE NOTICE that, when state political trustees violate sovereign citizens' unalienable rights, including their rights to due process of law, said political trustees proceed as state actors, in violation of their state political trusteeships as evidenced by

their oaths of office, and, consequently, also violate state and federal laws, including, but not limited to

- a. Title 42, U.S.C. Sec. 1983 et seq.
- b. 18, U.S.C. § 241, 242

SUBMITTED WITH ALL due respect on \_\_\_\_\_, in the year of our Lord  
\_\_\_\_\_.

\_\_\_\_\_  
Name of Free Man Accused/Defendant in Error  
Proceeding in propria persona  
Address and Phone Number

DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

# Memorandum of Law: Jurisdiction

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**STATE OF NEW MEXICO**  
**COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>74</sup> ,  v.  Free Man Name  Defendant in Error <sup>75</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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**MEMORANDUM OF LAW IN MATTER OF ONCE JURISDICTION IS  
CHALLENGED, BURDEN SHIFTS TO PROSECUTION AND ADMINISTRATIVE  
HEARING COURT TO PROVE JURISDICTION**

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see, Constitution of the State of New Mexico, Article II, Section 2 & 4), hereinafter ACCUSED, a citizen of the body politic, comprised solely of the people, also known as the State of New Mexico, and neither as a citizen of the people's de jure government, a.k.a. the State of New Mexico, nor as a citizen of the de facto state government, a.k.a. the State of New Mexico, and further coming under the people's law, the common law of immemorial antiquity, and not pursuant to de facto statutory law of the de facto state government and respectfully submits this memorandum as evidence and proof of the prevailing and controlling law regarding the matter now before the Court.

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<sup>74</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>75</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

This memorandum is filed in support of the Accused's Sworn Demand to Dismiss for Want of Subject Matter Jurisdiction. By his aforesaid Demand, the Accused directly challenges the above Administrative Traffic court's jurisdiction to hear the instant matter, for want of in personam jurisdiction, in rem jurisdiction, or subject matter jurisdiction. In support of his challenge by said Demand, Accused has filed the following documents.

Take notice that all of the below referenced documents are herewith incorporated in this memorandum by reference:

### **Memorandum of Law on the Right To Travel**

This memorandum establishes that every sovereign American citizen has the unalienable right to travel in pursuit of his private pleasure and his private business, and no administrative agency of government, created by de facto legislative powers of a state, or the federal legislature, may abrogate, derogate, or in any way alter or impose conditions upon said right, and require sovereign American citizens to have driver licenses, or register their vehicles with any instrumentality of their state governments, in order to use the public highways, or otherwise put sovereign American citizens in peril, by denying their right to travel, pursuant to the common law of immemorial antiquity.

Memorandum of Law in the Matter of What's the Motor Vehicle Division of the Taxation and Revenue Department and Who is Subject to its Jurisdiction. This memorandum establishes that the Motor Vehicle Division of the Taxation and Revenue Department, hereinafter MVDTRD, is the private, de facto, corpora ficta creature of the legislature of the State of New Mexico, characterized as an administrative agency, and has merely quasi-governmental powers. This memorandum establishes that only persons or things actually engaged in activities within the restricted, regulatory powers of said agency are subject to said agency's strictly defined ministerial jurisdiction.

### **Memorandum of Law in Support of Sworn Motion to Dismiss for Want of Jurisdiction**

This memorandum further expands upon the strict ministerial limitations, a.k.a. quasi-police powers, of the MVDTRD, in the administration and enforcement of the traffic regulatory scheme, charged to it by the state legislature, and establishes that courts will strike down the orders and judgments of courts proceeding in ministerial capacity, as private, quasi-judicial power agents for administrative agencies, when they fail to observe scrupulously their ministerial rules, regulations, and procedures, and whereas administrative laws can have the force and effect of law only upon their licensees, and then only when said licensees are engaged in the specifically enumerated regulated activity. This memorandum also establishes that it is an undisputed jurisdictional fact that the statute, which the undersigned is charged

with violating, is, in no case, a duly enacted law of the State of New Mexico, hence unenforceable against the private citizen.

## **Memorandum of Law In Matter of "Traffic Court" is Extra-Constitutional Forum.**

This memorandum establishes that the above-styled traffic court is an extra constitutional creature of the legislature of the State of New Mexico, is a statutory court, is a legislative court, is a quasi- judicial power court, is a private court and is not a constitutional office of the State of New Mexico.

### **Demand for Mandatory Judicial Notice of Adjudicative Facts.**

Points and Authorities: Court must prove, upon the record, by jurisdictional facts, that it has jurisdiction.

No Procedural Due Process When Jurisdiction is Challenged and Court Refuses to Prove on the Record that it has Jurisdiction to Hear the Matter

THE ACCUSED HAS challenged this forum's in personam, in rem, and subject-matter jurisdiction by his Sworn Demand to Dismiss for Want of Subject Matter Jurisdiction, and neither the officer who charged him with an alleged criminal act, the prosecutors, the judge, nor the court may proceed upon any other issue until the accusing officer, the prosecutor, and the hearing officer in the above captioned court demonstrate the administrative law to which the Accused was allegedly subject when he was stopped and detained; and, which he allegedly violated, as evidenced by the accusing officer issuing a citation for and on behalf of said agency and arrested the ACCUSED. The following court rulings testify to this point of law:

*"The burden shifts to the court to prove jurisdiction." Rosemound Sand Gravel Co. v. Lambert Sand 469 F 2d 416 (1972)*

*"There is no discretion to ignore lack of jurisdiction"*

*"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather should dismiss the action" Melo v. US., 505 F. 2d. 1026*

*"Challenge to court's jurisdiction is raised by motion to dismiss." Criterion Co. v. State, 458 So. 2d. 22 (Fla 1st DCA 1984)*

*"Defense of lack of jurisdiction over the subject matter may be raised at any time, even on appeal." Hill Top Developers V. Holiday Pines Service Corp. 478 So. 2d. 368 (Fla 2nd DCA 1985)*

*"Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted Latana v. Hopper, 102 F. 2d 188 (1939)*

*"Since jurisdiction is fundamental, and it is jurisdiction alone that gives a court power to hear, determine, and pronounce judgment on the issues before it, jurisdiction must be continuing in the court throughout the proceedings." Re. Cavitt, 1257 N.W. 254 P.599 (1968)*

*"Since jurisdiction is fundamental to any valid judicial proceeding, the first question that must be determined by a trial court in any case is that of jurisdiction." Dillon v. Dillon, 187 p. 27 (1951)*

## **POINTS AND AUTHORITIES**

THE ACCUSED DECLARES HE IS NOT SUBJECT TO QUASI JUDICIAL POWER JURISDICTION OF ABOVE STYLED "TRAFFIC COURT" IN THE FIRST INSTANCE, BUT IF HE WERE, HE COULD NOT PREPARE A DEFENSE IN THE SECOND INSTANCE.

**ARGUENDO, FOR THE MOMENT**, that the Accused is within the administrative jurisdiction of said administrative agency, then said administrative agency and its "arm" the "traffic court" **would deny the Accused his procedural due process rights**, pursuant to the common law of immemorial antiquity, to a plenary proceeding<sup>76</sup>, which cannot be denied him by operation of statute or otherwise, in the first instance, and also by denial of his administrative procedural due process to an administrative summary proceeding.

**FURTHER ARGUENDO, FOR THE MOMENT**, that the Accused was a person subject to said administrative jurisdiction, in the second instance, and, in their place, substitute a "traffic court", moving against the Accused in an ad hoc, summary proceeding, which is altogether alien to the American system of jurisprudence, and thereby deny the Accused's rights to defend himself for (1) want of essential information regarding the nature of the charge(s) and the proceeding and by (2) want of procedural due process by and through the acts of the individual and several state actors, to wit:

**Failure to inform** the Accused that he was charged with violating a statute which is not adult enacted law of the State of New Mexico in the first instance.

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<sup>76</sup> Plenary proceeding acknowledge all rights of the accused, and affords him all his due process rights. A plenary proceeding is opposed to summary proceedings which deprive defendants of their full rights for the purpose of expedition.

**Failure of the court to inform** the Accused that the above-styled court is proceeding as a quasi-judicial power court, and a legislative court, and not as a constitutionally empowered court enforcing MVDTRD administrative law, to which the ACCUSED is not subject.

**Failure of his accuser, the officer/agent, the prosecutor, and the judge** to inform the Accused that he was being prosecuted in an ad hoc, summary proceeding, contrary to all of his unalienable due process of law rights pursuant to his common law and the paramount law of the state and the nation.

**THERE IS NO PROCEDURAL DUE PROCESS** When Accused Is not Informed What Forum he Is Compelled to Appear Before; and,

**IF THE COURT** is a judicial power court, then either **civil charges** or **criminal charges** must be brought against the Accused that are **proper in form and substance**. Neither the officer who issued the citation, nor the prosecutor, nor the judge, nor the court have denied that the charge against the Accused is **private state law**, namely, New Mexico statute/ordinance \_\_\_\_\_ and \_\_\_\_\_ which "affects" only the MVDTRD, a de facto, corpora ficta, administrative agency creature of the legislature of the State of New Mexico, private in nature, whose **primary mission**, as best the Accused can determine, is to enforce a private traffic regulatory scheme devised by the legislature of the State of New Mexico.

**AND IT IS A FACT** that no charges have been brought, which are proper in form and substance<sup>77</sup>, pursuant to any civil action (contract violation), or any criminal action (injury to person or property), that can be brought in a judicial power court of the State of New Mexico. The following court rulings testify to this point of law:

*"Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty, and loss of property of the individual' within the meaning of the 7."* Mathews v. Eldridge, 424 U.S. 319, 332, (1976)

*"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, 127 P.2d 934, 937 (1942)

*"Where a court failed to observe safeguards, it amounts to denial of due process of law, **court is deprived of jurisdiction.**"* Merritt v. Hunter, 170 F.2d 739 (1948)

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<sup>77</sup> The 4<sup>th</sup> Amendment says "no Warrants shall issue, but upon probable cause, supported by an Oath or affirmation . . ." Another proper form would be a true bill issued by a grand jury based on a presentation of evidence to justify prosecution.



**THERE IS NO PROCEDURAL DUE PROCESS** When Accused is not Informed that he Is Presumed to be in violation of a Statute Arising From the **State's Private Traffic Regulatory Scheme** which is to be Prosecuted Pursuant to Said Private Scheme; and,

**WITHOUT QUESTION** the New Mexico MVDTRD Citation, a.k.a. "notice of appearance," a.k.a. "citation," a.k.a. "ticket," a.k.a. "summons," a.k.a. "affidavit," which the accusing officer issued to the Accused, is nothing more than a **private document**, authorized for issue **by a private administrative agency** of the legislature of the State of New Mexico, in connection with the **private traffic regulatory enforcement scheme**, which "affects" the "operations" of said Department. Without a doubt, said instrument does **not** represent any manner of judicial process which is a flagrant violation the Defendant In Error's right to "due process of law." The following court rulings testify to this point of law:

*"Held, that a uniform traffic ticket is **not** sufficient information to be used as a pleading and held that the absence of verified information was a jurisdictional defect which could not be waived by a plea of guilty. People v. Marsellus, 157 NYS 2d 148 (1957)*

*"A notice is not ordinarily to be considered a process for all writs and process shall be under the seal of the court from which they shall issue, shall be signed by the clerk thereof and shall bear the teste<sup>78</sup> of the judge or the Clerk. "Chisholm v. Gilmer, 299 U.S. 99 (1936)*

*"As the notice does not allege or show any probable cause for an arrest and the fact that the petitioner was released on a promise to appear before a committing magistrate for an arraignment, that fact is circumstance to be considered in determining whether in first instance there was a probable cause for the arrest. "Monroe v. Pape, 221 F Supp. 635 (1963)*

THERE IS NO PROCEDURAL DUE Process When Accused is Not properly Informed of the nature and cause of the accusation, and the nature of said proceedings. "Traffic Court" is merely an "**Arm**" of Said Private Administrative Agency, Proceeding **Under Quasi-Judicial Powers**, in the **pretense** that it is a Judicial Power Court; and,

**WITHOUT DOUBT**, the above captioned court is merely an "**Arm**" of said Department, the **private de facto, corpora ficta creature** of the legislature of the State of New Mexico, hence are private instrumentalities, said to be functioning in a "ministerial" capacity as "hearing officers." Hence, **the above captioned court is not a judicial power court**; but is, rather, a ministerial instrument of the legislature of the State of New Mexico; hence, the court is a

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<sup>78</sup> Teste = witness, usually a blue ink signature in common law accompanied by a court seal.

**private** forum for hearing **private** business matters arising from the various schemes implemented by said legislature, fronted through their **private**, de facto, corpora ficta creatures, a.k.a. administrative agencies, a.k.a. component members of the mythic "Fourth Branch" of government; and, therefore, said court is either a **quasi-judicial power forum**, or, more likely, a **pseudo quasi-judicial forum**, both of which are **private** in nature, wherein the persons sitting upon the bench proceed in their **private capacity, a flagrant violation the Defendant in Error's right to "due process of law."** The following court rulings testify to this point of law:

"When acting to enforce a statute and its subsequent amendments to the present date, the judge of the municipal court is acting as an **administrative officer** and **not in a judicial capacity**; courts in administering or 'enforcing' statutes do not act judicially, but merely 'ministerially.'"Thompson v. Smith, 154 S.E. 583 (1930).

"A judge ceases to sit as a judicial officer because the governing principle of administrative law provides that courts are prohibited from substituting their evidence, testimony, record, arguments, and rationale for that of the agency. Additionally, courts are prohibited from substituting their judgments for that of the agency. Courts in administrative issues are prohibited from listening to or hearing arguments, presentation or rationale."ASIS v. US. 568 U.S F2d 284

"Ministerial officers are incompetent to receive grants of judicial power from the legislature, their acts in attempting to exercise such powers are necessarily nullities. Burn v. Supreme Court, 140 Cal (1903). I

**THERE IS NO PROCEDURAL DUE PROCESS when** the Defendant in Error Demands to Know who the Real Party(ies) in Interest are and his Demands **are met With Silence.**

Silence can only be equated with fraud when there is a legal and moral duty to speak, U.S. v. Prudden, 424 F.2d. 1021 (1970); U.S. v. Tweel, 550 F. 2d. 297, 299, 300 (1977).

**THE ACCUSED DEMANDS** to know who **the real party in interest** is in the instant matter. For the prosecution and the court to conceal from the Accused the identity of his accuser violates the Accused's fundamental rights, and makes a mockery of so-called constitutional protections. To conceal the real party in interest, as a matter of governmental policy, makes the prima facie case, in establishing **who are the real law breakers.** To not be allowed to know who accuses you, in either a judicial power or quasi-judicial power forum, is an outrage, a flagrant violation of the Defendant in Error's right to "due process of law." The following court rulings testify to this point of law:

*"State is interested in a suit only when it has a direct and substantial interest in the outcome and not where only concern is to see that citizens are protected in their rights."* People v. Mitchell, 148 N.E. 242,243

*"Real party in interest is one having actual and substantial interest in the subject matter of suit."* Carey-Reed v. Sisco, 64 S.W. 2d 430 (1933)

*"Real party in interest is that party who would be benefited or injured by judgment, or party entitled to avails of the suit, 'interest' meaning material interest, interest in issue, or to be effected, as distinguished from mere interest in question involved as against mere incidental interest"* Weber v. City et cetera, 97 P. 2d (2013) 667,669 (2013)

*"When private individuals or groups are endowed by state with power or functions governmental in nature, they become agencies or instrumentalities of the state and subject to its constitutional limitations."* San Francisco v. Johnson, 401 U.S. 101 (1971)

*"Every action shall be prosecuted in the name of the real party of interest,"*  
NMRA, Article 4, 1-017. A.

**THERE IS NO PROCEDURAL DUEPROCESS** when the Motor Vehicles Division of Taxation and Revenue Department allegedly the Real Party in Interest and the ACCUSED Is Denied Administrative Hearing, Hence Administrative Record for Review

**WHERE THE MVDTRD** is the real party in interest, then the MVDTRD must first hear any matter which is exclusively within its jurisdictional fiefdom<sup>79</sup>, but **if** the Defendant in Error is not a party subject to said scheme, all proceedings are a **fraud**, and constitute **abuse of process** and **malicious prosecution**, a **flagrant violation of the right** to Defendant In Error's "due process of law." The following court rulings testify to this point of law:

*"Where the legislative scheme of delegation of power to an agency makes a court the 'arm' of the agency in recording its order and affording execution thereon, **the agency and not the court retains jurisdiction** to modify or stay the order, and to determine the sufficiency of the performance thereunder. "* Vicki v. Sup. Ct. 105 Ca. 587, 288 P.127; Independent et cetera v. R.R. Commission, 70 Ca. 2d 816, 161 P. 2d 827

*"Where a government agency, or a local municipality, believes that an individual is a person within the demands of a statute, of which it has authority to enforce,*

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<sup>79</sup> Fiefdom: the property owned by a feudal lord; an area over which an organizations exerts alleged authority.

or standing to initiate an action, naming the individual, where the matter is administrative licensee, **there must first be a demand for administrative enforcement.** The government agency is required to **first exhaust all administrative remedies before it may proceed on my civil action,** as is the Accused required. Where the people [sic] seek enforcement of administrative licensee, it must not skirt the administrative for the enforcement by a 'mere hearing officer' without the 'administrative record for review,' or it denies the agency its authority and power to enforce its own rules and regulations over its licensees, to the harm of and denial of administrative remedy to the Accused." *OKC Corp. v. Williams*, 461 F. Supp. 540. (1978)

**"Administrative agencies have been held to have exclusive original jurisdiction of particular matters which precludes an original action in court** in regard to such matters particularly where the statute provides for 'final and conclusive' action by the administrative agency. This principle is not limited to remedies in relation to rights created by the statutes empowering administrative agencies but applies as well to common law rights protection or enforcement of which is confided to administrative tribunals." *Union R.R. Co. v. Price*, 360 U.S. 601 (1959); *Penn r. Co. v. Day*, 360 U.S. 548 (1959) *Erie R. Co. v. Stewart*, 17 Ohio App. 335 (6th Cir. 1930).

**"No agency can refuse a prior hearing when affecting fundamental rights,** on the issue of the statute as applied, for such an application is a form of 'rule making' and agency has the duty and the power to adopt, rescind, or modify its rules to meet the requirements of the law and other exigencies." *Reimel v. House*, 259 CA. 2d 511, 515 (1968)

"Agency should be challenged at its level as that question is waived unless brought before the agency because **the failure to raise the constitutional issue** at the administrative level constitutes a waiver of the right to bring later in any forum." *Griswold v. School District*, 63 CA.3d 1034; *Reimel v. House*, 66 CA. 2d 620 (1968); *Mestinak v. Atwater*, 79 CA 3d 593,599 (1978)

Michigan Law Review, Vol. 44, No. 6 (Jun., 1946), pp. 1035-1042 (1946)

*Administrative Law: Exhaustion of Administrative Remedies as a Prerequisite to Judicial Review*

"The only 'judicial' activity which can be instituted upon petition of government is 'enforcement' review, which is summary procedure, which is more in nature of appeal by the government, for no new record can be made. **The administrative record is the 'exclusive record for review'** No rationale may be supplied by agents of government or by the court itself hearing. Nor by imaginative

*government counsel for the same is a devious device known as 'post hoc' rationalization which is prohibited as a matter of law. Judgment by the court cannot be substituted for that of the administrative agency." Abelliara v. Disfrict Court of Appeal, 109 P.2 942(1941)*

*"The failure of the agency to grant a hearing bars civil liability or criminal prosecution for actus reus<sup>80</sup> later under the Collateral Estoppel Doctrine<sup>81</sup> as Administrative Law demands are the administrative equivalent of Judicial Declaratory Judgments, and all Natural Law requirements and indicia that apply to Judicial Declaratory Judgments also apply to Administrative Judgments. Babcock v. Babcock; 63 CA 2d 94 (1944); Maxwell v. Maxwell, 66 CA 2d 549 (1944)*

**THERE IS NO PROCEDURAL DUE PROCESS when** no Jurisdictional Facts are submitted that the Defendant in Error was engaged in Act Regulated by the MVDTRD When he was Stopped, Detained and Charged; and,

**NEITHER HAS** THE officer who issued the citation, nor the prosecutors, nor the court **demonstrated** that the Accused was, at the time he was stopped and detained, engaged in any activity which is said to fall within the alleged jurisdictional domain defined by the traffic regulatory scheme. This defect and failure of these officers "affects" said departments' "operation", pursuant to the New Mexico Administrative Code Annotated, a flagrant violation the Defendant in Error's right to due process of law. The following court rulings testify to this point of law:

*"An action by Department of Motor Vehicles, whether directly or through a court sitting administratively as the hearing officer, **must be clearly defined** in the statute before it has subject matter jurisdiction, **without such jurisdiction** of the licensee, all acts of the agency, by its employees, agents, hearing officers, are null and void" Doolan v. Carr, 1254 U.S. 618 (1887);City v. Pearson, 181 Cal 640-185 (1983).*

*"Agency or party sitting for the agency, has no authority to enforce as to **any licensee unless he is acting for compensation**. Such an act is highly penal in nature, and should not be construed to include any thing which is not embraced*

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<sup>80</sup> Actus reus = guilty act

<sup>81</sup> Collateral estoppel (CE), known in modern terminology as issue preclusion, is a common law estoppel doctrine that prevents a person [An agency] from re-litigating an issue. One summary is that "once a court has decided an issue of fact or law necessary to its judgment, that decision . . . preclude[s] re-litigation of the issue in a suit on a different cause of action involving a party to the first case."<sup>[1]</sup> The rationale behind issue preclusion is the prevention of legal harassment and the prevention of abuse of judicial resources.

*within its terms. [Where] there is no charge within a complaint, no evidence to prove a charge if it were a complaint that the Accused was employed for compensation to do the act complained of; or that the act constituted a part of a contract" Schomig v. Keiser, 189 Cal. 596.*

*"The court makes it clear that a license relates to qualifications to engage in profession, business, trade or calling; thus **when merely traveling without compensation or profit**, outside of business enterprise or adventure with the corporate state, no license is required of the natural individual traveling for personal business, pleasure and transportation." Wingfielder v. Fielder, 29 Ca. 3d 213 (1972)*

**THERE IS NO PROCEDURAL DUE PROCESS when** There is no Verified Complaint Enumerating Specific Averments in the Matter Nor Verified Summons, Nor Verified Affidavit Providing Specifics of The Charge, Nor Verified Warrant, et Cetera; and,

NEITHER HAS any party filed any verified summons, verified complaint, verified affidavit of charges, nor verified warrant, nor served any of the same upon Accused, in which the charges and averments are stated with specificity. Instead, there is before the above captioned court a private instrument captioned, "NEW MEXICO UNIFORM TRAFFIC CITATION" merely citing a private statute<sup>82</sup> said to "affect" the "operations" of said "Department." Proceedings based merely upon this instrument are a mockery of due process of law. The Accused cannot possibly understand the nature of the charge, nor enter a plea without understanding the charge. The problem is compounded where no charge, verified or otherwise, has been filed with the court; but, instead, the mere citing of a statute/ordinance, is a flagrant violation of the Defendant in Error's right to "due process of law." The following court rulings testify to this point of law:

*"Furthermore, in the determination of subject matter jurisdiction, the courts are not bound by the labels put on the pleading, nor the caption of the pleading or prayer, **but by the substance.**" Benson v. Sales Corp. 238 Ca. 2d supp 937, 48 Cal. Rptr. 123*

*"Every ingredient of which an offense is composed must be accurately and clearly alleged. It is an elementary principle of pleading that where the definition of an offense, whether it be at common law or statute, includes generic terms, it is not sufficient that the pleading shall charge the offense in some generic terms as in the definition; **but it must state the species, it must descend to the particulars.** The objective is, first, to furnish the Accused with such description of the charge against him as will enable him to make his*

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<sup>82</sup> Private statute is a regulation required for parties involved in a contract.

defense and avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; second, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had. **For the facts are to be stated, not conclusions of law alone. An offense is made of acts and intent;** and these must be set forth with **particularity** of the time, place, and circumstances." U.S. v. Cook (2019)

"Offenses created by statute, as well as offenses at common law, **must be accurately and clearly described**, and, if the offense cannot be described without expanding the allegations beyond mere words of the statute, then it is clear that the allegations must be extended to the extent, as it is universally true that no charge is sufficient which does not accurately and clearly allege all the ingredients of which the offense is composed, so as to bring the Accused within the true intent and meaning of the statute defining the offense. Every offense consists of certain acts done or omitted under certain circumstances; and, in the charge of the offense, **it is not sufficient to charge the Accused generally with having committed the offense**, but all circumstances constituting must be specially set forth." Archibold's Criminal Pleading, 15th Ed. 43 (1822)

"A formal accusation, in addition to enabling a defendant to prepare his defense, protects a defendant against double jeopardy and informs the court of the facts alleged so that it can decide whether they are sufficient to support a conviction. An indictment or information charging of a crime is necessary preliminary to a conviction by the court for that crime. No waiver or consent by the defendant to a criminal prosecution can confer jurisdiction or authorize a conviction in the absence of an accusation charging a violation of the criminal law." Albrecht v. United States, 273 U.S. 1,47 S. Ct 250,71 L. Ed. 505 (1926)

"Before a man can be punished' **his case must be plainly and unmistakably within the statute**, and if there is any doubt whether the statute embraces it, that doubt is to be resolved in favor of the Accused." US. v. Lacher, 134 U.S. 624 (1890)

## CONCLUSION

IT IS SAID that the MVDTRD has quasi-governmental powers and authorities, where the legislature has granted them. Arguendo, for the moment, that the legislature of the State of New Mexico has the power to delegate the quasi-powers, said to be invested in the MVDTRD, It still remains that the MVDTRD's jurisdiction, such as it may be, is most circumspectly defined, and, in consequence, it follows **that the authority of the MVDTRD over persons must clearly be established**, more especially when it is challenged by a natural person, charged with

violating some one or more of the statutes said to "affect" the "operation" of the MVDTRD, to wit:

*"An administrative authority may be conferred where necessary to give effect to substantive powers possessed by an agency, that is true only where the substantive powers **are over** the persons." Aiuppa v. US., 338 F. 2d 146 (1964)*

*"It is basic to our law that an administrative agency **may act only** within the area of 'jurisdiction' marked out for it by law. **If** an individual does not come within the coverage of the particular agency's enabling legislation, **the agency is without power to take any action which affects him.**" Endicott v. Perkins, 317 U.S. 501 (1943).*

*"Even **the legislature has no power to deny to a citizen the right to travel** upon the highway and transport his property in the ordinary course of his business or pleasure, though this right may be regulated in accordance with public interest and convenience." Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22 (1929), 206*

ALL OF THE legal devices and constructions which would have it otherwise are merely the practice of fraud, criminal extortion and treason upon the sovereign people.

*"WHERE RIGHTS SECURED by the constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda v. Arizona, 384 US 436, 491 (1966)*

*"The claim and exercise of a constitutional right cannot be converted to a crime." Miller v. U.S. 230 F, 2d 286, 489 (1939).*

*"There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." Sherer v. Cullen 48 1F. 945 (1973).*

SUBMITTED WITH ALL due respect on \_\_\_\_\_, in the year of our Lord \_\_\_\_\_.

\_\_\_\_\_  
Name of Free Man Accused/Defendant in Error  
Proceeding in propria persona  
Address and Phone Number



DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

# Memorandum of Law: What is the Motor Vehicle Department

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**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>83</sup> ,  v.  Free Man Name  Defendant in Error <sup>84</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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**MEMORANDUM OF LAW IN THE MATTER OF WHAT IS THE MOTOR  
VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT AND WHO IS  
SUBJECT TO ITS JURISDICTION**

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico, Article II, Section 2 & 4), hereinafter ACCUSED, a citizen of the body politic, comprised solely of the people, who are the State of New Mexico; and, ipso facto, an American Citizen, and further coming under said people's law of the land, the common law of immemorial antiquity, and submits this MEMORANDUM OF LAW IN THE MATTER OF WHAT IS THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT AND WHO IS SUBJECT TO ITS JURISDICTION, with all due respect, as evidence and proof of the prevailing and controlling law regarding the matter before the Court.

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<sup>83</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>84</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

THE MEMORANDUM ADDRESSES the prima facie fact that the Motor Vehicle Division of the Taxation and Revenue Department, hereinafter, MVDTRD, is found to be a de facto<sup>85</sup>, corpora ficta, statutory creature of the legislature of the State of New Mexico, created by said legislature, while proceeding in de facto, corpora ficta<sup>86</sup> capacity, and, in regard to this matter this memorandum shall establish:

- (1) That the MVDTRD is a de facto, corpora ficta instrumentality of the legislature of the State of New Mexico, itself, proceeding as the de facto, corpora ficta government of the State of New Mexico, and,
- (2) Said legislature styles said instrumentality as an administrative agency, and
- (3) The nature of administrative agencies generally, and said MVDTRD specifically, and,
- (4) Who are the persons subject to the jurisdiction of said MVDTRD, styled by the aforesaid legislature as an administrative agency?

## INTRODUCTION

INSTRUMENTALITIES, IN THE nature of administrative agencies, such as the aforesaid MVDTRD, were **not** considered to be an acceptable vehicle of governance by the originators of the American system of governance, neither at the local level, nor the state level nor the national level, and not because the concept had escaped them.

THE IDEA OF a governing body, where legislative, executive, and judicial powers were resident under one head, represented the very form of governance which precipitated the American Revolution. The **despotic tendencies**<sup>87</sup> inherent in such unified administration of government were well understood, and were the very reason that American government, at the local, state and national levels, were predicated upon separation of powers into three branches. American governments are constitutionally based on the Separation of Powers Doctrine. Nothing has changed in this regard!

**IT IS ONLY THROUGH THE DEPLOYMENT OF ILLUSIONS AND DECEPTIONS** are state actors and their bed buddies, the sycophant media, able to convince the Preamble Citizens of America that they are properly, and unreservedly, subjects of a "fourth branch" of government,

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<sup>85</sup> De facto: proceeding in fact and in effect, but not necessary proceeding under de jure authority of law.

<sup>86</sup> Corpora ficta: A dead fiction; a creation in the mind; having a legal personality, but having no power to move itself apart from human energy; a creation of the State with no-God-given rights; A legal fiction that cannot be injured, hurt, or damaged by a living soul.

<sup>87</sup> Despotic tendency is the nature of a thing to grow into an entity that holds absolute, oppressive, dictatorial, totalitarian, autocrat power to abuse a free people and to turn them through legal flimflam into slaves of a dead corpse.

comprised of administrative agencies, administering and enforcing administrative laws in their respective administrative jurisdictions. Pursuant to nothing more than presumptions of authority, state actors, as a matter of adopted custom, policy and practice, proceed against the preamble citizens of the state of New Mexico to their harm, as though they were subjects of each body of administrative law and its attendant jurisdiction.

A NUMBER OF incredible, de facto doctrines of law have been conjured into existence from the witch's boiling cauldron to explain, justify, and make credible the deployment of America's "fourth branch" of government schemes. The Delegation Doctrine<sup>88</sup> is promoted as explaining where the power of legislatures to create administrative agencies come from. Such de facto doctrines as the Public Interest Doctrine<sup>89</sup> and the Social Contract Doctrine<sup>90</sup> are employed, to explain why administrative agency schemes<sup>91</sup> are necessary. Such de facto doctrines as the Implied Powers Doctrine, the Hamiltonian Doctrine<sup>92</sup>, the Living Constitution Doctrine<sup>93</sup>, and the like are employed to further justify and explain where the authority to create these "fourth branch" of government creatures arises. Implicit in all these doctrines, but never described, or referenced publicly, is the Dead Constitution Doctrine. The reason why this doctrine cannot be publicly invoked, as grounds for authority to proceed against the citizens, via administrative agency schemes, should be obvious. It should also be obvious, which is to say self-evident, to all but the political and jural illiterates of the State of New Mexico, and all of the American states, from the face of their state and national constitutions, that neither New Mexicans, nor any of these American people have created, hence authorized, any "fourth branch" of government.

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<sup>88</sup> Delegation Doctrine: The Delegation doctrine is a principle limiting Congress's ability to transfer its legislative power to another governmental branch, especially the executive branch. This is based on the separation-of-powers concept. It says that the power to declare whether or not there shall be a law, to determine the general policy to be achieved by the law, and to fix the limits within which the law shall operate is vested by the constitution in the legislature and it shall not be delegated ( )

<sup>89</sup> Public Interest Doctrine: a rather slippery legal maneuver to sanction unlawful, unconstitutional rulings under the guise of "public interest;" a misnomer for "government interest." A doctrine that permits government to enlarge its powers to the detriment of liberty; a shield which tyrants hide behind.

<sup>90</sup> Social Contract Doctrine: the view that "persons," actual or legal, are dependent upon a contract or agreement among them to form the society in which they live. A common perilous excuse that legislators use for passing abusive, controlling statutes that favor government interests rather than the interests of free men.

<sup>91</sup> Scheme: a wicked, godless program to deprive free people of their property in order to enrich the State or State employees; a deviant, covetous plan in violation of the Tenth Commandment, "Thou shall not covet thy neighbor's house . . . (property)."

<sup>92</sup> Hamiltonian Doctrine: A reference to "Implied powers" of the constitution; that is, a slippery, deceptive tactic to enlarge the powers of the State to the detriment of free men; ultra vires acts; acting beyond the powers granted by the Holders of political powers to its Trustees; the doctrine of tyrants.

<sup>93</sup> Living Constitution Doctrine: that the constitution has the properties of an animate being; that the constitution should be modified by administrative tyrants because of the demands of a contemporaneous society; that is, an excuse to expand the powers of government to the detriment of free men.

IN THE BEGINNING, departments under the executive branch of American governments, local, state, and national, were restricted to executive functions. Needless to say, such departments, having only executive powers, could not enjoy the sort of autonomy and efficiency of operation, to say nothing of opportunity for despotism, necessary if they were to evolve into lines of endeavor, a.k.a. business, which were in their nature business ventures of the sort associated with business activities in the private world, as opposed to activities of a truly public governance nature.

TOO FEW OF the sovereign people today understand that matters of governance of a truly public nature were limited, and confined to matters of the "common weal"<sup>94</sup> and "general welfare", not as those terms are recklessly promoted and accepted today<sup>95</sup>, and starkly in contrast to the clearly understood meaning of those terms before private business became the primary, if not practically the only, business of American government, whether viewed at the local, state or national level.

THE MVDTRD IS an administrative agency. It is an instrumentality of a de facto government, styled as the "State of New Mexico."<sup>96</sup> It is an instrumentality of delegated representatives of the preamble citizens of New Mexico, sitting as legislators, but **exercising powers not delegated** by the people, when said legislators created said MVDTRD. **The MVDTRD is a private corporate body , a de facto, corpora ficta creature of the New Mexico state legislature.** As such, the authority of the laws created by said legislature, in the name of enactment, and delegated to their creature, the MVDTRD, expressly created to administer and enforce said laws, is **private. Administrative laws are private laws**, notwithstanding the considerable efforts to represent them otherwise by the legal community. This is the entire significance of the necessary use of the term "quasi" when the legalist describes the legislative, executive, and judicial powers of these creatures; and, consequently, also when referring to their necessarily very limited jurisdictional and police powers. Thus, the jurisdiction in which they are enforced is private; that is, they proceed based on the legal ignorance of the people.

This memorandum will establish that the traffic regulatory laws of the State of New Mexico are administrative laws. The jurisdiction in which they are enforced is the express, ministerial

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<sup>94</sup> Common weal: A Scottish term referring to the good of the whole; to general welfare of all the people, and not just the interest and wealth creation of those in government service.

<sup>95</sup> The term "general welfare" has been corrupted by politicians to enlarge the powers of the State, to unleash programs on the public not supported by the Constitution, and to fund the interest of special interest groups. The corrupted doctrine that promotes the business of government to the detriment of free men.

<sup>96</sup> State of New Mexico: a dead, fictional corporation operating de facto with military powers for the purpose of wealth creation for government officials to the detriment and impoverishment of the people in the state of New Mexico.

jurisdiction of the MVDTRD, a private jurisdiction<sup>97</sup>. Therefore, the traffic regulatory laws of the State of New Mexico can only be administered and enforced against persons or things subject to said private, administrative authority, a.k.a. quasi-public authority. Who are members of such classes of persons or things? Presumptively, those persons or things are connected to the MVDTRD jurisdiction by an express nexus. What is the nexus? The Nexus presumptively exists when a person or thing is engaged in an activity expressly regulated by the MVDTRD. Such nexus creating events are rare, as will be made plain in this memorandum of law.

## **THE PEOPLE'S INHERENT POLITICAL POWER VERSUS THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL POWERS FOUND WITHIN THE PEOPLE'S GOVERNMENTS**

NO LONGER UNDERSTOOD in America, by the majority of the nation's true and only sovereign entities, the people themselves, political power is the highest form of power within the American "republican form of government". And within said system, political power resides, inherently, in the sovereign people and nowhere else! There was a day when this proposition was common knowledge, and prominently declared in state constitutions to include, but not limited to, the first Constitution of the State of New Mexico, to wit:

*"All political power is vested in and derived from the people; all government of right originates with the people, is founded upon their will and is instituted solely for their good." State of New Mexico 1910, Article II, Sec. 4, Constitution.*

The exact wording is used in the present day version, found in Article II, Sec. 2; compiled in 1978.

Using their political power, the people allegedly created their state governments. As will be explored herein, the **state governments created by the people have no power greater than those which the people had in their rightful possession**, which they might delegate to their state governments.

"If a man grant that which is not his, the grant is void." *Sheppard's Touchstones* 243; *Watkins' Conveyancing* 191

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<sup>97</sup> Private Jurisdiction: a feudal term wherein the king established the king's court to be governed by king's servants who use the king's law to charge barons through the king's prosecutors with offenses in order to enlarge the king's coffers; thus, the reason for the Magna Carta. While it only applies to private parties in contract with State agencies, it is used to charges fees, taxes, and tolls upon a free people who have no contract with the State Agency as a wealth creation scheme by State employees—a complete violation of God's law-order. See how Jesus chased the money changers out of the temple in John 2.

"The derivative power cannot be greater than the original from which it is derived." *Noy's Maxim; Wingate's Maxims of Law* 66; *English Chancery Reports tempore Finch*, b. 1, C. 3.

"Power can never be delegated which the authority delegating never possessed itself." *N.J Steam Co. v. Merchant Bank*, 47 U.S. 344,407

ARTICLE II OF the Constitution of the State of New Mexico is the Bill of Rights part of New Mexico's Constitution. All other articles therein comprise the Constitution of Powers part of said Constitution. **No power** granted by the people in the Constitution of Powers, part of their state constitution, can derogate or abrogate the people's implied and express unalienable rights. Said rights are protected by Article II. No amount of legal flimflam can change this constitutional fact regarding the very nature and rationale for the existence of the government of the State of New Mexico.

THERE ARE NO "four corners"<sup>98</sup> to the document, where the Constitution of Rights part of said constitution is concerned. In fact, the implied unalienable rights of the people of the State of New Mexico are to be found in their unwritten state constitution. Neither the people, nor their representatives in their state government, can deny their unalienable rights, which are hardly limited to their right to plenary, due process of law, and the right to use the public roadways within the geographic boundaries of their state. In reference to, said roadways are merely held in trust, for the people, by their government officials. If any person needs confirmation of this prima facie fact of political and juristic business in the State of New Mexico, he need look no further than the state's supreme court rulings, such as:

"State Constitutions **are not grants of power** to the legislature, executive, and judicial branches, **but are limitations on the powers** of each, and no branch of the State may add to, nor detract from, its clear mandate." *State ex Rel. Hovey Concrete Prods. v. Meachem*, 63 NM 250.316 P2d 1069(1957)

NO POWER WHATSOEVER has been granted therein to any office of the New Mexico state government which may operate to derogate or abrogate any of the people's common law unalienable rights. This same fact of life exists in each of the other 50 states of the American union.

## **THE PEOPLE EMPOWERED A STATE GOVERNMENT HAVING THREE SEPARATE BRANCHES WHOSE POWERS REMAIN SEPARATE**

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<sup>98</sup> Four Corners Doctrine: a slippery hermeneutic that allows lawyers to use phrases in one section of a document to limit or redefine the language in another segment of the document; that is, a doctrine used by agenda driven politicians to enlarge the powers of the State by abrogating the unalienable rights of the people.

WITHIN THE PEOPLE'S state governments, three departments are constitutionally empowered by the people, by and through the authority of the people's political power. Said empowerment was, and remains, limited to constitutionally enumerated powers, delegated by the people. By their state constitutions, the people alone have the power to create public offices, often described in case law, etc., as **constitutional offices**.

NO FELLOW CITIZEN, holding any one of these state constitutional offices, in any one of these three branches of state government, "in the gift of the people," has authority, hence, the power, to create other public offices.

THEREFORE IT SHOULD be self-evident that the people's delegates, sitting in the people's state legislature, **have no power to create judicial offices or executive offices**. If for no other reason than by the fact that, pursuant to the Separation of Powers Doctrine, on its face, no state legislator holds any judicial or executive power, **so how could he delegate any such power to another office of government which he creates?** The following cases are illustrative of this self-evident fact of American jurisprudence, wherein it specifically makes reference to powerlessness of state legislatures to create judicial offices, to wit:

*"While commissions created by legislature may be empowered to determine questions of administrative or ministerial character, Legislature is without authority to vest such commissions with judicial powers."& Wallis v. Astor, 56 P2d 602 Dis Ctappl, 2nd Dist.Calif (1936) Hrng DndSC (1936)*

*"No one of the three branches of government can effectively delegate any of the powers peculiarly and intrinsically belong to that branch." State v. Roy 40 NM 397*

*"A judge ceases to sit as a judicial officer because the governing principle of administrative law provides that courts are prohibited from substituting their evidence, testimony, record, arguments, and rationale for that of the agency. Additionally, courts are prohibited from substituting their judgments for that of the agency. Courts in administrative issues are prohibited from listening to or hearing arguments, presentation or rationale." ASIS v. US. 568 U.S.F2d 284*

*"Ministerial officers are incompetent to receive grants of judicial power from legislature, their acts in attempting to exercise such powers are necessarily nullities." Burns v. Sup. Ct., SF, 140 Cal. 1.(1903)*

It should be equally self-evident that state legislatures are powerless to create new legislative offices, for to have such a power would be the power for legislators to clone themselves indefinitely, and spread the power to make state laws everywhere, and in the hands of persons not the people's representatives, by so-called electoral process.



## ADMINISTRATIVE AGENCIES ARE DEPARTMENTS WITHINA DE FACTO "FOURTH BRANCH" OF GOVERNMENT

YET EVERY STATE legislature creates new departments of state government with abandon. But these new departments of state government are not offices of state government, **in any constitutional sense**, notwithstanding that articles may be found, **giving the illusion** that these departments are constitutional offices. For example, in a New Mexico case ruling;

*"Legislature's plenary authority is limited only by the State and Federal Constitutions."*

SINCE THE STATE and Federal Constitutions do not allow for plenary authority in the legislature, there is no need for anything or anyone to limit the power they don't have.

IT IS QUITE clear that the New Mexico State Legislators can create no offices of the New Mexico state government in any constitutional sense. So what kind of offices do the N.M. State Legislators create? They are a peculiar variety of office, generically known as "**administrative offices.**" Not only do the people's delegates, sitting as state legislators, create these administrative creatures, but said legislators empower these agencies with a peculiar variety of laws, which are to be administered and enforced in said agencies' specially created administrative jurisdiction. These are **administrative laws.**

BY REFERENCE TO any law school text book, whose subject is administrative law, one may discover that most of the business of modern state government is through administrative agencies; and, that these legislative creatures are often described as departments of a "fourth branch" of government. Obviously, there is no constitutionally ordained and established "fourth branch" of government in any state of the Union of American States.

IT SHOULD BE self-evident that the "fourth branch" of the New Mexico state government exists by illusion and deception. How is this done? By reference to any decent law school text book on Administrative Law, one will discover that administrative agencies are explained to be instrumentalities of state and federal governments, pursuant to the de facto Delegation Doctrine.

PURSUANT TO SAID Delegation Doctrine<sup>99</sup>, and related ancillary de facto doctrines or theories, it is said that the powers of the executive, the legislative, and the judicial functions of

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<sup>99</sup> The Delegation Doctrine as to do with LIMITING the legislature's (or Congress') ability to transfer legislative power to underlings or to the executive or to the judicial branch of government. The legislature cannot delegate its authority to any administrative office; e.g., it can't grant the power to create law to any administrative branch of the legislature. It can't delegate authority it does not have; e.g., it can't delegate judicial authority to an legislative department because it does not have an judicial power to delegate.

American governance are amassed under a single executive head of each administrative agency, which state legislatures (same said for Congress) create. The following case is illustrative of this de facto doctrine, or theory, to wit:

"Administrative powers partake of all three traditional governmental powers: legislative, executive, and judicial. In every case, administrative powers are delegated instead of residual<sup>100</sup>, which is the principle basis for distinguishing administrative powers from the powers of the legislature, the courts, and the executive offices of the state government. Hence, the rule that an administrative **agency must act within the powers conferred upon it by law**, and may not validly act in excess of such powers". *v. State Personnel Board*, 71 Cal. 2d 104 (1969)

IN ORDER TO create the patina of legitimacy, administrative agencies are said to have "delegated" powers from their legislature creators, who are said to have "residual" powers, and from this one of the Delegation Doctrine presumptions is that administrative agencies must administer and enforce their peculiar administrative laws by confining themselves strictly to expressly defined jurisdictional limits, authorities, directives, and the like, and **may not operate outside of their strictly defined powers**. Here, we recall;

“\*\*\*delegated instead of residual, which is the principle basis for distinguishing administrative powers from the powers of the legislature, the courts, and the executive offices of the state government. Hence, the rule that an administrative agency **must act within the powers conferred upon it by law and may not validly act in excess of such powers**.” *Fertig, supra*

THEREFORE, IN ORDER to create the patina of legitimacy, administrative agencies are said to be empowered with quasi-legislative, quasi-executive, and quasi-judicial powers. The following authorities are illustrative of this point, to wit:

*Quasi-judicial. A term applied to the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature.” Black's Law Dictionary, 6th Ed., p.1245*

*Quasi-judicial power. The power of an administrative agency to adjudicate the rights of persons before it.” Black's Law Dictionary, 6th Ed., p.1245*

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<sup>100</sup> Residual: things that remain or that are left over after the main part has been completed. Agencies must act within delegated powers of the People, not accumulate undelegated authority from other branches of government or unassigned powers not delegated by the People, or act in in excess of powers granted by the People.

*Quasi-legislative power: The power of an administrative agency to engage in rule making. "Black's Law Dictionary, 6th Ed., p.1245*

*Quasi: As if; almost as it were; analogous to. This term is used in legal phraseology to indicate that one subject resembles another, with which it is compared, in certain characteristics, but that there are intrinsic and material differences between them. Cannon v. Miller, 22 Wash. 2d 227, 155 P.2d 500, 503, 507. A term used to mark a resemblance, and supposes a difference between two objects. It is exclusively a term of classification. It implies that conception with which a comparison is instituted by strong superficial analogy or resemblance. Moreover it negates ideas of identity, but points out that the conceptions are sufficiently similar for one to be classed as the equal of the other. South Discount Foods Inc. retail Clerks Union Local 1552, Com. P1., 14 Ohio Misc. 188, 235 N.E. 2d 143, 147. It is often prefixed to English words, implying mere appearance or want of reality or having some resemblance to a given thing. Black's Law Dictionary, 6th Ed., p.1245*

IT IS SELF-EVIDENT "this" is not "that;" that "if" is not "is,;" that something similar is not exactly the same thing; that something "like" is called a "fake" or a "fraud," is it not? A wolf in sheep's clothing may look like a sheep, but it is deception. Likewise, man or woman dressed in a black robe may look like a judge, but is in reality, Just-an-Administrator. It appears to the Accused, that quasi-anything is a term of art designed to legitimize the illegitimate for the purpose of invalid action in excess of powers.

IT IS SELF-EVIDENT, therefore, that the powers of administrative agencies are not those of constitutionally ordained and established offices of state constitutions, notwithstanding illusions cast by such doctrines as the aforesaid, to include the Implied Powers Doctrine and the Delegation Doctrine. For it is prima facie evident that these are quasi-governmental offices. And if they are only "almost" or they only "resemble" constitutional offices which are, prima facie, public offices, then they must be private offices. And, it is certain, not every citizen is at all times subject to the administrative jurisdiction of any state administrative agency.

AND, SURE ENOUGH, New Mexico state administrative laws are not "general" laws, to which the people, embodied as the State of New Mexico, are subject, as they are subject to their law of the land, a.k.a. their common law of immemorial antiquity. Instead, there must presumptively be a contractual or licensure nexus between a citizen of the State of New Mexico and a New Mexico state administrative agency before said citizen may presumptively be subject to the administrative laws within the administrative jurisdiction of said administrative agency. When it comes to the daily affairs of the typical New Mexico citizen, it is rarely the case that such a contractual or licensure nexus exists. How does one determine when a presumptive contractual or licensure nexus may exist?

"The state citizen is immune from any and all government attacks and procedure, absent contract." see, Dred Scott v. Sanford, 60 U.S. (19 How.) 393 or as the Supreme Court has stated clearly, "...every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent." CRUDEN v. NEALE, 2 N.C. 338 2 S.E. 70

IN EVERY STATE government (same said at the federal government level), the powers of administrative agencies can only be administered and enforced by express ministerial directives, pursuant to each state's Administrative Procedures Act, hereafter APA. New Mexico's APA is evidenced at NMSA 1978, 12-8-1 to 12-8-25.

**AMONG THEIR NECESSARY** jurisdictional prerequisites, before a specific administrative agency's jurisdiction, in this case the MVDTRD, may extend to the citizen or his property, is the **requirement that there be a promulgated rule**, a.k.a. regulation<sup>101</sup>, for the provision of administrative law being enforced, **which rule specifically identifies a class of persons, or things**, which are actually engaged in an expressly defined regulated activity, wherein it is prima facie evident that the citizen, or his property is prima facie a member of said named class so engaged. This **actual engagement** in a regulated activity is known as **the nexus** connecting the person or thing to the law presumptively enacted by the state legislature. **It is a necessary jurisdictional prerequisite**, before there can be even a presumption of authority to proceed in administration or enforcement against a person or his property, in any alleged matter of violation of a New Mexico traffic regulatory-related law, which is, prima facie, administrative laws within the strictly administrative jurisdiction of the NMDTRD.

WHY ALL THIS fuss? It is critical to understand that administrative agencies exist **only** by the will of state legislators (or Congress at the national level) and NOT the will of the People! Said legislators have no authority to create offices of government, which may then govern the citizenry at large, much less have the three powers of such governance consolidated in one executive head. Such creations are in administrative agencies, and, further, notwithstanding their administrative powers, including their presumptive police powers, are quasi-powers; i.e., fake or fraud when thrust upon citizens who have no nexus to them.

TRAFFIC REGULATORY LAWS OF THE STATE OF NEW MEXICO ARE ADMINISTRATIVE LAWS WITHIN THE ADMINISTRATIVE JURISDICTION OF MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPT WHICH IS AN ADMINISTRATIVE AGENCY CREATED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO

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<sup>101</sup> Regulation: A rule of order having the force of law, prescribed by a superior or competent authority, relating to the actions of those under the authority's control (under contract). Online Legal Dictionary at freedictionary.com.

REFERENCING NEW MEXICO Administrative Code Annotated, hereafter NMAC, Title 18, chapters 1-60, we find that, Transportation and Highways is the Motor Vehicle Code. NMSA 1978, Chapters 66, Articles 1 to 8 is evidence that the Motor Vehicle Code was created by the legislature.

FURTHER EVIDENCE THAT the MVDTRD is administrative law can be found in NMSA 1978, Chapter 66-2-17. Administrative hearing; procedure, wherein it says in subsections:

"In hearings before the hearing officer, the rules of civil procedure for the District Courts shall not apply . . ."

"If the Protestant<sup>102</sup> or the secretary is dissatisfied with the decision and the order of the hearing officer, the party may appeal pursuant to the provisions of the Administrative Procedures Act.

"Nothing in this section shall be construed to authorize any criminal proceedings hereunder..." (12-8-1 to 12-8-25 NMSA 1978)

THE ONLY NATURES of crime, mandated by state and federal constitutions, are of the criminal and civil kind. Therefore, pursuant to the afore-cited statutes, it is clear that the Motor Vehicle Code is private in nature.

FURTHERMORE, WHEREAS THE MVDTRD, prima facie, **has no police power to enforce any laws but the afore-listed administrative laws**, evidenced in NMSA, chapter 66-1 to 8, and may **only** enforce those pursuant to promulgated rules, a.k.a. regulations, of the MVDTRD, published in the N.M.A.C. Without promulgated rules, even the provisions of statutes can have no "force and effect of law".

WITHOUT QUESTION, ONLY those who are parties to the MVDTRD's private regulatory domain are subject to its administrative jurisdiction, wherefore:

### **WHO IS SUBJECT TO THE JURISDICTION OF THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT?**

FROM THE FOREGOING, it should be self-evident that the power and authority of any state administrative agency, and in the instant case the MVDTRD, is extremely limited. It is an indisputable fact that there can be no intrusion upon the unalienable rights of the people by any administrative agency, notwithstanding that they are alien constitutional offices, in the first instance, and notwithstanding *that they are routinely passed off as having general authorities and jurisdictions, as though they were constitutional offices of the New Mexico state government*. In support of all the foregoing, regarding the extreme limitations of all New

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<sup>102</sup> Protestant means protestator in the legal sense.

Mexico administrative agencies, and the MVDTRD, specifically, in this instant case, take notice of the following cases, which have ruled on these self-evident truths:

*"The office and purpose of the constitution is to shape and **fix the limits of governmental activity**. It thus proclaims safeguards and preserves in basic form the pre-existing laws, rights mores, habits and modes of thought and life of the people as developed under the common law and as existing at the time of the adoption to the extent and as therein stated. Dean v. Paolicelli, 72 S.E. 2d 506, 510; 194 Va. 219 (1952)*

*"Hence, it may be said with great propriety, that a constitution **"measures the powers of the rulers, but it does not measure the rights of the governed;"** that it is not the origin of rights nor the fountain of law -- but it is the 'framework of the political government, and necessarily based upon the preexisting condition of laws rights habits, modes of thought. "Cooley Con. Lim., 37. Atchison & Nebraska R.R. Co. v. Baty, 6 Neb. 37, 41.*

*"**There is nothing primitive about a State Constitution**. It is based upon the pre-existing laws rights habits, and modes of thought of the people who ordained it, \*\*\*and must be construed in the light of this fact. "Commonwealth v. City of Newport News, 164 S.E. 689, 696 (1932)*

*"Where fundamental personal liberties are involved, they may **not** be abridged by the states simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose. Where there is a significant encroachment upon personal liberty, the state may prevail only upon showing a subordinating interest which is compelling". City of Carmel-By-The-Sea v. Young 466 P.2d 225,232; 85 Cal. Repr.1 (1970)*

*"The constitutional rights of liberty and property may be limited only to the extent necessary to subserve the public interest .Cameron v. International Alliance, Etc., 176 Atl. 692, 700; 118 N.J. Eq. 11 (1935)*

*"**The rights of the individual are not derived from governmental agencies**, either municipal, state, or federal, or even from the Constitution. They exist inherently in every man, by endowment of the Creator, and are merely reaffirmed in the Constitution, and restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government. The people's rights are not derived from the government, but the government's authority comes from the people. The Constitution but states these rights already existing, and when legislative encroachment by the nation, state, or municipality invade these original and permanent rights, it is the duty of the*

*courts to so declare, and to afford the necessary City of Dallas, et al. v. Mitchell, 245 S.W. 944,945-46 (1922)*

*"The 'liberty' guaranteed by the constitution must be interpreted in the light of the common law, the principles and history of which were familiar and known to the framers of the Constitution. This liberty denotes the 'right' of the individual to engage in any of the common occupations of life, to locomote, and generally enjoy **those rights long recognized at common law** as essential to the orderly pursuit of happiness by free men." Meyer v. Nebraska, 262 U.S. 390, 399 (1923); United States v. Wong Kim Ark., 169 U.S. 649, 654 (1898).*

*"No thing is gained in the argument by calling it 'police power.'" Henderson v. City of New York 92 U.S. 259,277(1875) Nebbia v. New York, 291 U.S. 501(1934)*

*"Even the legislature has no power to deny to a citizen the right to travel upon the highway and transport his property in the ordinary course of his business or pleasure, though this right may be regulated in accordance with public interest and convenience. Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22 (1929)*

*"No State government entity has the power to allow or deny passage on the highways, byways, nor waterways... transporting his own vehicles and personal property for either recreation or business, but by being subject only to local regulation, i.e., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring licensing, vehicle registration, or forced insurance. Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 169 N.E. 22 (1929).*

THEREFORE, WHO OR WHAT is subject to the administrative jurisdiction of the MVDTRD, which encompasses those laws presumptively enacted and evidenced at the New Mexico Statutes, Chapter 66 Articles 1 to 8?

THE ANSWER IS: Only those persons or things presumptively regulatable by the MVDTRD, as presumptively evidenced by provisions of the statutes from the aforesaid chapters of the New Mexico Statutes Annotated 1978, which have further been made specific as to the intent of the state legislature by the promulgation of rules, a.k.a. regulations, published in the aforesaid N.M.A.C., naming the actual **activity regulated**, and the **persons or things** which are subject to the regulation. *It should be self-evident that no provision of statute from the aforesaid chapters can have the "force and effect" upon any person or thing, if a promulgating rule cannot also be cited.* It should also be self-evident that any law enforcement officer, enforcing the provisions of said traffic regulatory statutes, when it is prima facie evident that the person or thing being cited is engaged in no regulated activity, in the first instance, **is proceeding under color of law**

**and color of office.** *Such persons proceed in their private capacity.* It should be clear that any "criminal justice practitioner", who participates in such proceedings, proceeds outside of any constitutional office, a.k.a. official capacity, or extra constitutional office, a.k.a. quasi-official office, hence is actionable for his acts.

## CONCLUSIONS OF FACTS AND LAW

THE NEW MEXICO state legislature, proceeding in its only capacity as political trustee for the people, who are the political trustors, and political beneficiaries, of their state government, and who are the State of New Mexico, **have no delegated power to dictate to said people when and on what terms and conditions they may use the public highways for their own private use** and in the pursuit of their own livelihood, inasmuch as said roadways are merely held in political trust for said people.

THE LEGISLATURE OF the State of New Mexico represents that it has a residual or delegated power, from said people, to create the MVDTRD, as an administrative agency to administer and regulate traffic regulatory laws enacted by said legislature. But such authority, upon its face, is **de facto in nature**, because the people can delegate no authority to their legislative representatives to create new offices of their state government. **Upon its face, said authority is presumptive and extra constitutional.** From the record, the MVDTRD is admitted to be a **quasi-governmental entity**. From the public record, it is self-evident the MVDTRD is a **private instrumentality of said legislature**, because only the people can create public offices. Such offices are said to be constitutional offices, and they must adhere to the people's **Separation of Powers Doctrine**, a key principle of the American people's scheme of governance.

THE MVDTRD CAN only have quasi-police powers, which presumptively may be enforced upon members of specific classes of persons or classes of things specifically **named in promulgated rules or regulations**, which specifically identify a regulated activity. And, whereas a regulated activity is the necessary jurisdictional prerequisite, the nexus, for there presumptively to be authority to regulate, in the first instance, and only then pursuant to the APA evidenced as NMSA 1978, 12-8-1 to 12-8-25, and its promulgating rules or regulations published in the aforesaid N.M.A.C.

NO PROVISIONS OF statutes of said traffic regulatory administrative laws may be presumptively enforced upon any holders of the inherent political power, or their property, **if** there is no nexus connecting them or their property to a specifically defined regulated activity.

PROVISIONS OF STATUTES, pertaining to said traffic regulatory administrative laws, have not even the prospect of the "force and effect of law", unless cited and prosecuted with an applicable promulgated rule or regulation, wherein the accusing officer, the prosecuting attorney, the judge, and any other "criminal justice practitioners", have **no** ministerial



discretion, when enforcing said laws, pursuant to the strict terms and conditions of their respective ministerial offices.

ALL OF THE legal devices and constructions, which would have it otherwise than the foregoing, are merely **the practice of fraud, criminal extortion and treason** upon said sovereign people of New Mexico, who are the State of New Mexico, wherein their state government is merely styled as the State of New Mexico.

IN ALL INSTANCES, **the Bill of Rights**, part of the Preamble of the Citizens' written and unwritten state constitution, **takes "primacy of position"** over the Distribution of Powers part of their written state constitution, as afore stated. How many times, and in how many ways, must it be expressed, to wit:

*"Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda v. Arizona, 384 US 436, 491 (1966)*

*"The claim and exercise of a constitutional right cannot be converted to a crime." Miller v. U.S. 230 F, 2d 286, 489 (1939)*

*"There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." Sherer v. Cullen, 481 F.945*

DOES THIS QUASI-JUDICIAL power traffic court, a.k.a. private forum, need to be reminded that, at best, it is a political trustee, and, more likely, is only holding itself out as a political trustee, and its first duty is to respect and protect the unalienable rights of the holders of the inherent political power, who are the trustors and beneficiaries of their state government, in the nature of a political trust, including their right to travel on the public highways of the State of New Mexico, and not be compelled to answer in a jurisdiction to which they are not subject, in the first instance, lest their most sacred right to due process of law be violated?

WITH RESPECT TO all of the foregoing, TAKE NOTICE:

*"It is the duty of the courts to be watchful for the Constitutional Rights of the citizen, against any stealthy encroachment thereon." Boyd v. US 116, 635, (1885)*

DOES THIS QUASI-JUDICIAL power, a.k.a. private, court have less duty to be watchful than a judicial power court? Does it have any subject-matter jurisdictional authority at all in the instant matter?

SUBMITTED on \_\_\_\_\_ in the year of our Lord \_\_\_\_\_.

\_\_\_\_\_

Name of Free Man Accused/Defendant in Error  
Proceeding in propria persona  
Address and Phone Number

DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

Enclosed find the following documents filed with Clerk of Court on this date.

1. Certified Demand to be Informed of the Nature and Cause of the Accusation,
2. Sworn Demand to Dismiss for Want of Subject-Matter Jurisdiction,
3. Memorandum of Law in Support of Sworn Demand to Dismiss for Want of Subject Matter Jurisdiction,
4. Memorandum of Law on the Right to Travel,
5. Actual and Constructive Notice of Accused's Challenge of Subject-Matter Jurisdiction And Mandatory Duty of State Political Trustees to Answer,
6. Memorandum of Law in Matter Once Jurisdiction is Challenged, Burden Shifts to Prosecution and Court to Prove Jurisdiction,
7. Memorandum of Law in the Matter of What is the Motor Vehicle Division of Taxation and Revenue Department And Who is Subject to its Jurisdiction?

These are filed for a case citing alleged violations on MVDTRD Uniform Traffic Citation No.

\_\_\_\_\_ and \_\_\_\_\_ citing statute/ordinance  
\_\_\_\_\_ & \_\_\_\_\_

Please take Notice; should my Challenge of Jurisdiction be disregarded and merits of the case be reached without verifiable proof on the record that you have jurisdiction, all prosecuting parties will be proceeding in their personal individual capacities and everything you do is actionable.

\_\_\_\_\_  
Name of Free Man Accused/Defendant in Error  
Proceeding in propria persona  
Address and Phone Number

# Motion for Citizen's Demand for Trial by Jury

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**STATE OF NEW MEXICO**  
**COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>103</sup> ,  v.  Free Man Name  Defendant in Error <sup>104</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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## MOTION FOR CITIZEN'S DEMAND FOR TRIAL BY JURY

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, non-licensed attorney litigant, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico Article II, Section 2 & 4), hereinafter ACCUSED, being duly sworn, and **makes his certified demand** for TRIAL BY JURY without accepting the jurisdiction of this court, moves the court as follows:

Pursuant to the Rights secured for her in the Constitution of the United States of America, Article III, Section 2, Paragraph 3, and in the 6<sup>th</sup> Amendment to said Constitution; and in Article II, Sections 12 and 18, of the New Mexico State Constitution (Replace New Mexico constitutional reference with correct one for your state), "Last Name of Defendant" **hereby states her demand for trial by jury.**

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<sup>103</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>104</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

"Last Name of Defendant" demands that the presiding judge, pursuant to his oath, honor and abide by said oath, uphold and support the referenced National and state Constitutions, and "Last Name of Defendant" Rights secured therein, and provide due process of law, in a judicial forum, as required, by law, to honor and uphold the Constitution and Edwards' unalienable Rights.

SUBMITTED WITH ALL due respect on \_\_\_\_\_, in the year of our Lord \_\_\_\_\_.

\_\_\_\_\_  
Name of Free Man Accused/Defendant in Error  
Proceeding in propria persona  
Address and Phone Number

# Memorandum in Support of Citizen's Right to Trial by Jury

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**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>105</sup> ,  v.  Free Man Name  Defendant in Error <sup>106</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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**MEMORANDUM IN SUPPORT OF DEFENDANT'S RIGHTS AND MOTION FOR A TRIAL BY JURY**

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, non-licensed attorney litigant, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused", one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico Article II, Section 2 & 4), hereinafter ACCUSED, being duly sworn, and brings, without accepting the jurisdiction of the court, this MEMORANDUM IN SUPPORT OF DEFENDANT'S RIGHTS AND MOTION FOR A TRIAL BY JURY as follows:

**Principle One: The Declaration of Independence, not the Constitution, is the FOUNDATION of our republic.**

The birth day of our country is July 4, 1776. There was no constitution, no bill of rights, no federal register, no United States Code, and no Code of Federal Regulations. The birthday of

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<sup>105</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>106</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

our country is not September 17, 1787—the day the Constitution was finalized by the delegates and signed by George Washington.

The Declaration is the People’s charter—not the government’s charter. The Declaration is a formal agreement among the states, a partnership, an agreement on the fundamental principles upon which We the People agreed to build a society. Those fundamental principles are as follows:

Necessity demands decision; and, some truths are so obvious that they are not worthy of debate as follows:

That all men are created equal; that is, equal in God-given rights<sup>107</sup> and equal in the eyes of the law; and,

That these rights are unalienable<sup>108</sup>, absolute, and incapable of being abolished, yielded, or taken away by legislation; and,

These rights come from the Creator (Genesis 1:1), not from governments or majority votes or by capricious summary decisions of an administrative judge; and, the government has no authority to turn God-given rights into privileges;<sup>109</sup> and,

That “just powers” are derived from the “consent of the governed;” and, therefore, unjust powers are exercised by tyrants who wield the will of the State over the people.

**Principle Two: Governments are instituted among men to secure these rights; and,**

The **only** legitimate purpose of government is to protect the rights of men<sup>110</sup>; and,

That when governments become destructive to human rights, it is the right of the People, even the duty of the People, to challenge and alter or abolish destructive governments; and, to institute new governments, on better principles, that will affect their safety (of life) and happiness (rights to property); and ,that changing governments should not be for light and

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<sup>107</sup> **Right:** the power of free action granted by the Creator; the freedom to what is good and just without infringing on the rights of other men. Only God can define what is right; and “right” is defined by His character in the Word of God- Ps. 11:7; 19:9; 119:137, 138, 160; Jer. 12:1; I Jn. 2:1.

<sup>108</sup> **Unalienable:** fundamental rights belonging to people by virtue of their relationship to the Creator; rights are unalienable because they are God-given; and they cannot be taken away by legislation or an executive order without trespassing on the Law of God.

<sup>109</sup> **Privilege:** A favorite trick of tyrannical regimes it turn rights into privileges; that is, by demanding a license, the government is able to take a God-given right and forbid its exercise until one has permission from the government. This is particularly true when it comes to gun rights, right to travel, right to work, and natural medicine.

<sup>110</sup> **The Declaration:** “that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed;”



transient reasons; and that history has taught us that tolerance of tyrannical regimes are a human weakness to wit: “that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing” traditional forms of government.

**Principle Three: The Constitution is not for We the People. The Constitution is the Will of the People for the restraint of government.**

Look at the Constitution as the rule book for the government employees; the company manual.

There is a big difference between “the Constitution **for** the United States” and “The Constitution **of** the United States”; the former a document of which government employees are under; and, the latter being a document We the People are also under; the former being correct; the latter being a transgression perpetuated by statist that believe government is some kind of god.

In American political theory, WE THE PEOPLE are not constitutionalists; government employees are constitutionalists because they have a duty to obey the company manual pursuant to their oath of office. There is nothing in the Constitution that makes a demand on Citizens, but the Constitution makes many demands on public servants to limit their reaches for power over the people.

The purpose of the Constitution was **to restrict the government** and to **limit** its powers. Constitutions, national and state, are **not** grants of power, but limitations of power.

Government officers are required to take an oath<sup>111</sup> to support and obey the company manual. An officer who engages the duties of office without an oath is an imposter and all his actions are void. Bonds are also required. See the New Mexico Constitution 22:19.

*Article 6:3- all executive and judicial officers, both of the United States and of the several states, shall be **bound by oath** or affirmation, to support this Constitution;*

**Principle Four: The Bill of Rights was an enumeration of certain rights designed to further limit the government’s power.**

*The convention 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*

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<sup>111</sup> See New Mexico Constitution that requires officers to take an oath and to post a faithful performance bond or public service bond: NM Constitution 22:19.

*added: And as extending the ground of public confidence in the Government, will best insure the beneficent ends of its institution.*

Neither the Federal government nor the State government has any inherent right to exercise any power or authority beyond what the People have granted.

*"All codes, rules and regulations are applicable to the government authorities only, not human/Creators in accordance with God's laws. All codes, rules and regulations are unconstitutional and lacking in due process ..." Rodriques v Ray Donovan [U.S. Department of Labor,] 769 F. 2d 1344, 1348 [1985]*

When the legislature delegates its authority to an agency for the development of rules, regulations, code, or other "color of law," they have not only violated the limitation on their ability to delegate, but have crossed the line by delegating their Legislative powers to state agencies to which the people did not create. When trustees delegate legislative powers to the executive or judicial branch of government, these trustees violate the Separation of Powers established by the Constitution, and thereby violated their Oath of Office [Jim Barrus 2009, Conspiracy of Deceit, p. 4]

The President of the United States, in regards to executive orders, has no power or authority to enact any kind of law that would have any effect on the People of this Nation, nor can Congress through legislation limit their God-given freedom or power or authority.

*"There can be no limitation on the power of the people of the United States (of America). By their authority the State Constitutions were made and by their authority the Constitution for the United States (of America) was established..."  
Hauenstein v. Lynham(100 US483).*

*"Acts of Congress" are not applicable to "sovereigns" in the 50 states. 18 USC, Rule 54 C Positive Law enacted – Titles of the United States Code.*

Neither the Federal nor State governments have rights to exercise any power **or authority** beyond what the People have granted. Because it is an established fact of history that governments accumulate powers not granted by the people, the first duty of a man is to question authority, not obey authority, to wit:

*Exodus 20:1-2 Thou shall have no gods<sup>112</sup> [or statutes] before me; and,*

*Deuteronomy 5:9-10 Thou shalt not bow down thyself unto them, nor **serve** them (statutes of the nations): for I the LORD thy God am a jealous God, visiting*

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<sup>112</sup> Gods are the source of law for any nation; discover the source of law and you will discover its gods.

*the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me, and shewing mercy unto thousands of them that love me and keep my commandments.*

*Deuteronomy 10:12 . . . what does the LORD your God require of you, but to fear<sup>113</sup> the LORD your God, to walk in all his ways (laws), to love him, to serve the LORD your God with all your heart and with all your soul,*

*Deuteronomy 13:4 You shall walk after the LORD your God and fear him and keep his commandments and obey his voice, and you shall serve him and hold fast to him.*

*Matthew 4:10 Then Jesus said to him, "Be gone, Satan! For it is written, "' You shall worship the Lord your God and him only shall you serve."<sup>114</sup>*

***Congress can exercise no power by virtue of any supposed inherent sovereignty in the general government.*** Indeed it may be doubted whether the power can be correctly said to appertain to sovereignty in any proper sense, as an attribute of an independent political community. The power to commit violence, perpetrate injustice, take private property by force without compensation to the owner, and compel the receipt of promises to pay in place of money, may be exercised, as it often has been, by irresponsible authority, ***but it cannot be considered as belonging to a government founded upon law.*** But be that as it may, ***there is no such thing as a power of inherent sovereignty in the government of the United States.*** It is a government of delegated powers, supreme within its prescribed sphere but powerless outside of it. ***In this country, sovereignty resides in the people***, and Congress can exercise no power which they have not, by their Constitution, entrusted to it; all else is withheld. - Justice Field - Legal Tender Case, Julliard v. Greenman - 110 U.S. 421 (1884)

The terms "marshal," "police," "sheriff," "prosecutor," "agent," and "prison" are absent in the Constitution; nor, does any grant of police power or enforcement appear in the constitution. No section of the Organic Constitution for the United States of America grants any law enforcement powers over the people by the federals.

We are a republic<sup>115</sup>, not a democracy<sup>116</sup>, and the People are the power behind common law "law enforcement" in and though local, provincial sheriffs, and the juries that decide those matters.

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<sup>113</sup> To "fear" means to obey.

<sup>114</sup> No man can serve two masters: God and government.

The only crimes government has power to prosecute are counterfeiting, piracies on the high seas, and felonies committed on the high sea, and offenses against international law, Article I, Section 8.

Unalienable rights are superior to any statutory law or rule. There is no balance to be achieved between statutes and rights because rights are unalienable.

*There can be no limitation on the power of the people of the United States. By their authority the State Constitutions were made, and by their authority the Constitution of the United States was established;—U. S. Supreme Court - Hauenstein v. Lynham (100 US 483)*

*"The laws of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government." Caha v. U.S., 142 U.S., at 215 (1894).*

The government can require no duty from the manor performance of the People towards itself including loyalty or devotion.

*"The individual [and, or church] may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. **He owes no duty to the state** or to his neighbors to divulge his business, or to open his doors to investigation, so far as it may tend to criminate him. **He owes no such duty to the state**, since he receives nothing therefrom, beyond the protection of his life and property. **His rights are such as existed by the law of the land long antecedent to the organization of the state**, and can only be taken from him by **due process of law**, and in accordance with the Constitution" Hale v. Henkle 201 U.S. 43 (1906).*

The president is not a king. The president is not the People's Commander and Chief.

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<sup>115</sup> **Republic:** A form of government where God's law is supreme and the people are free to pursue and to enjoy their Life, Liberty and Pursuit of Happiness. Each Citizen retains their own Sovereignty and has control over his personal environment. The Sovereign Citizens are subject to God's Laws, primarily the Ten Commandments, the "Golden Rule," and especially, Love thy Enemy .Each level of government is under the direct control of the Sovereign People concerned with that government.

<sup>116</sup> **Democracy:** a form of government where the majority will rules over the minority regardless if the will of the majority is right, correct, or in conformity with the Bible or the Constitution.

*DERSHOWITZ: Well, the Supreme Court of the United States just last year reminded the president that he is not commander in chief of the United States. He's commander in chief of the armed forces. That the United States civilian citizens are not under his control as commander in chief. (Aired December 19, 2005 - 19:00ET Wolf Blitzer (Journalist) and Alan Dershowitz (Harvard Law Professor) <http://transcripts.cnn.com/TRANSCRIPTS/0512/19/sitroom.03.html>)*

*A motto of the American Revolution directed against the tyrant King George III and the theologically discredited doctrine of the Divine Right of Kings (which asserted that when the king spoke, it was the voice of God speaking directly to the people) was simple and direct: "No King but King Jesus!" (Wallbuilders)*

It is impossible for a sovereign Citizen in the private sector to commit treason against the United States by virtue of the fact that the People have retained the right (authority) to work to overthrow the government or to replace it.

*" . . . it is the right of the people to alter or to abolish it . . ." (the Declaration).*

*"If any person or persons, owing allegiance to the United States of America (By oath), shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States, or elsewhere, and shall be thereof convicted on confession in open Court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and SHALL SUFFER DEATH . . .Congress, 1790*

The only people who can be convicted of treason are government employees, legislators, judges, bailiffs, and attorneys who are bound by oath to support the Constitution and who "strike" against it.

*Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.*

A Citizen may charge a judge or officer with treason, but a judge can never lawfully charge a non-government-employee with treason against the Constitution. The Citizen has no duty to be loyal to the United States, Inc., or a State Corporation operating de facto; but a trustee of the public trust has a duty to free Citizens.

**Principle Five: While government employees are under Constitution law, the People are under Common Law.**

There are no other law systems mentioned in the Bill of Rights but common law<sup>117</sup>. The term “common law” is mentioned twice in Amendment VII.

#### Amendment VII

*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**.*

Common law is the law of We the People, the law of Moses, the Ten Commandments, and its development in England—a plenary system opposed to Roman Civil Law, or Ecclesiastical law through summary processes operating through chancellors on the Continent. The People have no duty to government and the government can pass no statutes impinging the unalienable rights of the people or requiring their obedience to state officers absent a written contract.

*There is no federal general common law. Congress has no power to declare substantive rules of common law applicable in a state whether they be local in their nature or 'general,' be they commercial law or a part of the law of torts. And no clause in the Constitution purports to confer such a power upon the federal courts.— Erie R.R. Co. v. Tompkins, 304 U.S. 64 (1938)*

We the People **have a duty to common law!** Common law is based on the laws of Moses—especially Scripture’s prohibitions against injuring the rights of others. Everyman is accountable to God’s law and has a duty to conduct his business without infringing on the rights of men. No man is free of duty to God’s law. No man!

*Exodus 20:15 Thou shalt not steal.*

*Exodus 20:16 Thou shalt not bear false witness against thy neighbor.*

*Deuteronomy 24:17 Thou shalt not pervert the judgment of the stranger,*

*Proverbs 24: 28 Be not a witness against thy neighbor without cause; and deceive not with thy lips.*

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<sup>117</sup>**Common law:** The system of laws originated and developed in England, which was a form of theocracy where the King of England was also Head of the Church, a system that grew out of the Reformation and the Back to the Bible Movement in England, and based on court decisions, on the doctrines implicit in those decisions, and on customs and usages rather than on codified, statutory, man-made written laws and statutes. Common law is Biblical law, the Ten Commandments, the Golden Rule, the law of love thy neighbor as thyself and possible infractions and violation of human rights by careless or willful men.

**Man's first right is religion**<sup>118</sup>. "Congress shall make no law regarding the establishment of religion<sup>119</sup> or the free exercise thereof."

We not only have a right to follow a legitimate religious persuasion, we have a right to practice it without interference, regulation, or supervision as long as it does not infringe on the rights of neighbors. By religion, the founders meant a Christian denomination—not Sharia law<sup>120</sup>; that is, living under the law of liberty, the law of love, the golden rule, a summary of the Ten Commandments, is our Christian right and duty. To try to live under two systems of law is like having two husbands or two bosses or two captains at the same time.

*James 4:4 Ye adulterers and adulteresses, know ye not that the friendship [devotion] of the world [government laws] is enmity with God? whosoever therefore will be a friend of the world is the enemy of God. Brackets mine.*

*James 4:12 There is **one lawgiver** (the LORD God), who is able to save and to destroy: who art thou that judgest another?*

*2 Corinthians 11:2 For I am jealous over you with godly jealousy: for I have espoused you to one husband, that I may present you as a chaste virgin to Christ (not a slave to the will of the State).*

Congress can't even define the word "religion" because they have no power to do so.

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<sup>118</sup> Religion is about man's fundamental problem, death; and, the values derived from a man's believe about ultimate concerns.

<sup>119</sup> **Religion:** The term "religion" has as many definitions as the star of heaven and is greatly abused. The term "religion" in 1789 meant a "Christian denomination" as can be seen as put forth in one proposal for the First Amendment: "Congress shall make no law establishing any particular denomination of religion in preference to another, or prohibiting the free exercise thereof, nor shall the rights of conscience be infringed." In modern times, the term "religion" has broadened in meaning to include every imaginable religious sect on earth. Definitely, not the "intent" of the founders. One definition of religion is "man's ultimate values" and everyone has ultimate concerns. Another definition of "religion" which is acceptable is this: "Religion is any belief, philosophy, or proposition about what happens to men after death." Using this definition, atheism, secularism and the like must be considered a religion. And, secularism is not to be preferred about Christianity and given special privileges and immunities by the government. The whole idea that law is not religious is ludicrous, for every law represents someone's ultimate values.

<sup>120</sup> **Sharia Law** is based on the teaching of the Koran and has no foundation in American law. Sharia Law is the law of death; while Christianity is the law of life. The first duty of the People is to protect their Source of law—see the First Commandment, Ex. 20:1-3. Our source of law is common law, Biblical law, the Law of England. Sharia law has no basis, no foundation, no constitutional protection. But, the practice of Islam is protected as long as Moslem do not infringe on the rights of others or seek to undermine "common law"—the law of We the People; that is, Biblical law. Even Moslem are subject to common law, Biblical law, whether they know it or believe it.

It is the Defendant's duty to live under the laws of the LORD God—See Daniel and the story of the three Hebrews. No man, or judge, or court can demand that a Citizen adopt the religion of the Court; but the Citizen can demand the court respect the Defendant's Christian religion.

Thus, THE ONLY LAW TO WHICH WE THE PEOPLE ARE RESPONSIBLE IS COMMON LAW!!

New Mexico law:

*NMSA 3813. In all the courts in this state the common law as recognized in the United States of America, shall be the rule of practice and decision. History: Laws 18751876,*

**Principle Six: The JURY is a system of law that protects Citizens from the Abuse of Government.**

An overreaching government or act that goes beyond the boundaries of the Constitution is called an "*ultra vires*"<sup>121</sup> act or law. In order to protect ourselves from *ultra vires* acts of government, aggressive prosecutors, judges, and police that exert their will over the people, the People established **common law courts and the jury system**. Amendment VII is derived from the Principles of Common Law found in the Magna Carta that limited property holders from being charged by the king's sheriff, to be tried in the king's court by the king's prosecutor before the king's judge for the purpose of enlarging the King's treasury. If everyone in the chain of power is paid by the State, what chance does a Citizen have but a trial by jury of his peers?

The government is accountable to We the People, **but the People are only accountable to one another through the jury system!** The true **JUDGES of law and fact is the jury**. Jury judges, not district judges, have the power to be a trier of fact and applicable law.

**ONLY a JURY can summons a citizen into court; only a jury indictment can HOLD a citizen.**

Everything else is a SUMMARY JUDGMENT by a STATE ACTOR, an *ultra vires* act, an unconstitutional tort, an over reach of State officers. Thus, the Declaration of Independence became a **DECLARATION OF WAR** against King George or any STATE ACTOR who seeks to extend their authority over the people!

This Citizen **cannot waive his right to a JURY trial because** it is an ABSOLUTE right. The only time a HEARING can be held, is for IMPEACHMENT!

A bill of attainder (also known as an act or writ of attainder) is an act of legislature declaring a person or group of persons guilty of some crime, and punishing them, **without benefit of a**

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<sup>121</sup> Ultra vires is a Latin term meaning "beyond powers".



**trial.** The United States Constitution forbids both the federal and state governments to enact bills of attainder, in Article 1, Sections 9 and 10, respectively.

**The people's only duty is to common law**<sup>122</sup>, and **the judge of common law is the jury.** And, there is a VAST difference between a **Trial by Jury** and a Jury Trial. A Jury Trial is the civil substitute for a Trial by Jury and has been foisted upon the people as part of the State scam.

**Trial by Jury** is a Common Law Trial, as specified in Article 7 of the Bill of Rights. The term "judge" is not mentioned in Article VII. There are no Attorneys to speak on behalf of the parties. The Jury members are referred to as Justices and they conduct the trial directly question the parties before the court, and render the verdict.

**Our only accountability is to a jury of our peers.** Only a jury can judge the facts and determine whether a Citizen has clean hands.

US Constitution 3:2:3

***The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress by law have directed.***

The jury has the right to judge the law as well as the facts in a controversy [John Jay, 1<sup>st</sup> Supreme Court Justice, 1789];

*"You have a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy" State of Georgia v. Brailsford, et al, 3 Dall.1.*

The reason the jury has right to judge the law as well as the facts is because States are famous for multiplying statutes and codes to trap, ensnare, and confuse the people.

*"To embarrass justice by a multiplicity of laws, or to hazard it by confidence in judges, are the opposite rocks on which all civil institutions have been wrecked, and between which legislative wisdom has never yet found an open passage." Dr. Samuel Johnson, the most distinguished man of letters in English History.*

*"The letter killeth, but the spirit giveth life" 2 Corinthians 3:6*

*"It is error alone which needs the support of government" – Thomas Jefferson*

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<sup>122</sup> Do your neighbor no harm. Common law, Biblical Law, is simple and understandable.

Further, juries must have the power to ask questions to get to the facts and the law without which the jury cannot be the final protector of the people's rights from the powers of the Herculean State. If the government is permitted to dictate the law to the jury, then there is nothing to prevent the judges from deciding what evidence is admissible or inadmissible, and, therefore, prevent the "whole truth" from being considered.

Our system is **not** based on a trial by government, but a trial by jury. It is the jury's duty to reign in the power of the State, to protect unalienable rights, and to protect the Citizen from the crushing power of an over reaching State government. The jury is not there to be a nice, sweet, rubber stamp for State power but the nation's bulldog to protect the people from the abuse of power so common among governments. Further, the jury is not in place to protect criminals that have abused the rights of others from the call of justice. Thus the jury is the liberty, power, and honor of "We the People" because it is the jury that protects Citizens from defective and oppressive Statutes created by the State bureaucrats to trap people in their commercial schemes. To deny these powers to a jury is treason against the trustors by the trustees of power. It is a denial of justice, due process, and liberty.

More further, justice demands a jury of peers; that is, people who know the defendant— people who live in the vicinity of the Accused. By "peers" Black's Law Dictionary means people of equals, stations, and rank. It would be a travesty of justice for blue collar workers to judge a white collar "crime." Justice is frustrated when a black man has to face an all-white jury. Justice is frustrated when a doctor is tried before a jury of high school graduates.

Citizens have no duty to answer to a judge, but the people do have a duty to answer the questions of a jury.

The jury system is so powerful, even the Supreme Court of the United States does not have the power to reexamine the ruling of a Common Law Court except under the rules of common law. See Amendment VII.

#### 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**, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.*

#### Amendment VI

*In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense*

Amendment VII

*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 re-examined in any Court of the United States, than according to the rules of the common law.*

**Principle Seven: Knowledge enables. Ignorance cripples.**

Knowledge is critical. If men do not know their rights, they have none. Ignorant, incompetent people need lawyer.

If Citizens do not know the Constitution and the limits of government, how can they recognize *ultra vires* acts of government employees like policemen and judges?

*Nothing is more terrifying than ignorance in action - Goeth plaque at the Naval War College.*

Therefore, the Accused, knowing his rights, claims his God-given right to a “trial by a jury” of his peers selected from his neighborhood.

SUBMITTED WITH ALL due respect on \_\_\_\_\_, in the year of our Lord \_\_\_\_\_.

\_\_\_\_\_  
Name of Free Man Accused/Defendant in Error  
Proceeding in propria persona  
Address and Phone Number

## DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

## Using Bonding Laws to Defeat a State Officer

1. All most of if not all states require elected or appointed officials take an oath and to obtain a faithful performance bond (insurance) as evidence of their commitment to fulfill the trust of the people. Oaths and faithful performance bonds are necessary to perfect their appointment to public office. If they have not taken an oath and personally purchased a bond, they have not perfected their office, and served de facto, not de jure. Without an oath and a bond all of their acts are null and void, of non-effect as if they had never been elected or appointed to office.
2. Bonding laws are in place so that if an officer of the State violates his oath of office, the people can sue the politician and seize his bond so they people do not have to pay for his defense.
3. When states incorporated with the United States, Inc., bonding requirements were quietly dropped as matter of policy. In the State of New Mexico, there is no one officer working for the people that have a bond. Neither the governor, nor Secretary of State, nor attorney general, nor the head of any agency, police, or judges are bonded.
4. So as to save face, the State decided to purchase a “safety” bond for all New Mexico employees making it “look like” the officers of the State was bonded. But, a safety bond and a faithful performance bond are two different matters all together. For example, let’s say a policeman is involved in a car accident. The “safety bond” will cover damages done. But, let’s say that those inspecting the accident find an open bottle of whiskey in the patrol car and determine the accident was caused by intoxication of the officer. A “safety” bond does not cover neglect of duty. If the officer is sued, who is going to pay for his defense? If he had a faithful performance bond, the insurance company, not the state treasurer, would have make compensation. Furthermore, the officer’s bond would be seized and he could never again be employed as a police officer.
5. **Think of the effect of this fact.** If officers of the state have not obeyed the constitutional mandate to purchase a bond, they are imposters, actors, and lawbreakers. None of their acts have the force of law and all that they do is null and void.
6. Think of what this means in court. Since no judge is bonded, all his decisions are void. He is the lawbreaker, not you. But, what judge is going to make a ruling on this and bring the whole state crashing to the ground on this issue. It is true, the all public officers must be bonded, but it also true no judge is going to rule against himself or his fellow judges.

7. The reason they are not bonded is because so much of what they do is unconstitutional, they are subject to many law suits. But, what insurance company is going to bond public officials when everything they do and say is contrary to the constitution.
8. You can use bonding laws to nullify a judge's decision or a cop's arrest. Let me illustrate, on one occasion one of our members was cited by the attorney general for practicing law without a license and threatened in a letter to have him arrested if he did not stop assisting people with their paper work in court. We fired off a letter to the District Attorney and informed him that our member was not breaking the law, but he was by not perfecting his oath of office. Because he did not have a bond, he was acting de facto, not de jure; that he was a law-breaker and had failed to obey the clear laws in our state constitution; that if he did not drop this matter, we would take him to court and demand to see his bond; and, in the absence of a bond, demand he resign. Our member received a letter from the Attorney General saying the matter was being dropped and that he told his staff to stand down.
9. You can use the bonding laws against a recalcitrant judge, have him fired, and his retirement seized . . . if skillfully done. If a judge violates the rights of the accused and fails to uphold the constitution, the judge can be confronted and required to vacate his office. This is a serious matter and not a game. It should only be used when the judge has clearly denied one's constitutionally protected rights, has witnesses, and affidavits so testifying. If your case is tanking, you can pull out the ace card and challenge the judge's oath of office and bond. Personally, I've seen the bonding ace card pulled on three different occasions, wherein, the matters before the court were suddenly disappeared. On another occasion, one of our members caught a magistrate judge saying, "We don't honor the constitution" in this court." Five or six people heard the judge say this, wrote up affidavits testifying to this fact. Her board was notified, and she lost her job, and her retirement funds. But, it was done right. Use with discretion after much study.

# Memorandum on Bonding Laws

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**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO IN THE METROPOLITAN COURT**

STATE OF NEW MEXICO  Plaintiff in Error <sup>123</sup> ,  v.  Free Man Name  Defendant in Error <sup>124</sup> .  Citing Ordinance _____	MVDTRD Uniform Traffic Citation  Citation No. _____  Case No. _____
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**Memorandum of Pertinent Constitutional Provisions and Other Considerations  
Regarding Faithful Performance Bonds as Condition Precedent Before  
Exercising Duties of Office**

COMES NOW THE Defendant in Error, Free Man Name, living soul, mature in age, competent to testify, non-licensed attorney litigant, subject to the original jurisdiction of Genesis 1:26-28, hereafter "Accused," one of the holders of the inherent political power of the State of New Mexico, (see Constitution of the State of New Mexico Article II, Section 2 & 4), hereinafter ACCUSED, with his Memorandum of Pertinent Constitutional Provisions and Other Considerations Regarding Faithful Performance Bonds as Condition Precedent Before Exercising Duties of Office to wit:

Article VI, Clause 3, Constitution for the United States of America

*The Senators and Representatives before mentioned, and the Members of the  
several State Legislatures, and all executive and judicial Officers, both of the*

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<sup>123</sup> Plaintiff in Error: The unsuccessful party in a lawsuit who commences proceedings for appellate review of the action because a mistake or "error" has been made resulting in a judgment against him or her; an appellant.

<sup>124</sup> Defendant in Error: A party against whom a writ of error has been (wrongfully) issued.

*United States and of the several States, **shall be bound by Oath or Affirmation**, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States. (Emphasis added).*

The phrase "shall be bound by oath" is taken to mean exactly as it meant in Sections 4 and 5, The Coinage Act of 1792; to wit:

*Section 4. **And be it further enacted**, That every officer and clerk of said mint shall, before he enters upon the execution of his office, take an oath or affirmation before some judge of the United States faithfully and diligently to perform the duties thereof.*

*Section 5. **And be it further enacted**, That the said assayer, chief coiner and treasurer, previously to entering upon the execution of their respective offices, shall become bound tith United States of America, with one or more sureties to the satisfaction of the Secretary of the Treasury, in the sum of ten thousand dollars, with conditions for the faithful and diligent performance of duties of his office.*

**Note:** This provision of the Constitution for the United States of America **is binding on all state public officers** for which they must maintain records and do so for public scrutiny.

An oath of office **is a promise made to the People** generating the office – by a constitution – and the oath is given in exchange for the public trust. The Faithful Performance Bond is given as the oath taker’s consideration for the public trust received upon taking the oath which binds him to the promises contained in the oath.

Article XX, Section 1, Constitution for the State of New Mexico

*Every person elected or appointed to any office shall, before entering upon his duties, take and subscribe to an oath or affirmation that he will support the constitution of the United States and the constitution and laws of this state, and that he will faithfully and impartially discharge the duties of his office to the best of his ability.*

*Effect of failure to take oath -- Mere appointment or election of an official, without his qualification, will not oust incumbent from office; to do so he **must** take an oath **and give bond** where required. *Bowman Bank & Trust Co. v. First Nat'l Bank*, 18 N.M. 589, 139 P. 148 (1914)*

Article XXII, Section 19. [First state officers] New Mexico Constitution



*Within thirty days after the issuance by the President of the United States of his proclamation....all officers...shall take the oath of office and give bond as required by this constitution or by **the laws of the territory of New Mexico . . .**"*  
(emphasis added)

If a question arises about the enforceability of Territorial bonding law, this case in point answers the question; On January 17, 1924, the New Mexico Supreme Court held the requirement of bond prior to discharging the duties of office claimed in a case entitled Bd. of Com'rs of Guadalupe County v. Dist. Court of Fourth Judicial Dist (1924). And under Section 4, Chapter 76, Session Laws of 1923, constitutes the County Commissioners of every county a Board of County Finance, and section 8 of the act makes it the duty of the Boards and the District Judge of the Fourth Judicial District to approve the bond of the County Treasurers.

Note. The word stated is "**the bond**", singular and not a blanket bond.

New Mexico law requires an oath not perjured:

Article XXI. Compact with the United States

*Section 9. [Consent to Enabling Act] This state and its People consent to all and singular the provisions of the said act..."*

Section 10 [Compact irrevocable.]

**This ordinance is irrevocable** without the consent of the United States and the People of this state, and no change or abrogation of this ordinance, in whole or in part, shall be made by any constitutional amendment without the consent of the Congress. (emphasis added)

Cross references: For amendment of compact with United States, see New Mexico Constitution, Article XIX, section 4. State consent to change requires constitutional amendment. Congress in 1920 consented to change in regard to use of proceeds of land granted state, but state itself must adopt constitutional amendment whereby this consent can be carried into effect (emphasis added). Bryant v. Board of Loan Comm'rs, 28 N.M. 319, 211 P. 597 (1922). See N.M. Const., Article XIX, section 4.

**[Note: A referendum vote would be required to change the law.]**

The State Legislature began to re-codify and re-re-codify (perhaps to cause us to lose track of the original laws) and eventually the current laws are codified as 10-2-1 through 12, New Mexico Statutes Annotated (NMSA) 1978. It appears the state legislature passed the Surety Bond Act for the purpose of negating the Territorial Laws mandating Faithful Performance Bonds of all elected and appointed public officers prior to discharging the duties of office claimed. The said legislative act is in direct violation the Constitutional requirement first having

permission of Congress and the necessary affirmative Referendum vote by the People of New Mexico, to wit:

**Article XIX, Sec. 4. [Amendment of compact with United States.]**

*When the United States shall consent thereto, the legislature, by a majority vote of the members in each house, may submit to the people the question of amending any provision of ArticleXXI of this constitution on compact with the United States to the extent allowed by the act of Congress permitting the same, and if a majority of the qualified electors who vote upon any such amendment shall vote in favor thereof the said article shall be thereby amended accordingly. (As amended November 7, 1911) (emphasis added)*

Cross references: As to consent of congress necessary to amendment of compact, see New Mexico Constitution, Article XXI, section 10.

**1911 amendment:** As originally adopted, this section read as does the present text, but it was included in the required amendment of this article which was proposed by Congress and incorporated in the congressional resolution of August 21, 1911 (37 Stat. 39), providing for admission of New Mexico as a state, which stipulated that adoption of the amendment should be **a prerequisite to admission**. It was adopted by the people at the first election of the state officers on November 7, 1911, by a vote of 34,897 for and 22,831 against.

Perfecting a claim to office requires the following acts:

1. **No state public officer** could discharge assigned duties without first being bonded with an insurance company of their selection which was qualified and authorized to conduct business for that purpose within the State of New Mexico.
2. The **quality** of the bond had to be approved by a previously and lawfully bonded senior public officer of the Department of New Mexico Government wherein the individual seeking to perfect the public office to which he/she was elected or appointed would take on assigned duties. Special bonding arrangements are in place for those senior public officers.
3. Upon approval by the department head, the person seeking to perfect claim to the public office would provide that faithful performance bond approval information to the agency of government authorized to use public appropriations to pay for the bond who would then secure the surety bond sought and provide evidence of the secured bond to the Office of the New Mexico Secretary of State for filing in the Record of Official Bonds which office also possessed the attendant notarized oath of office of the bond holder as required to be taken by Section 1, Article XX, Constitution for the State of New Mexico.

4. Since the above sequence of public acts have not been performed by any person claiming to be the senior public office holder of any Department of the New Mexico Government, no subordinate public office was ever perfected anywhere within the State of New Mexico and those claiming to be in public office conducting legislative, judicial or executive activities of government are doing so without perfecting their claim to office.
5. The sequence of actions outlined in Subparagraphs 1 through 4 above are each required in the order delineated to perfect any state public office to which one is either elected or appointed. Avoid one step and **the office cannot be perfected.**

### **Questions and Answers**

**What is a Surety Bond?** A surety bond is a written agreement providing for monetary compensation to be paid by the surety company should there be a failure by the person bonded to perform specified acts within a stated period.

**What is Surety?** Surety is a specialized line of insurance where one party agrees to be responsible for the debt or obligation of another party. There are three parties to this agreement:

**The principal** (the public official) is the party that undertakes the obligation and who is primarily bound on a bond.

**The surety company** guarantees that the obligation will be performed.

**The obligee** (the People of New Mexico) is the party who receives the benefit of the bond. The bond protects the obligee from loss.

**What are the differences?** With traditional insurance products:

The risk is transferred to the insurance company.

The insurance company takes into consideration that a certain amount of the premium for the policy will be paid out in losses.

The goal is to spread the risk.

With Surety:

1. The risk always remains with the principal. The obligee receives the benefit and protection of the bond.
2. The premiums paid are charged for the use of the surety company's financial backing and guarantee.

3. Surety professionals view their underwriting as a form of credit so the emphasis is on prequalification and selection.

What is the basic information that a Surety uses to underwrite? The surety needs to determine if the applicant has the following:

4. Capacity: The applicant must have the skill and ability to perform the obligation
5. Capital: The applicant's financial condition must justify approval of the particular risk.
6. Character: The applicant's record must show him or her to be of good character and likely to perform the obligation that he or she assumes.

It is quite clear **that the object/purpose of an official bond is to protect the public**. Put another way; the purpose of a penal bond **binds** a public office holder to the promises contained in the oath of office. The law requiring bonding and filing it is abundantly crystal clear:

NMSA 10-2-5. [Recording of bonds required.] (1893)

The bonds given by all persons elected or appointed to office in this state shall be recorded. History: Laws 1893, ch. 56, § 1; C.L. 1897, § 3187; Code 1915, § 515; 1929, § 17-111; 1941 Comp., § 10-205; 1953 Comp., § 5-2-5. (emphasis added)

***NMSA 10-2-6. [Record of official bonds of state and district officers.] (1893)****The bonds of all state and district officers shall be recorded in a record book to be provided for that purpose, and known as the record of official bonds, in the office of the secretary of state. History: Laws 1893, ch. 56, § 2; C.L. 1897, § 3188; Code 1915, § 516; C.S. 1929, § 17-112; 1941 Comp., § 10-206; 1953 Comp., § 5-2-6. (emphasis added)*

***NMSA 10-2-7. [Filing of bonds by officials of state and state agencies.] (1905)****The bonds of **all state officials**, and of the members of all state boards and institutions, after having been recorded as required by law, **shall be filed** and kept in the office of the secretary of state; and all state bonds now filed elsewhere shall be transferred to the office of the secretary. History: Laws 1905, ch. 59, § 1; Code 1915, § 517; C.S. 1929, § 17-113; 1941 Comp., § 10-207; 1953 Comp., § 5-2-7.(emphasis added)*

*NMSA 10-2-8. County and precinct officers; recording and filing bonds.(1967)*

**The bonds of all county officers and constables shall be recorded** in the office of the county clerk in a book designated as the record of official bonds. After having been recorded, the

bonds shall be filed and kept in the office of the county clerk. History: Laws 1893, ch. 56, § 3; C.L. 1897, § 3189; Code 1915, § 518; C.S. 1929, § 17-114; 1941 Comp., § 10-208; 1953 Comp., § 5-2-8; Laws 1967, ch. 238, § 2. (emphasis added)

*NMSA 10-2-9. [Recording as prerequisite to discharging duties of office.](1893)Each and every person **who may hereafter be elected or appointed to office in this state, required by law to give bond**, shall file the same for record before entering upon the discharge of the duties of the office. History: Laws 1893, ch. 56, § 5; C.L. 1897, § 3190; Code 1915, § 519; C.S. 1929, § 17-115; 1941 Comp., § 10-209; 1953 Comp., § 5-2-9.(emphasis added)*

All persons elected or appointed to a state public office are mandated, within 30 days, to take the oath of office prescribed under Article XX, Section 1, Constitution of New Mexico, and as soon after doing so within the 30 day grace period, they must give a penal bond binding them to the promises contained in the oath taken; otherwise, the office becomes vacant. At the end of the 30 day grace period, failure to complete any of the required steps necessary to enter the office prevents one's entry into the office and prohibits one from discharging the duties of that office. Being bound by oath is mandated for all public officers, both state and federal, by Article VI, Clause 3, Constitution of the United States.

An abuse of office does not withdraw the public trust; only a failure to keep the promises made upon taking the oath is necessary to withdraw the public trust which is accomplished by calling the bond from the Office of the Secretary of State. The bond insurer is then required to pay the value of the bond to the State Treasury. The insurer may then seek relief for having paid off the bond proceeds in a court of law. Upon entering office, the office holder may, at times, abuse the office by an indiscretion at which time the liability insurance coverage for the office, not the person, may compensate the injured party in a tort action.

**NMSA 10-2-1 to 12** are requirements for penal bonds to be given by those who are elected or appointed to public office.

**NMSA 10-2-13 to 17** are for liability coverage after one successfully enters public office. The State Legislature does not have authority to alter the penal bond laws since they give effect to Article XXII, Section 4, Const. N.M.

If the truth is of any importance, NMSA 10-2-1 to 12 are **unlawful** amendments, alterations, or revisions to 5-2-1 to 12 which were enacted as Territorial Law during the period 1886 to 1905.

Article XXII, Section 4 prohibits their alteration, amendment, or rescission.

The plain, irrefutable fact remains, a public officer cannot be covered by the liability insurance unless he or she successfully enters office. No penal bond as

required by Art. XXII, Sec. 19, then no liability insurance coverage is available because one can't enter public office without giving a penal bond.

In Summary, the privileges of office are taken seriously, and, therefore, oaths to perform faithfully are constitutional requirements. As evidence of sincerity, condition precedent to office, the People of New Mexico require an official to purchase a "public bond" or "faithful performance bond" from his own money prior to performance of duty. Without a bond, the officer is in contempt of the laws of the People of New Mexico. All writs, orders, and acts are "null and void" *ab initio nunc pro tunc* day of duty assumption.

The only properly bonded officers in the State of New Mexico are public notaries. All other officers, including the governor, heads of departments, judges, mayors, and council members are pretenders, de facto officers, and imposters.

SUBMITTED WITH ALL due respect on \_\_\_\_\_, in the year of our Lord \_\_\_\_\_.

\_\_\_\_\_  
Name of Free Man Accused/Defendant in Error  
Proceeding in propria persona  
Address and Phone Number

DECLARATION OF SERVICE

I, \_\_\_\_\_ hereby declare that on TIME YEAR DATE, the original of the foregoing document was hand delivered to the Clerk of the Court, and one copy of said document was sent to each of the following parties, via the U.S. Postal Service, first class postage having been paid, on the same day;

Judge \_\_\_\_\_

Court \_\_\_\_\_

State \_\_\_\_\_

County \_\_\_\_\_

Prosecutor?

Other Department?

List Cases and Authorities?

# Bibliography

(1) Nike Insights strong recommends SEDM and all its material to learn how to fight traffic tickets or any matter in court.

See: SEDM, "The Don Quixote School of Law" - <https://sedm.org/Litigation/10-PracticeGuides/common-law-abatement.pdfh>

(2) Dale Pond, Howard Fisher, Richard Kntson (1997): "The History of American Constitution or Common Law with Commentary Concerning Equity and Merchant law.



# Publications

Books we have written: See <https://nikeinsights.famguardian.org/publications/>

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