No. _____, Original

IN THE
Supreme Court of the United States

Adam A. Bereki

Petitioner,

v.

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT;
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE;
SUPREME COURT OF CALIFORNIA;
CALIFORINIA LEGISLATURE;
UNITED STATES DISTRICT COURT,
FOR THE CENTRAL DISTRICT OF CALIFORNIA;
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT;

Richard M. Aronson; Willam Bissell; Tani Cantil-Sakouye; David Chaffee; Ming W. Chin; Carol A. Corrigan; Mariano-Florentino Cuellar; James Di Cesare; William Fletcher; Thomas Goethals; Joshua P. Groban; Gary Humphreys; Karen Humphreys; Leondra R. Kruger; Law Offices of William G. Bissell; Goodwin H. Liu; Consuelo B. Marshall; Kathleen E. O'Leary; Sidney Thomas; and, Atsushi Tashima.

Respondents,

EMERGENCY PETITION FOR WRIT(S) OF ERROR AND/OR NON-STATUTORY *HABEAS CORPUS*

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"The constitution gave to every person having a claim upon a State, a right to submit his case to the Court of the nation. However unimportant his claim might be, however little the community might be interested in its decision, the framers of our constitution thought it necessary for the purposes of justice, to provide a tribunal as superior to influence as possible, in which that claim might be decided."

–*Cohens v. Virginia*, 19 U.S. 264, 383-4 (1821)

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COMBINED VERIFIED STATEMENT OF FACTS & BRIEF IN SUPPORT OF LAW

SUBJECT MATTER JURISDICTION

"There are village tyrants as well as village Hampdens, but none who acts under color of law is beyond reach of the Constitution."

–Board of Education v. Barnette, 319 U.S. 624, 638 (1943).

"Whenever an act of […] government is challenged a grant of power must be shown, or the act is void."[1] The following Writs of Error and/or non-statutory *Habeas Corpus* challenging the authority of the State of California and the United States to punish and/or conspire to punish Petitioner without a judicial determination of his rights are therefore writs of *right* and are not to be confused with statutory *discretionary* writs.

This Court, being one of Constitutionally *defined and limited* powers, must therefore abide its non-discretionary ministerial duty to fully, fairly, and impartially adjudicate all of Petitioner's claims, for it has no discretion to decline the exercise of jurisdiction which is given. To do so would be treason to the Constitution.[2] See also *Ex Parte Kumezo Kawato,*[3] finding that even a *resident alien enemy* had standing for the Court to issue a writ of mandamus in its original jurisdiction.

I. Non-statutory Writ of Habeas Corpus

On petition for non-statutory Writ of *Habeas Corpus*, this Court has original jurisdiction over the subject matter pursuant to Article I, §9, Cl. 2 of the Constitution for the United States, ("Constitution"), the Ninth Amendment thereto,

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[1] *United States v. Rhodes*, 27 F. Cas. 785, 790 (1866).

[2] *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

[3] *Ex Parte Kumezo Kawato*, 317 U.S. 69 (1942).

and Article III, §2 which declares that "[t]he judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution […]." Alternatively, this Court alsohas subject matter jurisdiction pursuant to section 14 of the Judiciary Act of 1789[4] and the First Amendment securing the "right to petition the Government for a redress of grievance."

This Court's original jurisdiction in *Habeas Corpus* must be exercised because, as will be evidenced, (1) there is no judicial Constitutional Court in the State of California upon which Petitioner can present these claims; (2), the officials of all three branches of California government are either engaged in fraud, deceit, and treason to deprive Petitioner of his rights, liberty and property and/or have refused to perform their sworn duties as a check and balance to the other branch(es) usurping their authority; and, (3) Congress has not vested any inferior Court of the United States with subject matter jurisdiction in Law or Equity to adjudicate Petitioners claims.

a. A non-statutory Writ of Habeas Corpus is not a suit against a State and therefore not barred by the Eleventh Amendment.

A non-statutory Writ of *Habeas Corpus* is "in the nature of an injunction against a State official and therefore does not commence or constitute a suit against a State."[5] See also *Ex parte Siebold*,[6] holding that "[t]he only ground on which this Court, or any court, without some special statute authorizing it, will give relief on

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[4] "And be it further enacted, That all the before-mentioned courts of the United States, shall have power to issue writs of scire facias, habeas corpus,(e) and all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law. And that either of the justices of the supreme court, as well as judges of the district courts, shall have power to grant writs of habeas corpus for the purpose of an inquiry into the cause of commitment." See also *Felker v. Turpin,* 518 U.S. 651, 661-62 (1996).

[5] *Cent. Va. Cmty. College v. Katz,* 546 U.S. 356, 378 (2006) fn. 14, citing *Ex parte Young*, 209 U.S. 123, 159-160 (1908).

[6] *Ex parte Siebold*, 100 U.S. 371, 375 (1879).

habeas corpus to a prisoner under conviction and sentence of another court is the want of jurisdiction in such court over the person or the cause, or some other matter rendering its proceedings void." Petitioner asserts that the officials in the challenged actions evidenced herein lacked jurisdiction over his person and/or of the cause and that he is in *at least* constructive custody resulting from an *ultra vires* malicious prosecution and other issues addressed forthwith depriving him of his rights, liberty, and property secured by the Constitution.

b. There is no other Court of the United States to bring these claims as Congress has not vested the judicial power of the United States at Law or Equity in any inferior Court.

28 USC §1331 also known as "Federal question jurisdiction" declares that: "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

According to the United States House of Representatives Committee on Revision of the Laws,[7] the "[w]ords 'all civil actions' [of 28 USC §1331] were substituted for 'all suits of a civil nature, at common law or in equity' to conform with Rule 2 of the Federal Rules of Civil Procedure, ["FRCP"]". FRCP Rule 2 states "There is one form of action—the civil action."

In further explanation of the meaning of "the civil action" the 1966 Amendment to the FRCP stated in the Notes of the Advisory Committee on Rules, declares "[t]his is the fundamental change [of the FRCP] necessary to effect unification of the civil and admiralty procedure. Just as the 1938 rules abolished the distinction between actions at law and suits in equity, this change would abolish the distinction between civil actions and suits in admiralty."[8]

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[7] Revision of Title 28, United States Code, Report from the Committee on Revision of the Laws, House of Representatives, 79th Congress, 2d Session, House Report No. 2646. p. A111.

[8] https://www.law.cornell.edu/rules/frcp/rule_1; US Code.

The Constitution does not confer the judicial power of the United States in any jurisdiction known as "the civil action."[9] The only jurisdictions that arise under the Constitution and laws of the United States are Law and Equity.

The principles and distinctions between law, equity, and admiralty, upon which the judicial power of the United States is vested by Article III of the Constitution cannot be abolished or blended together in one suit known as "the civil action." This is not only because "[a] case in Admiralty does not […] arise under the Constitution or laws of the United States,"[10] but because the Constitution specifically sets out the procedures for making amendments in Article V and these procedures in the form of the Federal Rules of Civil Procedure "govern[ing] the procedure in all civil actions and proceedings in the United States district courts […]"[11] have clearly not been followed.

The means of properly conferring subject matter jurisdiction on an inferior Court can be found in section 11 of the Judiciary Act of 1789, (1 Stat. 73) whereby the Circuit Courts of the United States were vested with subject matter jurisdiction of all suits of a civil nature "[…] at common law or in equity[…]" with omitted exceptions.

As declared by this Court, "[t]he Constitution of the United States […] recognize[s] and establish[es] the distinction between law and equity. The remedies in the courts of the United States are, at common law or in equity, not according to the practice of State courts, but according to the principles of common law and equity, as distinguished and defined in that country from which we derive our

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[9] See Federal Rules of Civil Procedure, Rule 2.

[10] *American Insurance v. 365 Bales of Cotton*, 26 U.S. 511, 545 (1828).

[11] Federal Rules of Civil Procedure, Rule 1.

knowledge of these principles."[12] See also *Mc Faul v. Ramsey*,[13] holding that "[i]n those States where the courts of the United States administer the common law, [National Courts] cannot adopt these novel inventions, which propose to amalgamate law and equity by enacting a hybrid system of pleadings unsuited to the administration of either."

As it pertains to the instant case, California was admitted as a free State under English/American common Law and repealed Roman civil law as held in the Supreme Court of California case of *Fowler v. Smith*[14]:

> "When the territory now comprised in the State of California was under Mexican dominion, its judicial system was that of the Roman law, modified by Spanish and Mexican legislation. Upon the formation of the present State government, that system was ordained by a constitutional provision to be continued, until it should be changed by the Legislature. At the first session of the Legislature an act was passed, adopting the common law of England; and on the 22d of April, 1850, another act was passed, repealing all the laws previously in force, but providing, "that no right acquired, contracts made, or suits pending, shall be affected thereby."

Finally, the Federal Rules of Civil Procedure which purport to have the force and effect of law were not given "any affirmative consideration, action, or approval of the rules by Congress or by the President"[15] and have therefore not followed the Constitutionally required means of enactment as required by Article I, §7, Cl.2.

Therefore, Congress has not vested any inferior Court of the United States with the judicial Power of the United States in any Case in Law or Equity

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[12] *Thompson v. R.R. Cos.*, 73 U.S. 134, 137 (1867); See also *Scott v. Neely*, 140 U.S. 106, 111 (1891). Superseded on other grounds; *Robinson v. Campbell*, 16 U.S. 212 (1818); *Fenn v. Holme*, 62 U.S. 481 (1858).

[13] *McFaul v. Ramsey*, 61 U.S. 523, 526 (1857).

[14] *Fowler v. Smith*, 2 Cal. 568, (Cal. Supreme Ct. 1852).

[15] 374 U.S. 865-66.

recognized under the Constitution, leaving this Court the only Constitutional Court of the United States in which to present this case.

As will continue to be evidenced forthwith, "[u]nless the jurisdiction of this Court […] be exercised over [this case,] the constitution would be violated, and [Petitioner would be] unable to bring his case before [any] tribunal to which the people of the United States have assigned all such cases."[16]

For further evidence that Congress has not vested the judicial power of the United States at Law or Equity in any inferior Court, see section VII whereby the United States District Court for the Central District of California denied Petitioner's claims on the grounds of lack of subject matter jurisdiction despite clearly having it had the Court been vested with Law and/or Equity jurisdiction.

II. Writ of Error

On petition for writ of error, this Court has appellate jurisdiction over the subject matter pursuant to section 14 of the Judiciary Act of 1789, Article III, §2, and Article III, §3 whereby "[i]n all other Cases […] the supreme Court shall have appellate jurisdiction."

a. A Writ of Error is Not a Suit Against a State and Therefore Not Barred by the Eleventh Amendment.

> "*[T]he general government will at all times stand ready to check the usurpations of the state governments. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress. How wise will it be in them by cherishing the*

[16] *Cohens v. Virginia*, 19 U.S. 264, 403-4 (1821).

union to preserve to themselves an advantage which can never be too highly prized!"[17]

As held by this Court in the case of *Cohens v. Virginia*,[18] a Writ of Error is not a suit against a State:

> "The defendant who removes a judgment rendered against him by a State Court into this Court for the purpose of re-examining the question, whether that judgment be in violation of the constitution or laws of the United States, does not commence or prosecute a suit against the State, whatever may be its opinion where the effect of the writ may be to restore the party to the possession of a thing which he demands."

The intent of this Writ of Error (and non-statutory Writ of *Habeas Corpus*) is to challenge the personal and subject matter jurisdiction of the following judgments: (1) Superior Court of California, County of Orange in case# 30-2015-00805807; (2) California Court of Appeal, Fourth Appellate District in case #G055075; (3) United States District Court, Central District of California in case# 8:19-cv-02050; (4) United States Court of Appeals for the Ninth Circuit in case# 20-55181; to challenge the Constitutionality of California Business and Professions Codes §7028, §7031, §7071.17; and, to restore Petitioner to the positions demanded in the accompanying Prayer for Relief. Petitioner reserves the right to amend this complaint or file a separate complaint for damages and punitive damages.

1. The States surrendered certain powers subject to National supervision and these powers were not altered by the Eleventh Amendment.

Not only does the Eleventh Amendment not mention anything whatsoever about suits against a State by one of its own citizens, the original intent of the Constitution is that "the judicial power […] extends to *all cases* arising under the

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[17] Federalist No. 28, Alexander Hamilton; https://avalon.law.yale.edu/18th_century/fed28.asp.

[18] *Cohens v. Viriginia*, 19 U.S. 264, 412 (1821).

constitution or a law of the United States, *whoever may be the parties.*"[19] The reason suits were not and have never been barred against a State by its own citizens is because the States surrendered certain powers to be subject to supervision by the National government. In this Court's words, "the sovereignty of the States is surrendered in many instances where the surrender can only operate to the benefit of the people[.] […] The maintenance of these principles in their purity, is certainly among the great duties of [the National] government."[20]

One such surrender by the States is that of Article I, §10 which declares that "[n]o State shall […] pass any Bill of Attainder." A bill of attainder or its lesser equivalent, a bill of pains and penalties, involves a State punishing a defendant without judicial process. As this Court has held, the bill of attainder clauses serve as an important "bulwark against tyranny."[21] There is nothing in the Eleventh Amendment that even hints of the intent to amend the bill of attainder clause of Article I, §10 (or any other prohibition imposed thereby). The intent of the Eleventh Amendment was not to overrule or supersede the National Government's supervision of certain powers surrendered by the States and this Court has certainly never held otherwise.

Petitioner's claims involve both the State of California and the United States imposing a bill of attainder or pains and penalties against him, or participating in a conspiracy thereto, while denying him the opportunity for a full, fair, and impartial *judicial* determination of his rights.

2. There is no such thing as a "sovereign State". Therefore, a State cannot claim sovereign immunity.

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[19] *Cohens v. Virginia*, 19 U.S. 264, 392 (1821). Italicized emphasis added.

[20] *Cohens v. Virginia*, 19 U.S. 264, 382 (1821).

[21] *United States v. Brown*, 381 U.S. 437, 443 (1965).

As recognized by Cal. Government Code §100, "The sovereignty of the state resides in the people."[22] Both California and the United States are fictions of law with no capacity for biological or cognitive functioning to embody sovereignty and therefore cannot possess any attributes thereof. As such, "sovereignty itself remains with the people, by whom and for whom all government exists and acts."[23]

Our State and National Constitutions establish governments of defined and limited *not* limitless powers. Not only have the People never surrendered their sovereignty by *delegating* certain powers for the effective functioning of their governments, State and National Constitutions impose explicit limitations and controls on these powers, which is the exact opposite of the nature of sovereign power. As this Court has declared:

> "[T]here 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 [neither] Congress [nor the Courts] can exercise [any] power which [the People] have not, by their Constitution, entrusted to [them]; all else is withheld."[24]

Our Constitutions were intended to protect the rights of the People from tyrannical government action, <u>*not*</u> the privileges bestowed upon these fictions. State and National governments cannot use fictions of law to injure the People and claim immunity. In the words of Blackstone, "[n]o fiction shall extend to work an injury."[25]

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[22] Cal. Government Code §100.

[23] *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

[24] *Julliard v. Greenman*, 110 U.S. 421, 467 (1884).

[25] Commentaries on the Laws of England in Four Books. Notes selected from the editions of Archibold, Christian, Coleridge, Chitty, Stewart, Kerr, and others, Barron Field's Analysis, and Additional Notes, and a Life of the Author by George Sharswood. In Two Volumes. (Philadelphia: J.B. Lippincott Co., 1893). Source: https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2142/Blackstone_1387.02_Bk.pdf

PARTIES/ PERSONAL JURISDICTION

I. Petitioner

Petitioner Adam Bereki is one of the People domiciled California. He is not a "citizen of the United States", or "person subject to the jurisdiction thereof" according to the so-called "14th Amendment" or a statutory resident of the District of Columbia, a municipal corporation[26] chartered[27] by Congress masquerading as a "State"[28] or as the "United States."[29] According to the Supreme Court of California, the People of California do not owe their Citizenship to the "14th Amendment."[30]

Petitioner also cannot possibly be "subject to the jurisdiction [of the United States]" by virtue of the so-called "14th Amendment" because it was never Lawfully ratified commensurate with Article V,[31] having been forced upon the People without a lawful representative quorum and by means of federal regional martial law rule

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[26] MUNICIPAL CORPORATION "A public corporation, created by government for political purposes, and having subordinate and local powers of legislation." [e.g., cities, towns etc.] Black's Law Dictionary by Henry Campbell Black, Revised Fourth Edition, St. Paul, Minn.: West Publishing Co., 1968, pp.1168-9

[27] "An Act to provide a Government for the District of Columbia," ch. 62, 16 Stat. 419, February 21, 1871; later legislated in "An Act Providing a Permanent Form of Government for the District of Columbia," ch. 180, sec. 1, 20 Stat. 102, June 11, 1878, to remain and continue as a municipal corporation (brought forward from the Act of 1871, as provided in the Act of March 2, 1877, amended and approved March 9, 1878, *Revised Statutes of the United States Relating to the District of Columbia . . . 1873–'74* (in force as of December 1, 1873), sec. 2, p. 2); as amended by the Act of June 28, 1935, 49 Stat. 430, ch. 332, sec. 1 (Title 1, Section 102, District of Columbia Code (1940)).

[28] See for e.g. The Act of June 30, 1864 (13 Stat. 223, 306), at section 182 SEC. 182. "And be it further enacted, [t]hat wherever the word state is used in this act it shall be construed to include the territories and the District of Columbia, where such construction is necessary to carry out the provisions of this act."

[29] Cal. Code of Civil Procedure §17 (13) "State" includes the District of Columbia and the territories when applied to the different parts of the United States, and the words "United States" may include the district and territories.

[30] *Van Valkenburg v. Brown*, 43 Cal. 43, 47 (Cal. Supreme Ct. 1872).

[31] *Dyett v. Turner*, 20 Utah 2d 403 (UT Supreme Ct. 1968); Congressional Globe April 5, 1866 pp. 1775-1776; Congressional Record Volume 113 Part 12 June 1967 pp.15641-15646; Tulane Law Review Volume 28, 14th Amendment. (Unknown source; accuracy unverified).

imposed by the Reconstruction Acts. Martial law appears nowhere in the Constitutional amending processes found in Article V. Moreover, Petitioner has not made any knowing, voluntary, or intelligent waiver of rights to be subject to the jurisdiction of the "14th Amendment" which is, on account of having never been ratified and in violation of all six Articles of the Constitution, "foreign to our Constitution and unacknowledged by its law."

II. Respondents

The CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT; SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE; SUPREME COURT OF CALIFORNIA; GOVERNOR OF CALIFORNIA; and the CALIFORNIA LEGISLATURE are all agencies of the STATE OF CALIFORNIA.

The UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA and the UNTED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT are agencies of the UNITED STATES.

Petitioner is informed and believes Respondents: William G. Bissell, Gary W. Humphreys, and Karen M. Humphreys are each one of the People domiciled in California . Their Citizenship is unknown.

Petitioner is informed and believes Respondent "Judges" or "Justices" in their private capacities: Richard M. Aronson, Tani Cantil-Sakouye, David Chaffee, Ming W. Chin, Carol A. Corrigan, Mariano-Florentino Cuellar, James Di Cesare, William Fletcher, Thomas Goethals, Joshua P. Groban, Leondra R. Kruger, Goodwin H. Liu, Counsuelo B. Marshall, Kathleen E. O'Leary, Sidney Thomas, and Atsushi Tashima are each one of the People domiciled in California. Their Citizenship is unknown.

Petitioner is informed and believes The Law Offices of William G. Bissell is ta fictitious business name used by William G. Bissell to conduct professional services as a bar licensed attorney in California.

ANNOTATED PROCEDURAL HISTORY & TABLE OF APPENDICES[32]

SUPERIOR COURT OF CALIFORNIA– COUNTY OF ORANGE

Trial
The Spartan Associates, Inc. v. Karen & Gary Humphreys
Case No. 30–2015–00805807
Minute Orders, Appendix [A], pp.1–6; (Exhibit [A1])
Judgment, Appendix [B], pp. 7–8; (Exhibit [A2])

COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT

Appeal
Bereki v. Humphreys
Case No. G055075
Opinion, Appendix [C], pp. 9–22; (Exhibit [A16])

SUPERIOR COURT OF CALIFORNIA– COUNTY OF ORANGE

Motion to Vacate
Bereki v. Humphreys
Case No. 30–2015–00805807
Reporters Transcript and Minute Order, Appendix [D], pp. 23–47, (Exhibit [A22] and Exhibit [A23])

SUPREME COURT OF CALIFORNIA, En Banc

Petition for Review
Bereki v. Humphreys
Case No. S252954
Review Denied, Appendix [E], p. 38, (Exhibit [A27])

UNITED STATES SUPREME COURT

Petition for Writ of Certiorari
Bereki v. Humphreys

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[32] The documents in the Appendix are included for reference. They are true and correct copies of authenticated exhibits reflecting the original "judgments" and "orders" of the named Courts. As copies of evidence, they have not been reformatted to comply with any procedural rules of this Court pertaining to appendices.

Case No. 18-1416
Certiorari Denied

UNITED STATES DISTRICT COURT,
CENTRAL DISTRICT OF CALIFORNIA

Independent Action in Equity
Bereki v. Humphreys et al.
Case No. 8:19–CV–02050
Order, Denial of Assistance of Counsel, Appendix [F], pp.39–40, (Exhibit [A31])
Order, Dismissal of Case with Prejudice, Appendix [G], pp. 41–50, (Exhibit [A35])
Order, Denial of In Forma Pauperis and Frivolous Appeal, Appendix [H], pp. 51-52, (Exhibit [A36])

U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT

Appeal
Bereki v. Humphreys
Case No. 20–55181
Appeal "Frivolous" Order, Appendix [I], p.53, (Exhibit [A42])

DIGITAL EXHIBITS

All Appendices and Exhibits referenced herein, including a digital copy this *Proposed* verified Bill, can be viewed and/or downloaded online at:

http://www.thespiritoflaw.com

STATUTES INVOLVED

Cal. Business and Profession Code §7028

(a) Unless exempted from this chapter, it is a misdemeanor for a person to engage in the business of, or act in the capacity of, a contractor within this state under either of the following conditions:

(1) The person is not licensed in accordance with this chapter.

(2) The person performs acts covered by this chapter under a license that is under suspension for failure to pay a civil penalty or to comply with an order of correction, pursuant to Section 7090.1, or for failure to resolve all outstanding final liabilities, pursuant to Section 7145.5.

(b) A first conviction for the offense described in this section is punishable by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(c) If a person has been previously convicted of the offense described in this section, unless the provisions of subdivision (d) are applicable, the court shall impose a fine of 20 percent of the contract price, or 20 percent of the aggregate payments made to, or at the direction of, the unlicensed person, or five thousand dollars ($5,000), whichever is greater, and, unless the sentence prescribed in subdivision (d) is imposed, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a jail sentence of less than 90 days for second or subsequent convictions under this section, the court shall state the reasons for its sentencing choice on the record.

(d) A third or subsequent conviction for the offense described in this section is punishable by a fine of not less than five thousand dollars ($5,000) nor more than the greater amount of ten thousand dollars ($10,000) or 20 percent of the contract

price, or 20 percent of the aggregate payments made to, or at the direction of, the unlicensed person, and by imprisonment in a county jail for not more than one year or less than 90 days. The penalty provided by this subdivision is cumulative to the penalties available under all other laws of this state.

(e) A person who violates this section is subject to the penalties prescribed in subdivision (d) if the person was named on a license that was previously revoked and, either in fact or under law, was held responsible for any act or omission resulting in the revocation.

(f) If the unlicensed person engaging in the business of or acting in the capacity of a contractor has agreed to furnish materials and labor on an hourly basis, "the contract price" for the purposes of this section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(g) Notwithstanding any other law, an indictment for any violation of this section by an unlicensed person shall be found, or information or a complaint shall be filed, within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

(h) For any conviction under this section, a person who utilized the services of the unlicensed person is a victim of crime and is eligible, pursuant to subdivision (f) of Section 1202.4 of the Penal Code, for restitution for economic losses, regardless of whether he or she had knowledge that the person was unlicensed.

(i) The changes made to this section by the act adding this subdivision are declaratory of existing law.

Cal. Business and Professions Code §7031

(a) Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that they were a duly licensed contractor at all times during the performance of that act or contract regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) Except as provided in subdivision (e), a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

(c) A security interest taken to secure any payment for the performance of any act or contract for which a license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.

(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing in this subdivision shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, notwithstanding subdivision (b) of Section 143, the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, and (3) acted promptly and in good faith to remedy the failure to comply with the licensure requirements upon learning of the failure.

(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the 1994 portion of the 1993–94 Regular Session of the Legislature shall not apply to either of the following:

(1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.

(2) Any legal action or arbitration commenced on or after January 1, 1995, if the legal action or arbitration was commenced prior to January 1, 1995, and was subsequently dismissed.

Cal. Business and Professions Code § 7071.17

(a) Notwithstanding any other provision of law, the board shall require, as a condition precedent to accepting an application for licensure, renewal,

reinstatement, or to change officers or other personnel of record, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on an unsatisfied final judgment, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to the unsatisfied final judgment or judgments. The applicant shall have 90 days from the date of notification by the board to file the bond or the application shall become void and the applicant shall reapply for issuance, reinstatement, or reactivation of a license. The board may not issue, reinstate, or reactivate a license until the bond is filed with the board. The bond required by this section is in addition to the contractor's bond. The bond shall be on file for a minimum of one year, after which the bond may be removed by submitting proof of satisfaction of all debts. The applicant may provide the board with a notarized copy of any accord, reached with any individual holding an unsatisfied final judgment, to satisfy a debt in lieu of filing the bond. The board shall include on the license application for issuance, reinstatement, or reactivation, a statement, to be made under penalty of perjury, as to whether there are any unsatisfied judgments against the applicant on behalf of contractors, subcontractors, consumers, materials suppliers, or the applicant's employees. Notwithstanding any other provision of law, if it is found that the applicant falsified the statement then the license will be retroactively suspended to the date of issuance and the license will stay suspended until the bond, satisfaction of judgment, or notarized copy of any accord applicable under this section is filed.

(b) (1) Notwithstanding any other provision of law, all licensees shall notify the registrar in writing of any unsatisfied final judgment imposed on the licensee. If the licensee fails to notify the registrar in writing within 90 days, the license shall be automatically suspended on the date that the registrar is informed, or is made aware of the unsatisfied final judgment.

(2) The suspension shall not be removed until proof of satisfaction of the judgment, or in lieu thereof, a notarized copy of an accord is submitted to the registrar.

(3) If the licensee notifies the registrar in writing within 90 days of the imposition of any unsatisfied final judgment, the licensee shall, as a condition to the continual maintenance of the license, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to all unsatisfied judgments applicable under this section.

(4) The licensee has 90 days from the date of notification by the board to file the bond or at the end of the 90 days the license shall be automatically suspended. In lieu of filing the bond required by this section, the licensee may provide the board with a notarized copy of any accord reached with any individual holding an unsatisfied final judgment.

(c) By operation of law, failure to maintain the bond or failure to abide by the accord shall result in the automatic suspension of any license to which this section applies.

(d) A license that is suspended for failure to comply with the provisions of this section can only be reinstated when proof of satisfaction of all debts is made, or when a notarized copy of an accord has been filed as set forth under this section.

(e) This section applies only with respect to an unsatisfied final judgment that is substantially related to the construction activities of a licensee licensed under this chapter, or to the qualifications, functions, or duties of the license.

(f) Except as otherwise provided, this section does not apply to an applicant or licensee when the financial obligation covered by this section has been discharged in a bankruptcy proceeding.

(g) Except as otherwise provided, the bond shall remain in full force in the amount posted until the entire debt is satisfied. If, at the time of renewal, the licensee submits proof of partial satisfaction of the financial obligations covered by this section, the board may authorize the bond to be reduced to the amount of the unsatisfied portion of the outstanding judgment. When the licensee submits proof of satisfaction of all debts, the bond requirement may be removed.

(h) The board shall take the actions required by this section upon notification by any party having knowledge of the outstanding judgment upon a showing of proof of the judgment.

(i) For the purposes of this section, the term "judgment" also includes any final arbitration award where the time to file a petition for a trial de novo or a petition to vacate or correct the arbitration award has expired, and no petition is pending.

(j) (1) If a judgment is entered against a licensee or any personnel of record of a licensee, then a qualifying person or personnel of record of the licensee at the time of the activities on which the judgment is based shall be automatically prohibited from serving as a qualifying individual or other personnel of record on any license until the judgment is satisfied.

(2) The prohibition described in paragraph (1) shall cause the license of any other existing renewable licensed entity with any of the same personnel of record as the judgment debtor licensee or with any of the same judgment debtor personnel to be suspended until the license of the judgment debtor is reinstated, the judgment is satisfied, or until those same personnel of record disassociate themselves from the renewable licensed entity.

(k) For purposes of this section, lawful money or cashier's check deposited pursuant to paragraph (1) of subdivision (a) of Section 995.710 of the Code of Civil Procedure, may be submitted in lieu of the bond.

(l) Notwithstanding subdivision (f), the failure of a licensee to notify the registrar of an unsatisfied final judgment in accordance with this section is cause for disciplinary action.

DEFINITIONS OF TERMS

"Federal" v. "National". The signers of the Declaration of Independence and of the original Constitution were well aware of the fact that there are two fundamental systems of law, Roman civil law and English/American common Law, and consequently, two fundamental systems of government arising therefrom, Federal and National, respectively. Roman civil law is the law of the ruler and equates to absolute, exclusive territorial, personal, and subject-matter legislative power (and executive and judicial jurisdiction) over the residents of a municipal territory, such as the District of Columbia. The common Law on the other hand, has been said to be the law of the People and is based on natural law. All of the States, with the exception of Louisiana, were admitted to the union of States known as the United States, under English/American common Law, not Roman civil law.

According to Webster's Dictionary of 1828, the word "Federal" comes from the Latin word "foedus", which means "league". Federal is defined as "pertaining to a league or contract; derived from an agreement or covenant between parties, particularly between nations." The feminine of the word foedus is foeda, or foedal– the archaic form of the word "feudal". Feudalism is a federal system in which a servant or serf is bound by a foedum or compact to his master or lord, the opposite of the intended American republican system in which government officials are vested with defined and limited powers and bound to the sovereign will of the People as their agents.[33]

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[33] "The [Constitutions] are accompanied with Bills of Rights, which are intended to declare and set forth the restrictions which the people in their sovereign capacity have imposed upon their agents…" Commentaries on the Laws of England in Four Books. Notes selected from the editions of Archibold, Christian, Coleridge, Chitty, Stewart, Kerr, and others, Barron Field's Analysis, and Additional Notes, and a Life of the Author by George Sharswood. In Two Volumes. (Philadelphia: J.B. Lippincott Co., 1893). Vol. 1 - Books I & II. Source: https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2140/Blackstone_1387-01_Bk.pdf. p.124.

The Declaration of Independence severed the hold of English feudalism over the colonists which was being administered and enforced upon the People under the jurisdictions of Admiralty/Maritime and pursuant to the principles and usages of Roman civil law and the law merchant (commercial law). The Articles of Confederation that followed were federal in nature and totally failed to work on a free and independent People. Thus, the purpose of the Constitutional Convention was for the purpose of revising the Articles of Confederation and perpetual Union between the United States of America, and … establishing in these states a firm *National* government."[34]

The term National is therefore used throughout this document to indicate a republican form of government of defined and limited powers based on the rule of common Law and the consent of the governed in contradistinction to a Federal/ Feudal centralized socialist or nazi form of government. See for e.g. *United States v. Rhodes*[35]:

> "The authority of the national government is limited, though supreme in the sphere of its operation. As compared with the state governments, the subjects upon which it operates are few in number. Its objects are all national. It is one wholly of delegated powers. The states possess all which they have not surrendered; the government of the Union only such as the constitution has given to it, expressly or incidentally, and by reasonable intendment."

Further discussion of this topic will be made throughout this Petition. For further background, see Prologue, Exhibit [T].

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[34] https://avalon.law.yale.edu/18th_century/const04.asp. Report of proceedings in Congress February 21, 1787.

[35] *United States v. Rhodes*, 27 F. Cas. 785, 790 (1866).

COMBINED VERIFIED STATEMENT OF FACTS & BRIEF IN SUPPORT OF LAW

Actus judiciarius coram non judice irritus habetur.
(A judicial act outside of the Judge's authority is null and void.)[36]

I. Background

This case began when Petitioner's company, The Spartan Associates, Inc., ("Spartan"), sued Respondents Karen and Gary Humphreys for refusing to pay about $82k in labor and materials for custom remodel construction work Spartan performed on the Humphreys vacation home in Newport Beach, California. The Humphreys filed counterclaims against Petitioner and Spartan. Initially, the Humphreys sought Summary Judgment against Spartan on the ground that because Spartan didn't comply with certain requirements of the California contractors license laws, that it was barred from recovery. The Court denied their Motion because they failed to prove that they were entitled to the relief they sought as a matter of law.

About one month before trial, the Humphreys amended their complaint with a new first cause of action solely against Petitioner. After failing in their attempt for Summary Judgment against Spartan, they took the opposite position and claimed they never contracted with Spartan, but instead with Petitioner; and that since Petitioner wasn't licensed they were entitled to a total forfeiture of all funds paid without offsets for the work they received. They then severed their First Amended First Cause of Action and proceeded to "trial" on that claim alone, admitting that if they prevailed on their forfeiture claim there would be no need to put on evidence of any of their other cross-claims, including one for damages.

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[36] Gibson, Henry R. A Treatise on Suits in Chancery 2nd Ed. 1907, §61 Maxims Applicable to the Court. See also *Baar v. Smith*, 201 Cal. 87, 100 (Cal. Supreme Ct. 1927) (If a court transcends the limits of its authority, the resulting judgment would be absolutely void).

II. "Trial"

On March 27th and 28th 2017, Petitioner was maliciously prosecuted and excessively, cruelly, and unusually punished under the fraudulent pretense of a remedial civil action in equity for "disgorgement" for allegedly performing construction work without a license. During the so-called "trial" he was also denied all of the heightened protections of criminal proceedings including the assistance of counsel. He was then excessively fined $848,000 – an amount more than forty times his qualifying and estimated net worth – after the "Court" refused to recognize any of the protections of the excessive fines clause. As a result of the *ultra vires* proceedings, Petitioner was subjected to a bill of attainder or pains and penalties in violation of Article I, §10 of the Constitution having been punished without a judicial determination of his rights. See Superior Court of California, County of Orange, case# 30-2015-00805807, incorporated and fully set forth herein.

The statute under which Petitioner was prosecuted, California Business and Professions Code §7031(b), is a public regulatory penal statute that governs contractor licensing under California's construction licensing laws, (B&P §§7000 et seq.). According to the Supreme Court of California, "the Legislature's obvious intent [of enacting §7031(b) was] to impose a stiff all-or-nothing penalty for [performing] unlicensed [construction] work by specifying that a contractor is barred from *all* recovery for such an act or contract if unlicensed *at any time* while performing it."[37] More accurately however, §7031(b) prescribes punishment in the

[37] *MW Erectors v. Neiderhauser Ornamental & Metal Works Co., Inc.*, 36 Cal. 4th 412, 426 (Cal. Supreme Ct. 2005). Italicized emphases original. Internal quotations omitted.

form of a total forfeiture[38] because an unlicensed contractor is required to forfeit "all compensation paid" by a customer *without* offsets for the reasonable value of goods and services provided if they perform work without a license.[39] In other words, even if the contractor performs flawless work, the homeowner gets to keep the work *and* receives a full refund.

The legislative history of §7031(b) confirms this draconian punishment was indeed intended by the California "Legislature" and "Governor." See Exhibit [B] p.860:

> "Under the bill, individuals may bring such an action even if the contractor has fully performed. In that case, those using the unlicensed contractor have not been harmed in any way, but are nevertheless authorized to sue to recover compensation paid. As a result, those using unlicensed contractors are arguably unjustly enriched because they are able to reap the benefits of the work done by the unlicensed contractor and are then authorized by statute to sue to recover from the contractor all compensation paid."

Another obvious indication of §7031's purely penal nature is that the same conduct is made criminal by Business and Professions Code §7028. Notably, the *maximum* fine for a first offense under §7028 is $5,000, not $848,000.

§7031(b) also falls squarely within the definition of a crime or public offense under Cal. Penal Code §15:

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[38] *Asdourian v. Araj*, 38 Cal. 3d 276, 282 (Cal. Supreme Ct. 1985) "In view of the severity of this sanction and of the forfeitures which it necessarily entails […]." Quotations and citation omitted; *Judicial Council of California v. Jacobs Facilities, Inc.*, 239 Cal. App. 4th 882, 895 (2015). "Because the remedies of subdivisions (a) and (b) of section 7031 are essentially two sides of the same coin in denying compensation to an unlicensed contractor, we will refer to the remedies jointly as forfeiture." Internal quotations omitted. See also *Austin v. United States*, 509 U.S. 602, 614 (1993) stating forfeit is the word the First Congress used for a fine.

[39] *Humphreys v. Bereki*, 2018 Cal. App. Unpub. Lexis 7469 (2018) p.14, *Lewis & Queen v. N. M. Ball Sons,* 48 Cal 2d. 141, 152 (Cal. Supreme Ct. 1957) "[T]he courts may not resort to equitable considerations in defiance of section 7031." *Ebbert v. Mercantile Trust Co.,* 213 Cal. 496, 499-500 (Cal. Supreme Ct. 1931).

> "[a] crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, upon conviction, either of the following punishments: 1. Death; 2. Imprisonment; 3. Fine; 4. Removal from office; or, 5. Disqualification to hold and enjoy any office of honor, trust, or profit in this State."

As this Court has declared, the inquiry of whether a statutory scheme is remedial or punitive is over "[i]f the [intent] of the legislature was to impose punishment […]."[40]

Despite the excessive, cruel, and unusual punishment imposed on Petitioner, the Minute Order issued by Superior Court of California, County of Orange, "Judge" David Chaffee, (Appendix [A], pp.1–6; (Exhibit [A1]), reflects a judgment for "disgorgement of funds paid." According to this Court's recent decision in the case of *Liu v. SEC*, a claim for "disgorgement" is an equitable remedy designed to strip a wrongdoer of illegal profits, not the total penal forfeiture of an entire transaction without offsets for benefits conferred.[41]

The obvious problem here is that equitable disgorgement of Petitioner's profits is not what Chaffee ordered. (Vf).[42] He ordered a total penal forfeiture of "all compensation paid" as stated in §7031(b) without offsets for benefits conferred. Equally troubling, §7031(b) mentions nothing about equitable disgorgement. Nor is an action for "disgorgement" defined anywhere by California statute. The word disgorgement is also not used anywhere in the legislative of history of §7031. And, as previously evidenced, the Legislature was perfectly aware of the possibility of the unjust enrichment that the enforcement of §7031(b) could create.

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[40] *Smith v. Doe*, 538 U.S. 84, 92 (2003).

[41] *Liu v. SEC*, 140 S. Ct. 1936, 1940 (2020).

[42] All sentences with verified statements of fact end with "(Vf)" to be clearly discerned from legal arguments, historical statements, opinions, and perceptions.

In his dissent in *Liu supra*, Justice Thomas aptly saw the writing on the wall surrounding the nationwide abuses of "disgorgement". He said "[t]he term disgorgement itself invites abuse because it is a word with no fixed meaning. […] As long as courts continue to award "disgorgement", [Courts] will continue to have license to expand their own power."[43]

Even assuming §7031(b) called for a true claim of equitable disgorgement, Petitioner is unaware of any evidence on the trial "Court's" record that he profited even one dollar let alone the $848,000 awarded by Chaffee. (Vf).

Even more astounding, the fraudulent "Proposed Judgment Order" filed by the Humphreys and their attorney, William G. Bissell,[44] (Exhibit [A3] pp.967-974), is an order for "Damages" (not "disgorgement") in the amount of $848,000. This order was later signed by Chaffee. See Appendix [B], pp. 7–8 or Exhibit [A2].

In addition to there being no apparent evidence to substantiate a claim for equitable disgorgement, Petitioner is also unaware of any evidence on the trial "Court's" record of any "damages" even remotely commensurate with this Court's definition thereof. (Vf). See for e.g. the case of *Birdsall v. Coolidge,*[45] defining damages as:

> "a compensation, recompense, or satisfaction to the plaintiff, for an injury actually received by him from the defendant" and "the amount awarded shall be precisely commensurate with the injury suffered, neither more nor less, whether the injury be to the person or estate of the complaining party."

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[43] *Liu v. SEC*, 140 S. Ct. 1936, 1953-54 (2020).

[44] All references to William Bissell shall also include The Law Offices of William G. Bissell.

[45] *Birdsall v. Coolidge,* 93 U.S. 64 (1876).

According to the California Second District Court of Appeals, opinion in the case of *Eisenberg Village etc. v. Suffolk Construction Co., Inc.,*[46] "the disgorgement mandated by section 7031(b) is not designed to compensate the plaintiff for any harm, but instead is intended to punish the unlicensed contractor" and "[t]he fact that a contractor does not have a valid license does not, by itself, cause the plaintiff harm other than, perhaps some sort of psychological harm in knowing that he or she hired someone who was not in compliance with the law." In other words, the so-called "injury" from hiring an unlicensed contractor upon which the licensing laws are founded is purely hypothetical. Dating all the way back to the Magna Carta, punishment for an offense against the Crown was limited to "genuine [not hypothetical] harm."[47]

See also Justice Thomas's concurring opinion in the case of *Spokeo Inc. v. Robbins*, stating that historically, "[c]ommon-law courts, […] have required a further showing of injury for violations of "public rights" — rights that involve duties owed to the whole community, considered as a community, in its social aggregate capacity. Such rights include […] general compliance with regulatory law."[48] And that "[e]ven in limited cases where private plaintiffs could bring a claim for the violation of public rights, they had to allege that the violation caused them some extraordinary damage, beyond the rest of the community."[49]

But not only did the Humphreys never state a claim for equitable disgorgement or damages, immediately before "trial" they specifically severed their claim for alleged damages from their First Amended First Cause of Action for

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[46] *Eisenberg Village etc. v. Suffolk Construction Co., Inc.,* 53 Cal. App. 5th 1201, 1213 (2020). Internal parenthesis omitted.

[47] *Browning-Ferris Indus. v. Kelco Disposal*, 492 U.S. 257, 271 (1989).

[48] *Spokeo Inc. v. Robins*, 136 S. Ct. 1540, 1551 (2016). Internal quotations omitted. Citing Blackstone and Woolhandler & Nelson, 102 Mich. L. Rev. at 693.

[49] *Spokeo Inc. v. Robins*, 136 S. Ct. 1540, 1551 (2016). Internal quotations and brackets omitted. Citing Blackstone.

"disgorgement". (Exhibit [A3] pp.780-791). Their intent was that by simply having a "trial" only on their First Cause of Action for "disgorgement", they would receive a total forfeiture in addition to keeping nearly one million dollars in work and therefore have no need to evidence any damages. This intent was specifically declared in Bissell's (their attorney) sworn Declaration in Support of the Motion for Severance. Therein, Bissell testified that "the amount to be disgorged [forfeited] would exceed that amount of damages claimed by [the Humphreys] [and] there would be no need to put on evidence of either [Petitioner or his company's] liability or [the Humphreys] damages." Exhibit [A3] p.791.

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The case against Petitioner is not an anomaly, it's the standard operating procedure here in Commiefornia. Perhaps the most egregious case involving §7031 is that of *Judicial Council of California v. Jacobs Facilities, Inc.,*[50] where the so-called "Judicial" Council of California sought a $22.7 million dollar forfeiture under the same fraudulent veil of equitable "disgorgement" against *Jacobs*, a company it hired to maintain the California Court buildings that had admittedly done a good job. In response to a public records request,[51] the "Judicial" Council admittedly spent over $3 million dollars of the People's tax dollars in its attempts to prosecute, punish, and likely financially destroy *Jacobs* due to a harmless and apparently unintentional licensing mix-up during *Jacobs* corporate reorganization. One has to wonder just what degree of sociopathy[52] it must take to spend more than three million dollars to try and ruin a company that provided quality service and caused no harm. This is the same "Judicial" Council, mind you, whose purported duty it is

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[50] *Judicial Council of California v. Jacobs Facilities, Inc.*, 239 Cal. App. 4th 882 (2015).

[51] Exhibit [C] p. 1815. $3,307,408.78.

[52] "Sociopathy refers to a pattern of antisocial behaviors and attitudes, including manipulation, deceit, aggression, and a lack of empathy for others." Source: https://www.psychologytoday.com/us/basics/sociopathy.

make the policies for California "Courts", "the largest Court system in the Nation" and who, acting in concert with the *ultra vires* actions of the California "Legislature" and "Governor" manufactured the bogus civil jury instructions for §7031(b).

"To accord a type of relief that has never been available before and especially (as here) a type of relief that has been specifically disclaimed by longstanding judicial precedent – is to invoke a default rule, […] not of flexibility but of omnipotence".[53] "Even when sitting as a court in equity, [no Court has] authority to craft a nuclear weapon of the law like the one advocated here."[54]

It is unknown exactly how many other similar cases have taken place as California's "Court" records management system has no means of performing even an elementary database search of cases or judgments based upon specific statutes like §7031, which has been in existence since 1929. The following are just a handful of other cases[55] Petitioner was able to locate because an appeal was filed:

> *Twenty-Nine Palms v. Bardos*, 210 Cal. App. 4th 1435 (2012)– a forfeiture in the amount of $917,043.09 against Paul Bardos who was ultimately forced into bankruptcy and lost his home. See *In re Bardos*, Memorandum of the Bankruptcy Appellate Panel of the 9th Circuit, Bankr, No. 10-41455-DS.
>
> *MW Erectors, Inc. v. Niederhauser Ornamental & Metal Works Co., Inc.*, 36 Cal. 4th, 412 (Cal. Supreme Ct. 2005)– total forfeiture in the amount of $1,322,247 plus interest and Court costs awarded against *MW Erectors, Inc.* pursuant to §7031(a) upheld by the Cal. Supreme Court, awarded by… you guessed it, "Judge" Chaffee.

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[53] *Grupo Mexicano De Desarollo v. Alliance Bond Fund*, 527 U.S. 308, 322 (1999). Internal quotations omitted.

[54] *Id.* p.333. Internal quotations omitted.

[55] The facts of these cases and the judgment figures provided are the result of a preliminary or cursory case analysis, not a forensic examination. They may require further study for accuracy.

Banis Restaurant Design, Inc. v. Serrano, 134 Cal. App. 4th 1035 (2005)– a forfeiture in the amount of an $212,821.80 plus interest and "Court" costs awarded against Banis pursuant to §7031(a).

Hydrotech Systems, Ltd. v. Oasis Waterpark, 52 Cal. 3d 988 (Cal. Supreme Ct. 1991)– a forfeiture in the amount of $110,000 plus interest and "Court" costs awarded against Hydrotech pursuant to §7031(a).

White v. Cridlebraugh, 178 Cal. App. 4th 506 (2009)– a forfeiture in the amount of $84,621.45 plus interest and "Court" costs awarded against JC Master Builders, Inc. pursuant to §7031(b).

At the Federal (Feudal) level, United States District Courts enforce these same public policies. See for e.g. *Davis Moreno Constr., Inc. v. Frontier Steel Bldgs. Corp*.,[56] where the "Court" awarded a forfeiture in the amount of $168,025.90 against Frontier pursuant to §7031(b) and an unknown amount pursuant to §7031(a). See also the Ninth Circuit bankruptcy case of Paul Bardos, *supra*.

In each and every case Petitioner examined, the so-called "Judges" not only refused to recognize the penal nature of the forfeiture they imposed – and consequently <u>*any*</u> protections guaranteed by the excessive fines clauses – they also refused to dismiss the case for lack of personal and subject matter jurisdiction on the grounds that "a private citizen lacks a judicially cognizable interest in the prosecution […] of another."[57]

a. The Humphreys Lacked Standing to Prosecute Petitioner.

1. The history of criminal forfeiture laws.

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[56] *Davis Moreno Constr., Inc. v. Frontier Steel Bldgs. Corp*,. 2010 U.S. Dist. LEXIS 116566.

[57] *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973).

In the case of *United States v. Seifuddin,*[58] the United States Court of Appeals for the Ninth Circuit examined the history of forfeiture laws and found that:

> "the classical distinction between civil and criminal forfeiture was founded upon whether the penalty assessed was against the person or against the thing. Forfeiture against the person operated *in personam* and required a conviction before the property could be wrested from the defendant. Such forfeitures were regarded as criminal in nature because they were penal; they primarily sought to punish. Forfeiture against the thing was *in rem* and the forfeiture was based upon the unlawful use of the *res*, irrespective of its owner's culpability. These forfeitures were regarded as civil; their purpose was remedial."

Applying this criteria to the instant case, it is plainly obvious that the action against Petitioner was an *in personam* criminal forfeiture intended to punish him for allegedly performing construction work without a license. As a result, the rules of criminal procedure were required to be followed.

It should also be noted that because the "Judgment" is more than forty times Petitioner's qualifying and estimated net worth, it will force him into bankruptcy where he will be forced to forfeit all of his qualifying lands and goods. At common law a total forfeiture of an offender's lands or goods or both was punishment for a felony or treason and was prosecuted by indictment.[59]

2. The Humphreys Intended to Prosecute Petitioner

In their First Amended Trial Brief, (Exhibit [A3] p.836), the Humphreys stated that they intended to (and ultimately did in fact) prosecute and punish Petitioner for violating the licensing laws by seeking an $848,000 fine/total forfeiture upon him. They claimed that:

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[58] *United States v. Seifuddin*, 820 F.2d 1074, 1076-7 (1987). Citations omitted.

[59] *Evans v. Willis*, 1908 OK 199, p.11 (OK Supreme Ct. 1908).

> "Adam Bereki, both at the time the contract with the Humphreys was entered into, and at all times during his performance on the Project, was unlicensed as a contractor in violation of California Business & Professions Code §7028 [the criminal statute for unlicensed contracting]. As a consequence of Mr. Bereki's unlicensed status and under the provisions of California Business & Professions Code §7031(b), the Humphreys are entitled to recover from cross-defendant Bereki all sums paid by [them] to Mr. Bereki, which sums total $848,000."

The Humphreys lacked Constitutional standing to prosecute Petitioner for the commission of a public offense because Article V, §1 of the California Constitution vests the executive power of the California *exclusively* in the Governor to see that the law is faithfully executed. The People conveyed the entirety of the executive power upon the Governor because it was believed that "a basic step in organizing a civilized society is to take that sword out of private hands and turn it over to an organized government, acting on behalf of all the people. Indeed, the . . . power a man has in the state of nature is the power to punish the crimes committed against that law. But this he gives up when he joins a . . . political society, and incorporates into a commonwealth."[60] The State of California admits the "remedy" prescribed by §7031(b) is in fact a sword.[61] Therefore, only the executive branch of the State could prosecute Petitioner, not the Humphreys.[62] "A lack of standing is a jurisdictional defect."[63]

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[60] *Robertson v. Watson*, 560 U.S. 272, 282-3 (2010) citing Locke, Second Treatise §128, at 64. Internal quotations and brackets omitted.

[61] "The hiring party is entitled to enforce these remedies [§7031] through a defensive shield [§7031(a)] or an affirmative sword [§7031(b)]." *Alatriste v. Cesar's Designs, Inc.,* 183 Cal. App 4th 656, 664 (2010).

[62] *Robertson v. Watson*, 560 U.S. 272, 273 (2010). See also Cal. Gov't Code §100(b) requiring that all prosecutions be conducted in the name of "The People of the State of California" and by their authority; and the concurring opinion of Justice Thomas in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016) regarding public vs. private rights actions.

[63] *People ex rel. Becerra v. Superior Court*, 29 Cal. App. 5th 486, 496 (2018). Citation, brackets and internal quotation omitted.

Despite the foregoing, no sworn information or indictment was ever filed in the name of The People of California pursuant to Cal. Gov't Code §100 to vest the Superior Court of California, County of Orange with personal and subject matter jurisdiction[64] to prosecute and punish Petitioner. (Vf). As a result, "Judge" Chaffee had a mandatory, non-discretionary, ministerial duty to dismiss the Humphreys claim under §7031(b) *sua sponte* for lack of personal and subject matter jurisdiction and want of prosecution.[65] Instead, Chaffee arbitrarily chose to proceed with a faux "trial", knowing or reasonably knowing he had no lawful authority whatsoever to do so, thereby committing fraud upon Petitioner and his estate in the procurement of personal and subject matter jurisdiction and in the subsequent issuance of the fraudulent *ultra vires* "Judgment Order".

By imposing punishment without personal and subject matter jurisdiction, Chaffee denied Petitioner a judicial determination of his rights as required by Article I, §10 of the Constitution, thereby subjecting him a bill of attainder or its lesser alternative, a bill of pains and penalties.

A. The nature of a bill of attainder or pains and penalties.

The bill of attainder clauses [Art. I, § 9 (National Gov't) and Art I, § 10 (States)] serve as an important "bulwark against tyranny."[66] A bill of attainder is the taking of life, liberty, or property without judicial process.[67] "If the punishment

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[64] "[J]urisdiction of all justiciable matters can only be exercised […] through the filing of pleadings which are sufficient to invoke the power of the court to act." *Buis v State*, 1990 OK CR 28, p.4 (1990). Internal quotations omitted. "A person may not be punished for a crime without a formal and sufficient accusation even if he voluntarily submits to the jurisdiction of the court." *Albrecht v. United States,* 273 U.S. 1, 8 (1923). See also Cal. Penal Codes §949, §959.

[65] Cal. Penal Code §1382.

[66] *United States v. Brown*, 381 U.S. 437, 443 (1965).

[67] See for e.g. *United States v. Brown*, 381 U.S. 437, 448-9 (1965).

be less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties."[68]

While bills of attainder have often been associated in America with legislative action, historically, they were used by the King to convict subjects and confiscate their property without bothering with a trial, evidence, or lawful conviction. For this reason, Article 29 of the Magna Carta of 1215 declared that "[n]o Freeman shall be taken, or imprisoned, or be diseased of his Freehold, or Liberties, or Customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we pass upon him, nor condemn him, but by lawful Judgment of his Peers, or by the Law of the Land."

In the same vein, the heart of the Constitution's bulwark's of tyranny in the bill of attainder clauses was clearly to forbid the officials of our State and National governments from imposing punishment without judicial process. Or, as the Magna Carta also put it, to cause a freeman to lose his Court. It is therefore entirely irrelevant which branch of government the public official who inflicts punishment without a judicial trial is a member of– the Constitution makes no such distinction. It declares that "[n]o Bill of Attainder […] shall be passed" (Art. I, §9) and "[n]o State shall pass any Bill of Attainder" (Art. I, §10).

When it comes to a State imposing a bill of attainder all three branches of State government (the Legislative, Executive, and Judicial) are agencies of the State and officials thereunder are all capable of issuing a bill of attainder. If only the acts of a State Legislature were to be considered bills of attainder, then certainly Article I, §10 would have said State Legislatures *only* and not the State itself. It would also be absurd to pretend that the Framers only intended to forbid the Legislative branch of State government from imposing punishment without a

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[68] *Cummings v. Mo.,* 71 U.S. 277, 323 (1867). See also *Fletcher v. Peck*, 10 U.S. 87, 138, (1810). "A bill of attainder may effect the life of an individual, or may confiscate his property, or may do both."

judicial trial and not the other branches who share the same potential and capacity for usurpation of authority and monarchical innovations as evidenced herein.

In the simplest expression then, a bill of attainder or pains and penalties is the infliction of punishment by *any* government official without judicial process.

b. The Excessive Fine's Clause Flatly Forbids the Imposition of Excessive Fines, Cruel or Unusual Punishment.

"[A Judge] must act judicially in all things, and cannot […] transcend the power conferred by the law."[69]

Under the excessive fine's clauses of both the Constitutions of California and the United States, there are simple and straightforward inquiries a State official must make when imposing a civil or criminal penalty. The purpose of these inquiries are to provide "protection against […] abuses of government's punitive or criminal-law-enforcement authority."[70]

Under the excessive fines clause, "[t]he touchstone […] constitutional inquiry […] is the principle of proportionality."[71] The "considerations bearing on proportionality [are]: (1) the defendants culpability; (2) the relationship between the harm and the penalty; [and], (3) the penalties in similar statutes."[72] Under the California Constitution, there is a fourth inquiry, which includes the "defendants ability to pay."[73]

At "trial" Chaffee refused to abide his sworn, mandatory, non-discretionary, ministerial duty to perform even one of the aforementioned excessive fine's inquiries thereby divesting the Court and himself of personal and subject matter jurisdiction to render punishment, assuming it was ever possessed. By failing to perform these inquiries, the sentence pronounced and the punishment inflicted were determined

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[69] *Windsor v. McVeigh*, 93 U.S. 274, 282 (1876).

[70] *People v. Cowan*, 47 Cal. App. 5th 32, 44 (2020) citing *Timbs v. Indiana,* 586 U.S. ____ (2019) and *Austin v. United States*, 509 U.S. 602, 610 (1993).

[71] *People v. Cowan*, 47 Cal. App. 5th 32, 47 (2020) citing *People ex rel Lockyer v. R.J Reynolds Tobacco Corp.*, 37 Cal. 4th 707, 728 (Cal. Supreme Ct. 2005) and *United States v. Bajakajian*, 524 U.S. 321 (1998). Internal quotations omitted.

[72] *Id.*

[73] *Id.* Article I, §17.

by no previous Constitutional law or fixed rule and thereby deprived Petitioner of a judicial determination of his rights resulting in a bill of pains and penalties, the unlawful taking of his rights, liberty, and property without just compensation, denial of equal protection of the law, and excessive, cruel and unusual punishment.

1. Neither a Court nor a Judge can claim they have subject matter jurisdiction to violate the Constitution.

> *"If the act which the state [official] seeks to enforce be a violation of the Federal Constitution, the officer in proceeding under such enactment comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States."*[74]

Contrary to the understanding of most jurists, subject matter jurisdiction does not just apply to the case as a whole, but to each and every issue in a case. Therefore, to say that a Court or Judge could acquire subject matter jurisdiction in the first instance and then proceed to violate the Constitution on another issue claiming it had subject matter jurisdiction would be both absurd and unlawful. Judgments rendered in violation of judicial process or fraud are void.[75]

The true nature of the phrase "subject matter jurisdiction" becomes crystal clear when it is replaced by two simpler words: issue authority. Subject matter jurisdiction applies to the authority of the Court to exercise the judicial power of a State or the United States upon each issue in a case.

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[74] *Ex parte Young*, 209 U.S. 123, 159-160 (1908).

[75] *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291 (1980) citing *Pennoyer v. Neff*, 95 U.S. 714, 732-3 (1877).

This distinction concerning issue authority is important here because this "Court" and many others have gone to great lengths to obfuscate the true nature of subject matter jurisdiction in an obvious attempt to shield rogue lawless State action and "Judges" from accountability and civil liability for damages when depriving the People of their right to judicial process and other rights secured by the Constitution. Because liability for damages and subject matter jurisdiction operate as different sides of the same coin, the Court knows that by controlling the definition of subject matter jurisdiction, liability for damages is also controlled. This control also greatly effect the right to *habeas corpus* relief. See also Exhibit [S]: Secrets of the Legal Industry– Introduction and Fundamentals of Law by Richard Cornforth.

Perhaps the most egregious example of the fraudulent and deceitful behavior of manipulating the true nature of subject matter jurisdiction and judicial immunity is found in the case of *Stump v. Sparkman,*[76] where this Court found "Judge" Stump had subject matter jurisdiction to grant a petition for the sterilization of a young girl, Linda Sparkman, without her ever receiving notice or a hearing. In doing so, this Court apparently forgot its own declaration of fundamental judicial process whereby "[a] sentence of a court pronounced against a party without hearing [her] or giving [her] an opportunity to be heard is not a judicial determination of [her] rights, and is not entitled to respect in any other tribunal."[77] "For jurisdiction is the right to hear and determine; not to determine without hearing."[78]

Under its own selective amnesia doctrine, this Court, acting without issue authority, then "overruled" the Seventh Circuit that had found "Judge" Stump

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[76] Stump v. Sparkman, 435 U.S. 349 (1978).

[77] *Windsor v. McVeigh*, 93 U.S. 274, 277 (1876).

[78] *Windsor v. McVeigh*, 93 U.S. 274, 284 (1876).

liable. See *Sparkman v. McFarlin.*[79] In *sub silentio* denial of centuries of its own precedent, this Court held that because Stump had purportedly acquired subject matter jurisdiction in the first instance to hear and determine the petition – despite it never having even been filed in the Court – that he failed to lose it by violating judicial process, denying Sparkman notice and a full, fair, and impartial hearing and determination of her rights.

"[A Court] must act judicially in all things, and cannot transcend the power conferred by law."[80] The provisions of our Constitutions are mandatory and prohibitory […]"[81] "It is a rule of construction, acknowledged by all, that the exceptions from a power mark its extent; for it would be absurd, as well as useless, to except from a granted power, that which was not granted."[82] Neither a Court nor a Judge have issue authority do what a Constitution expressly forbids. Subject matter jurisdiction can always be lost through judicial process violations or through fraud.

Based on the foregoing, even if the Superior "Court" of California, County of Orange and "Judge" Chaffee somehow acquired subject matter jurisdiction in the first instance, it was subsequently lost by refusing perform the substantive judicial process requirements of Article I, §17 of the California Constitution and/or the Eighth Amendment to the Constitution for the United States.[83] This was not simply an act in "excess of jurisdiction" because the "Court" and Chaffee had no power to

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[79] *Sparkman v. McFarlin*, 552 F.2d 172 (7th Cir. 1977).

[80] *Ex Parte Giambonini*, 117 Cal. 573, 576 (Cal. Supreme Ct. 1897).

[81] Article I, Section 26, Cal. Const.; Article VI, Section 2 of the Constitution. *United States v. Deveaux*, 9 U.S. 61, 87 (1809). "The duties of this court, to exercise jurisdiction where it is confered [sic], and not to usurp it where it is not conferred, are of equal obligation.

[82] *Gibbons v. Ogden*, 22 U.S. 1, 191 (1824).

[83] Petitioner asserts the 8th Amendment and any other rights secured by the "14th Amendment" only under extreme duress and coercion. See *Barron v. Baltimore*, 32 U.S. 243 (1833) finding that the Bill of Rights do not apply to State action and Petitioners other arguments surround the "14th Amendment" presented herein.

impose any punishment whatsoever without following the mandatory criteria, thereby divesting 'them' of all authority to exercise the judicial power of California. "[I]f [a Court] act[s] without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal, in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers."[84] Furthermore, it is a crime to violate judicial process (18 U.S.C. §242) and a crime cannot be committed to procure or maintain personal and/or subject matter jurisdiction.

2. Challenges to jurisdiction and additional violations of judicial process depriving the "Court" of subject matter jurisdiction.

Petitioner repeatedly challenged the personal and subject matter jurisdiction of the "Court" and the Humphreys and Bissell to prosecute and punish him. Rather than provide competent substantive authority to sustain their actions, the Humphreys, Bissell, and Chaffee just committed more egregious judicial process violations, including seeking sanctions against Petitioner in an obvious effort to further punish and silence him for exercising his right to challenge jurisdiction.

In his first challenge to jurisdiction, (Exhibit [A3] pp.975-1004), Petitioner's Motion was dismissed without any mandatory response[85] from the Humphreys and *without any hearing or lawful order* by a notice from the "Court" that stated: "[t]he court deny the request to vacate the judgment". Exhibit [A3] p.1279. The notice was also never filed on the record by the unknown "official" who created it.(Vf).

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[84] *Elliott v. Lessee Peirsol*, 26 U.S. 328, 340 (1828).

[85] See for e.g. *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936)."[I]f his allegations of jurisdictional facts are challenged by his adversary in any appropriate manner, he must support them by competent proof."

In his second jurisdictional challenge, (Exhibit [A3] pp.1105-1126 and pp.1155-1168), the Humphreys intended to further punish and silence Petitioner by requesting the Court award $1500 in sanctions because he allegedly "abused discovery" by challenging jurisdiction in the form of a bill of particulars. The bill of particulars, (Exhibit [A3] pp.1118-1126), contained fifty-three questions directly related to the nature and cause of the accusation challenging their authority to criminally prosecute him. See for e.g. *Coffin v. United States*[86]:

> "[I]t is always open to a defendant to move the judge before whom a trial is had to order a prosecuting attorney to give a more particular description, in the nature of a specification or bill of particulars, of the acts on which he intends to rely, and to suspend the trial until this can be done; and such an order will be made whenever it appears to be necessary to enable the defendant to meet the charge against him, or to avoid danger of injustice."

Chaffee ultimately awarded the Humphreys sanctions in a Minute Order, but never signed their Proposed Order. See Exhibits [A3]: Humphreys Opposition, pp.1170-1179; Petitioner's Reply to Opposition, pp.1182-1393; Chaffee's Minute Order pp.1454-5; and, the Humphreys Proposed Order, pp.1456-7.

Petitioner ultimately challenged the jurisdiction of the trial "Court" eight times through motions, appeals, and even a suit in the United States District Court (as will be further evidenced). At no time have the Humphreys and Bissell ever provided any competent Constitutional authority to substantiate their power to prosecute Petitioner or the "Court" to exercise personal and/or subject matter jurisdiction over him and the case. Each of these challenges was not only an opportunity for them to state a claim upon which they had standing to the relief they sought and were awarded, but also Petitioner's attempts to mitigate the damages that continue to be caused by their treasonous and fraudulent behavior

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[86] *Coffin v. United States,* 156 U.S. 432, 452 (1895). Quotations and citations omitted.

upon him, his estate, and the Court, and their conspiracy with public "officials" to deprive him of his rights, liberty, and property under color of law.

Additionally, Petitioner filed a Declaration noticing the "Court", Chaffee, the Humphreys, and Bissell of the emotional, psychological, financial, and physical harm being caused by their "fraud", "abuse of process", "deprivations of [his] rights", "intentional infliction of emotion[al] distress", and "domestic terrorism" attacks. Specifically, his declaration filed on the record stated:

> "I am experiencing emotional and psychological duress resulting from the domestic terrorism attacks by Plaintiffs, their counsel, and this court acting without lawful authority and in violation of numerous felony criminal codes as evidenced herein. I demand the court, Plaintiffs, and their counsel immediately cease and desist and am requesting an emergency protective order and civil harassment restraining order against William Bissell, and potentially Karen and Gary Humphreys and David Chaffee."
>
> The Elements of Psychological and Emotional Distress I have experienced (and continue to to varying degrees) as a result of the continued unlawful actions of the court and William Bissell on behalf of Plaintiffs are: panic and anxiety attacks, severe depression including suicidal thoughts (no, I am not a danger to myself or others), severe headaches, neck and upper back tension, body tremors, loss of appetite, social inactivity, gut/digestion problems and pain, fear of physical and other harm, loss of liberty, and decreased ability to earn an income. My medical records are obviously confidential but will support thousands of dollars in Emergency Room visits to multiple hospitals, and observations, tests, and treatment by specialists including psychologists. I am currently under the care of a doctor whom I see three days per week to mitigate the intensity of stress in my body in an attempt to cope." Exhibit [A3] pp. 1631-2.

c. Business & Professions Code §7071.17 Imposes a Bill of Pains & Penalties.

"A power over a man's subsistence amounts to a power over his will."[87]

But just when the haunted house of horrors of socialist Commiefornia couldn't get any more horrific, ninety days after the issuance of the "Judgment Order" Petitioner was further punished when his status to act as the qualifying individual of his company's contractor's license – or any contractor's license – was suspended *indefinitely* without even an administrative hearing. As held by this Court, "[e]xclusions from any of the professions or any of the ordinary avocations of life […] can be regarded in no other light than as punishment for such conduct."[88]

This additional excessive, cruel, and unusual punishment, in the form of indefinitely suspending Petitioners right to earn a living in his profession without a judicial hearing was imposed by operation of Business and Professions Code §7071.17 until Petitioner either (1) obtained a payment bond equal to the amount of the illegal "Judgment" pursuant to §7071.17(a) and (b)(3); (2) paid the illegal "Judgement"; (3) declared bankruptcy; or, (4) arranged a discharge "agreement" with the Humphreys (ie agreed their extortion demands) pursuant to §7071.17(a) and (b)(4). Petitioner did not have the money to pay the judgment and was unable to obtain a payment bond because the bonding company required security in the amount of the bond which he did not possess.

Pursuant to Article VI, §1 of the California Constitution, "the judicial power of [California] is vested in the Supreme Court, courts of appeal, and superior courts

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[87] The Federalist No.79, A. Hamilton cited by *Oil States Energy Servs. LLC. V. Greene's Energy Grp., LLC.*, 138 S. Ct. 1365, 1380 (2018). (Gorsuch, J dissenting).

[88] *Ex Parte Garland,* 71 U.S. 333, 378 (1866). See also *Schomig v. Keiser*, 189 Cal. 596, 598 (Cal. Supreme Ct. 1922) holding that "[t]he portion of the act which authorizes the [Registrar of Contractors] to forfeit the license of a [contractor] and take it away from him is highly penal in its nature."

[…,]" not in the legislature, which has no power to make a judicial determination of Petitioner's rights by imposing punishment in the form of suspending or revoking a license without a judicial hearing on this issue that was separate and distinct from the punishment inflicted at "trial".[89] "A sentence […] pronounced against a party without hearing him, or giving him an opportunity to be heard, is not a judicial determination of his rights […]."[90] Nor does the California "Legislature" have the power to deprive Petitioner of the right to proceedings according to the course of the common Law or a trial by jury on this issue.

In comparison, when members of the State Bar of California are faced with discipline or a licensing suspension or revocation, there is a full time State Bar Court comprised of trial judges and a three-judge appellate Court that makes recommendations to the Supreme Court of California who is the final arbiter of attorney discipline.[91] No such substantive and equal protections exist for contractors – or any other known regulated profession – in California. Nor is review by the Supreme Court of California mandatory prior to licensee discipline like it is for attorneys.

Why is the punishment of a lawyer or destruction of lawyer's career or livelihood treated differently than the other licensed professions in California?

Why don't all of the regulated professions receive equal protection of the law?

As a result of Chaffee's arbitrary "Judgment Order" and §7071.17, Petitioner has been unable to earn a living in his profession as a general contractor for more than four years resulting in a denial of equal protection of the law, an unlawful

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[89] See §7071.17(a) and (c).

[90] *Windsor v. McVeigh*, 93 U.S. 274, 277 (1876).

[91] Cal. Business & Professions Codes §6078, §6097.1 and §6086.65.

taking of his rights, liberty, and property without just compensation, excessive, cruel, and unusual punishment, and a bill of pains and penalties.

d. Petitioner Was Subjected to an Ex Post Facto Law as He Was Ordered to Forfeit at least $660,000 as Punishment for a Crime That Doesn't Exist.

§7031(b) declares, in relevant parts, that "[…] a person who utilizes the services of an unlicensed contractor may bring an action […] to recover all compensation paid to the unlicensed contractor […]."

At "trial", evidence in the form of an accounting spreadsheet and copies of checks and money orders that the Humphreys and Mr. Humphreys company paid Spartan at least $660,000 was admitted as Exhibit 32. See Exhibit [A5] pp.473-78 and Exhibit [A4] p.93. These facts were *undisputed* by Spartan. (Vf). Despite this, Chaffee ordered Petitioner to forfeit this entire amount as part of the $848,000 "Judgment." (Vf.).

§7031(b) only permits the customer to "recover all compensation paid to the unlicensed contractor." There was no claim ever made by the Humphreys that Spartan was unlicensed. In fact, in their earlier Motion for Summary Judgment, the Humphreys claimed the "undisputed facts" were that "[i]n April of 2012 The Spartan Associates entered into an agreement with the Humphreys for the performance of home improvement work on the Humphreys condominium unit", (Exhibit [A3] p.232), and that "[a]t the time relevant to this action, Spartan was a licensed contractor. As such the services to be performed by it under agreement with [the Humphreys] for home improvement work were not illegal." Exhibit [A3] p.245, lines 25-28. See also Exhibit [A5] pp.499-501, the building permit for the Humphreys project issued by the City of Newport Beach listing Spartan as the contractor.

Of course these "undisputed facts" were altered at "trial" to substantiate their First Amended claim for "disgorgement" where the Humphreys both testified they

never entered into an agreement with Spartan. Exhibit [A4] p.45 line 26–p.46 line 2 and p.89 line 25–p.90 line 2.

Even if the Humphreys contracted with Petitioner and not his company, the undisputed evidence demonstrated that they and Mr. Humphreys company paid Spartan not Petitioner. Moreover, §7031(b) mentions nothing about a contract.[92] The facts to be determined in a §7031(b) case – hypothetically assuming its Constitutionality – are simply whether the defendant performed work required to be licensed without a license and received compensation for that work. Petitioner is not aware of any evidence admitted at "trial" evidencing that he – as opposed to Spartan – performed any specific work on the Humphreys project. (Vf). Spartan testified that it performed the work. (Vf). Payments for compensation are not necessarily evidence of having performed the work especially when small business owners often receive payment in their own name for work performed by their business.

As a result of there being no evidence to order Petitioner to forfeit compensation he was never paid or possessed, the "Court" and Chaffee were divested of personal and subject matter jurisdiction to punish Petitioner by fining him $660,000 for committing an offense that doesn't exist by enacting an ex post facto law.[93] This deprived Petitioner of a judicial determination his rights including the rights to equal protection of the law and to not be cruelly, unusually, and excessively punished. It also resulted in an unlawful taking of this rights, liberty, and property without just compensation and a bill of pains and penalties.

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[92] A fact recently acknowledged by the "Judicial" Council of California in meetings to review the changes of the *ultra vires* civil jury instructions for §7031(b). Exhibit [C] p.2642.

[93] See *Calder v. Bull*, 3 U.S. 386, 390 (1798).

While this issue may seem superfluous at this point, it is made for a very specific reason in addition to those stated– to challenge this Court's doctrine of subject matter jurisdiction pertaining to whether or not the factual sufficiency (evidence) of a claim effects subject matter jurisdiction.

Under its current "doctrine", this Court acknowledges that some facts of a claim *may* be jurisdictional. See for e.g. *Arbaugh v. Y & H Corp*.[94] But in the *Arbaugh* case this Court also drew a dividing line between the ingredients of a claim and subject matter jurisdiction referring to the two as a "dichotomy" when in truth, subject matter jurisdiction (issue authority) and whether a claim has been stated are not separate at all. They are opposite sides of the same coin; not separate coins.

How could a Court possibly have issue authority to exercise the judicial power of a State or the United States and deprive a litigant of their rights, liberty, or property if the plaintiff fails to evidence each and every element of a claim for relief?

The nature and elements of the claim itself are an inseparable aspect of the *the subject matter* (issue) that the term "subject matter jurisdiction" is referring to. And if there is no evidence to substantiate any element of a claim, the issue is there is no claim and subject matter jurisdiction cannot possibly extend to a claim that doesn't exist. For it is only the filing of a valid claim within the procedural requirements that vests the Court with subject matter jurisdiction and empowers it to act in the first instance.[95] If a plaintiff fails to state a claim at any stage of the proceedings, they have no standing to the relief sought and the the Court has a non-

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[94] *Arbaugh v. Y & H Corp.,* 546 U.S. 500, 514 (2006).

[95] See for e.g. *Buis v. State*, 1990 OK CR. 28 (1990).

discretionary, ministerial duty to dismiss the that portion of the case or the entire case *sua sponte* for lack of subject matter jurisdiction.[96] If the Court were to proceed and render judgment in the plaintiff's favor it would then violate the defendant's right to a full, fair, and impartial determination of their rights, which would result in a violation of judicial process and fraud and subject the "Judge" to civil liability for damages for acting without subject matter jurisdiction.

In the instant case, even if the Court hypothetically had subject matter jurisdiction in the first instance, the subject matter jurisdiction conferred by §7031(b) did not extend to authorize the Court to order the forfeiture of payments made to licensed contractors who performed the work, to unlicensed contractors that were never paid and/or not evidenced to have performed any work.

[96] *Summers v. Earth Island Inst.*, 555 U.S. 488 (2009). A plaintiff must have standing for each type of relief sought.

e. The True Intent of the Contractor's Licensing Laws is to Destroy Private Inalienable Rights by Converting Them into Revocable Commercial Privileges.

> *"The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power."*
>
> *–Alexander Hamilton, 1775*

When it comes to the inalienable rights referred to in our Declaration of Independence and State Constitutions, the word "inalienable" means not lienable; not in commerce; "[c]annot be legally or justly alienated or transferred to another."[97]

Article I, Section 1 of the California Constitution declares that:

> "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

Notably, Article I, §1 makes no qualifications or exceptions whatsoever to these inalienable rights because they are inalienable.

Contemporaneous with California's admission as State and the adoption of the California Constitution of 1849, the Supreme Court of California held that the"right to the [property and liberty of one's faculties], in its broadest sense, implies a right to the […] profits accruing therefrom, since without the latter, the former can be of no value."[98] The Court further declared that:

> "This principle is as old as the Magna Charta. It lies at the foundation of every constitutional government, and is necessary to the existence of civil liberty and free institutions. It was not lightly incorporated into

[97] Websters Dictionary 1828, p.107, "inalienable."

[98] *Billings v. Hall*, 7 Cal. 1, 7 (Cal. Supreme Ct. 1857).

> the Constitution of this State as one of those political dogmas designed to tickle the popular ear, and conveying no substantial meaning or idea; but as one of those fundamental principles of enlightened government, without a rigorous observance of which there could be neither liberty nor safety to the citizen."[99]

In his private writings, James Madison, the "father" of our National Constitution, stated that "…[t]hat is not a just government, nor is property secure under it, where arbitrary restrictions, exemptions, and monopolies deny to part of its citizens that free use of their faculties, and free choice of their occupations, which not only constitute their property in the general sense of the word; but are the means of acquiring property so called."[100] In Federalist No. 10, he stated "[t]he protection of these faculties is the first object of government."

At the time of the founding of America, inalienable rights were also recognized in the inhabitants of territories (People who had not yet become State Citizens) by protections declared in the Northwest Ordinance of 1787:

> "No man shall be deprived of his liberty or property, but by the judgment of his peers or the law of the land; and, should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts or engagements, bona fide, and without fraud, previously formed."[101]

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[99] *Billings v. Hall*, 7 Cal. 1, 6 (Cal. Supreme Ct. 1857). See also *Ettinger v. Board of Medical Quality Assurance*, 135 Cal. App. 3d 853, 857 (1982) recognizing the totality of professional employment opportunity as a vested right.

[100] *The Papers of James Madison*. Edited by William T. Hutchinson et al. Chicago and London: University of Chicago Press, 1962--77 (vols. 1–10); Charlottesville: University Press of Virginia, 1977 (vols. 11–). Source: https://press-pubs.uchicago.edu/founders/documents/v1ch16s23.html.

[101] Article II Northwest Ordinance 1787.

As this Court has held, "[t]he very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, […] and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."[102]

In concert with the declaration of inalienable rights in State Constitutions, the People of America further declared in Article I, §10 of their National Constitution, that "[n]o State shall pass any […] Law impairing the Obligations of Contracts."[103] This unlimited right to contract was also recognized in the Northwest Ordinance of 1787 whereby "no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts or engagements." Again, there are no exceptions made. See also *Hale v. Henkel,*[104] where this Court held that "[t]he individual […] 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 […]."

The unlimited right to contract was clearly intended to not only secure the private rights to liberty and property, but to *unambiguously* keep the government out of the People's private action.[105] Today however, and in total dereliction of the Founders original intent, this clause has been fraudulently changed – without the following the required Constitutional amending procedures of Article V – to mean

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[102] *Board of Education* v. *Barnette*, 319 U.S. 624, 638 (1943).

[103] By making this argument, Petitioner intends to include the claim that Business and Professions Codes §7028 and §7031 are unconstitutional (as to biological beings) because they impair the obligations of contracts.

[104] *Hale v. Henkel*, 201 U.S. 43, 74 (1906).

[105] *Calder v. Bull*, 3 U.S. 386, 390 (1798). "The prohibitions not to make any thing but gold and silver coin a tender in payment of debts, and not to pass any law impairing the obligation of contracts, were inserted to secure private rights […]."

that all contracts are subject to whatever obligations (terms and conditions) the government says. Or in other words, "private interests are subservient [to the exercise of the police power and …] must give way to general schemes [for the public welfare]."[106] The Republican forms of government created by the original California Constitution and the Constitution for the United States (1787-1791) do not create socialist welfare or totalitarian police states.

In his masterful work The Right to Earn a Living,[107] legal scholar Timothy Sandefur examines the history of the inalienable right to pursue a Lawful occupation and how this right was repudiated [at precisely the same time as a national banking "emergency"[108] was declared and the United States was placed under a system of debt-based fiat currency known as the "New Deal"– more accurately the "New Steal"].[109]

Comparing the original intent of the founders with the denial of economic liberty today, Sandefur writes:

> "freedom [was] the rule, and government action the exception. [R]eversing this order […] was imperative to establishing the regulatory welfare state. To ratify the extreme sorts of regulation which made up the New [Steal] it was necessary to overcome the presumption of liberty, or to deny its existence."[110]

1. Business and Professions Codes §7028, §7031, and §7071.17 Violate Article I, Section 1 of the California Constitution and the Ninth Amendment to the Constitution.

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[106] *Manigault v. Springs*, 199 U.S. 473, 481 (1905).

[107] Timothy Sandefur, The Right to Earn a Living, 6 Chap. L. Rev. 207 (2003). Source: https://digitalcommons.chapman.edu/cgi/viewcontent.cgi?article=1056&context=chapman-law-review.

[108] Emergency Banking Relief Act, Public Law 73-1, 48 Stat. 1, March 9, 1933. Source: https://govtrackus.s3.amazonaws.com/legislink/pdf/stat/48/STATUTE-48-Pg1.pdf.

[109] See especially The Money Masters documentary by Bill Still and The Creature From Jekyll Island: A Second Look at the Federal Reserve by G. Edward Griffin.

[110] Timothy Sandefur, The Right to Earn a Living, 6 Chap. L. Rev. 207 (2003), p.244.

California's "public policies" (policy=French *police*; contract, bill of lading, contract of insurance, commerce) expressed in Business and Professions Codes §7028, §7031, and §7071.17 declare without any ambiguity that Petitioner and the People of California have no inalienable right to their time and labor whatsoever as "contractors" because this inalienable right has been arbitrarily been converted into a commercial privilege for which they must obtain a license and pay a recurring use fee or tax. In other words, as a contractor, the People domiciled in California have no inalienable right to "enjoying […] life and liberty, [and] acquiring [and] possessing, […] property" a "public policy" that was most clearly addressed by the California Attorney General in opinion 47-175:

> "Since a license to conduct any of the regulated activities [in California] is a mere statutory privilege [not an inalienable right] – a creature of statute – it is at all times subject to legislative control, including destruction or termination by the legislative process."

Each member of the Legislature of California has a sworn duty to protect the defend the Constitutions of California and the United States. The People's inalienable rights are not the creatures of statute and are not at any time subject to destruction or termination by the "Legislative" process.

2. What is a license?

A license is synonymous with a franchise. A franchise as defined by Blackstone is "a royal prerogative, or branch of the king's prerogative, subsisting in the hands of a subject."[111] As defined by this Court, "franchises are special privileges conferred by government upon individuals which do not belong to citizens of the country generally by common right."[112] "When, therefore, the state grants a right thus

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[111] *State v., Scougal*, 3 S.D. 55, 62 (SD Supreme Ct. 1892) citing 2 Bl. Comm. 37.

[112] *Id.* citing *Bank of Augusta v. Earle*, 38 U.S. 519 (1839).

belonging to the government, and not to the citizens generally as a matter of right, it is the grant of a franchise."[113]

Licensing or franchise fee's are derived from feudal law under a King where the People had no inalienable rights to liberty and property. Feudalism was "the dominant social system in medieval Europe, in which the nobility held lands from the Crown in exchange for military service, and vassals were in turn tenants of the nobles, while the peasants (villeins or serfs) were obliged to live on their lord's land and give him homage, labor, and a share of the produce, notionally in exchange for military protection."[114] As admitted by this Court, "[t]he granting of a license must be regarded as nothing more than a mere form of imposing a tax and of implying nothing except that the licensee shall be subject to no penalties under national law, if he pays it."[115]

There is no accident that the word "fee" is used in connection with contractor licensing. It appears fifteen times in the Application for Original Contractors License and seventy-eight times in the Contractor's License Law & Reference Book. The word fee has its roots in feudal law, the equivalent to that of a fief or feud.[116] A fief (Latin: feudum) "was a source of income granted to a person (called a vassal) by his lord in exchange for his services. The fief usually consisted of land and the labor of peasants who were bound to cultivate it. The income it provided supported the vassal, who was obliged to fight for his lord as a knight."[117] This is nearly the exact nature of contractor licensing whereby one must pay a recurring fee for the privilege of earning a living in one's trade or profession or face the threat of total financial

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[113] *State v., Scougal*, 3 S.D. 55, 62 (SD Supreme Ct. 1892).

[114] "Feudalism." Oxford Lexico https://www.lexico.com/en/definition/feudalism Accessed 4 Sep. 2021.

[115] *License Tax Cases*, 72 U.S. 462, 471 (1866).

[116] See "Feudal", Websters Dictionary 1828.

[117] "Fief." *Merriam-Webster.com Dictionary*, Merriam-Webster, https://www.merriam-webster.com/dictionary/fief. Accessed 4 Sep. 2021.

destruction and/or incarceration under the frauds of "protection" and the "public welfare."

It is also important to note that the frauds of "protection" and the "public welfare" are used as summary "Legislative" justification for *ultra vires* government action and are most often not the result of careful research and study into an actual issue facing society for which there is no remedy at Law. For example, the contractors licensing that sprung into existence around the time of the New Steal. Despite an exhaustive search through State records, Petitioner was unable to locate any study done by the Legislature necessitating seizing control of the construction industry. At the time, the People had an adequate remedy at common Law and Equity for any injury or damages resulting from their private construction agreements. The obvious intent of the Licensing Laws was therefore not to protect the public, but to convert private inalienable rights into public privileges to overthrow California's Lawful Republican form of government to create a socialist welfare and totalitarian police state.

3. Inalienable rights cannot be converted into privileges.

The issue of converting inalienable rights into privileges (or private rights into public ~~rights~~ privileges) came before this Court in the case of *Murdock v. Pennsylvania,*[118] where it held that a State cannot convert a Constitutional right into a privilege, require a license, and charge a fee for it. This Court also held that "[t]he power to tax the exercise of a privilege is the power to control or suppress its enjoyment"[119] and "the mere fact that [the People use their faculties to earn a living through commercial activity] does not transform [their inalienable rights]

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[118] *Murdock v. Pennsylvania*, 319 U.S. 105 (1943).

[119] *Murdock v. Pennsylvania*, 319 U.S. 105, 112 (1943). Citation omitted.

into a commercial [commodity, or their activity into a commercial enterprise]."[120] Correct! The People and their inalienable rights are not in commerce and cannot be liened by commercial regulations!

Yet while it may seem at first blush that the *Murdock* Court followed the Constitution thereby protecting the rights of the People, it went on to falsely distinguish between a tax for the privilege of doing something and a tax on the profits generated from doing that thing. In truth there is no difference. Whether the tax is on the privilege to do something in the first place, or on the profits therefrom is irrelevant. Inalienable means not lienable by any means whatsoever, including tax liens in the form of licensing or franchise fees or "income taxes."

The very essence of slavery and involuntary servitude are that a human being has no fundamental inalienable right to their time and labor and whose *privileges* in the form of licenses or franchises to earn a living are at all times subject to "destruction or termination" by their master.

> *"For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life at the mere will of another seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."*[121]

Petitioner has not made any knowing, voluntary, or intelligent waiver of any rights,[122] thereby giving his assent or consent to be subject to the transfer of his inalienable rights, property, or liberty or that of his estate to the Humphreys, the State of California, the United States, or any other entity. (Vf).

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[120] *Murdock v. Pennsylvania,* 319 U.S. 105, 111 (1943).

[121] *Yick Wo v. Hopkins,* 118 U.S. 356, 370 (1886).

[122] *Johnson v. Zerbst*, 304 U.S. 458 (1938).

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By purportedly "enacting" Business and Professions Codes §7028, §7031, and §7071.17, the California "Legislature" passed a bill of attainder or pains and penalties upon Petitioner by converting his inalienable rights into lienable revocable commercial privileges. This punished Petitioner by depriving him of: (1) his right to liberty and property in the form of his time and labor; (2) the right to just compensation for the unlawful taking of his rights, liberty and property; and, (3) to a determination of his rights by judicial process.

By (1) refusing to recognize Petitioner's rights to liberty and property in the form of his time and labor as secured by Article I, §1 of the California Constitution and the Ninth Amendment to the Constitution; and, (2) sanctioning and conspiring with the California "Legislature" and "Governor" to commit fraud upon him and his estate, Chaffee punished Petitioner by taking his inalienable rights, liberty, and property without authority and by force of the judicial power of California thereby subjecting him to a bill of pains and penalties.

> *"[G]overnment can scarcely be deemed to be free, where the rights of property are left solely dependent upon the will of a legislative body, without any restraint. The fundamental maxims of a free government seem to require, that the rights of personal liberty and private property should be held sacred. At least no court of justice in this country would be warranted in assuming, that the power to violate and disregard them; a power so repugnant to the common principles of justice and civil liberty lurked under any general grant of legislative authority, or ought to be implied from any general expressions of the will of the people."*[123]

[123] *Wilkinson v. Leland*, 27 U.S. 627, 628 (1829).

f. The Contractors Licensing Laws are Based upon a Fraudulent Fiction of Law That Violates Judicial Process.

The word license is defined as "a permission, by some *competent authority* to do some act which without such authorization would be illegal."[124]

The fiction of law upon which the Contractor licensing laws were "enacted" is "to protect the public from incompetent or dishonest providers of building and construction services."[125] This fraudulent fiction operates to not only declare the People are incompetent in construction unless they pass the licensing requirements and pay a recurring fee, but also to create a hypothetical injury that hiring an unlicensed contractor results in an "injury" or "damages" whether there is any evidence of, or nexus to an actual injury or not. The fiction of "incompetence and dishonesty" violates judicial process and results in a bill of pains and penalties because the California "Legislature" is without authority to punish and defraud the People by declaring them incompetent or dishonest without notice or a judicial hearing. Article V, §1 of the California Constitution vests the entirety of the judicial power of California in the judicial branch. See also the case of *Estate of Buchman,*[126] where a California "Judge" violated judicial process by removing the executor of an estate for being incompetent without notice, a hearing, or evidence.

The obvious intent of the fraud of declaring the People incompetent and dishonest can be none other than to change the relationship between the People and their government from one of principal and agent – at least implicit in the original

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[124] Black's Law Dictionary by Henry Campbell Black, Revised Fourth Edition, St. Paul, Minn.: West Publishing Co., 1968, "License" p.1067. Italicized emphasis added.

[125] *Humphreys v. Bereki*, 2018 Cal. App. Unpub. Lexis 7469 (2018) p.7 citing *Alatriste v. Cesar's Exterior Designs, Inc.*, 183 Cal. App. 4th 656, 664-666 (2010).

[126] *Estate of Buchman*, 123 Cal. App. 2d 546 (1954). See also *Windsor v. McVeigh*, 93 U.S. 274, 277 (1876) finding that "[a] sentence of a court pronounced against a party without hearing him, or giving him an opportunity to be heard, is not a judicial determination of his rights, and is not entitled to respect in any other tribunal."

intent of the Framers of both the *original* California and United States Constitutions[127] – to one of guardian and ward, if not master and servant.

Despite the State of California representing to the public that by issuing a license, a contractor "ha[s] the requisite skill and character, understand[s] applicable local laws and codes, and know[s] the rudiments of administering a contracting business[,]"[128] the contractor licensing exam requirements do not include a practical skills examination, like, for example, a driving test to obtain a driver's license. In other words, there is no examination to see if a cabinet-maker can actually build a simple cabinet or that an electrician can wire an outlet.

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At "trial", the Humphreys failed to present any known evidence pertaining to Petitioner's "incompetence" in construction or any other facet of existence. (Vf). The Court and "Judge" Chaffee were thereby divested of personal and subject matter jurisdiction to rely upon any "Legislative" fiction of law that is not only false and fraudulent, but upon which there was not even one scintilla of evidence to support a finding thereof. In truth, the Contractors State License Board had actually determined that Petitioner was "competent"/qualified to act as a general contractor when he became the "qualifying individual" for Spartan's general contractor's license.[129] (Vf). Petitioner was in fact licensed as an inseparable aspect of Spartan's license. See Cal. Business and Professions Code §7096 defining a "licensee" to

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[127] "The [Constitutions] are accompanied with Bills of Rights, which are intended to declare and set forth the restrictions which the people in their sovereign capacity have imposed upon their agents…" Commentaries on the Laws of England in Four Books. Notes selected from the editions of Archibold, Christian, Coleridge, Chitty, Stewart, Kerr, and others, Barron Field's Analysis, and Additional Notes, and a Life of the Author by George Sharswood. In Two Volumes. (Philadelphia: J.B. Lippincott Co., 1893). Vol. 1 - Books I & II. Source: https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2140/Blackstone_1387-01_Bk.pdf. p.124.

[128] *Humphreys v. Bereki*, 2018 Cal. App. Unpub. Lexis 7469 (2018) p.7. Citations omitted.

[129] License #927244.

"include […the] personnel of that licentiate whose appearance has qualified the licentiate under the provisions of Section 7068."

A "qualifying individual" is defined in the Application for Original Contractors License as "[…] the person who meets the experience and examination requirements for the license and who is responsible for exercising that direct supervision and control of their employer's or principal's construction operations […]." Therefore, if Petitioner was determined "qualified" ("competent") by the Licensing Board to act as a general contractor, how could he magically be transformed "incompetent" and subject to §7031(b) as an unlicensed contractor? The obvious answer is that he can't because the Board had already made the determination he *was* "competent". See *Vlandis v. Klein*.[130] This evidences that the real agenda behind the licensing laws isn't actually protecting the public by determining whether contractors possess the "requisite skill," but whether they pay a licensing fee for the *privilege* of receiving compensation for their work. Whether a tax is paid has nothing to do with one's "competency" to perform a profession and offers no "protection" to the public.

Apparently, the reason Petitioner was found to be "unlicensed" is because he didn't possess a license in his own name. While he was the qualifying individual of Spartan's license and formed an inseparable component thereof, Spartan was considered a separate legal entity. But this is no different than the fact that attorney's are the one's who pass the bar exam and actually practice "law", not their corporate "law" firms. If we apply the same reasoning used to determine unlicensed contractors to the practice of law, would all clients of a corporate law firm not have a claim against the firm for practicing law without a license? Is it not the corporate firm that the client actually contracts with and not the individual licensed

[130] *Vlandis v. Kline*, 412 U.S. 441, 446-8, 452 (1973).

attorney(s)? Petitioner is unaware of any corporate law firm in California that is itself licensed to practice law.

Isn't it fascinating to see the two systems of "law" in action– one for the aristocracy who holds a title of nobility as an attorney, another for the commoners or peasants. It's not called the criminal Ju$t U$ system for no reason… What a racket! See 18 U.S.C. §1961.

> *1. California is engaged in committing summary civil executions upon the People domiciled in California by converting their sentient biological status, standing, and capacity into a lifeless incompetent fiction of law.*

The fiction of law whereby Petitioner/the People domiciled in California are "incompetent" in construction (and other similarly situated professions) until they pass a licensing exam goes far deeper than just the licensing laws. Another facet of the destruction of inalienable rights evidenced in section e involves converting the People's inalienable right to life into a corporate franchise of the State and/or the United States. This occurs when the State subjects the People to a summary civil execution by denying their creator endowed biological status, standing, and capacity, converting them into incompetent artificial corporate entities and thereby franchises/ wards/ commercial property of the State. How this specifically occurs will be evidenced below as it directly relates to the contractors license laws. But first, because of the obvious severity of this allegation, it's necessary to provide a more substantive foundation.

The relationship between sentient, biological beings and commercial property can be found in our Nation's jurisprudence in the distinction between Citizens and fictions of law called corporations. The word corporation is derived from the words "corpus" (of the body, living or dead) and "orate" (to speak). Since a corporation is not a living sentient being, it is more accurately derived from the word corpse (a

dead body). A corporation therefore means the word of the dead body. The dead have no standing in Law– literally and figuratively and neither do corpse-orations. This is why corporation's don't have inalienable rights, only revocable privileges and why they were excluded as Citizens under the Constitution.

As this Court has defined them, "[t]he words "people of the United States" and "citizens" are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what the court familiarly calls the sovereign people, and every citizen is one of this people, and a constituent member of this sovereignty."[131]

In contrast, this Court has defined corporations as "a mere creature of the King […] ow[ing] its existence, its name, and its laws, […] to the authority which create it."[132] Corporations therefore, not being recognized as Citizens or one of the People, have no inalienable rights and as such cannot be a Citizen of a State. The word corporation in fact is not mentioned anywhere in the Declaration of Independence or the Constitution.

In contrast to corporations, the People are obviously not created by the authority of the State, don't owe their rights or existence to the State and are certainly not its property… unless you live in Commiefornia where the People are considered a franchise of the State. As such, they must pay a recurring

[131] *Scott v. Sanford*, 60 U.S. 393, 399 (1857). Internal quotations omitted.

[132] *Chisholm v. Georgia*, 2 U.S. 419, 488 (1973).

commercial franchise tax called an "income tax" for the *privilege* of residence and earning an income there– something they already have an inalienable right to.

Of equal significance, the words "People" and "person" are not synonymous. With origins in ancient Rome, a citizen is a species of person (Latin: persona, mask for actors; per: through, + sonus: sound), i.e., one who is the subject of certain rights and duties and has no inalienable rights, only entitlement to civil rights (privileges). Citizens therefore, are inferior political subjects, not sovereigns. As defined in Black's Law Dictionary:

> "CITIZEN. The term appears to have been used in the Roman government to designate a person who had the freedom of the city, and the right to exercise all political and civil privileges of the government […]"[133]

Based, however, on the unique political character of the sovereign authority of the People of the American Republic, "Citizen" clearly had a different and unique connotation in American law as defined in *Scott*, supra as "what the court familiarly calls the sovereign people, and every citizen is one of this people, and a constituent member of this sovereignty."[134]

More than one-hundred-and-fifty years ago, in his dissent in the case of *Rundle v. Delaware & Raritan Canal Co.,*[135] Justice Daniel made carefully discerned the status, standing, and capacity of the People and corpse-orations He stated:

> "[Citizen] must mean the natural physical beings composing those separate communities, and can, by no violence of interpretation be made to signify artificial, incorporeal, theoretical, and invisible creations. A corporation, therefore, being not a natural person, but a mere creature of

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[133] Black's Law Dictionary by Henry Campbell Black, Revised Fourth Edition, 1968, p.310.

[134] *Scott v. Sanford*, 60 U.S. 393, 399 (1857). Internal quotations omitted.

[135] *Rundle v Delaware & Raritan Canal Co.*, 55 US 80 (1852).

> the mind, invisible and intangible, cannot be a citizen of a state, or of the United States…"[136]
>
> "These principles are always traceable to a wise and deeply founded experience; they are therefore ever consentaneous and in harmony with themselves and with reason; and whenever abandoned as guides to the judicial course, the aberration must lead to bewildering uncertainty and confusion."[137]

Also in his dissent, Justice Daniel referred to the case of *Bank of United States v. Deveaux,*[138] in which the issue arose of whether a corporation had standing for at least diversity of Citizenship. The *Deveaux* Court found that "the term citizen ought to be understood as it is used in the constitution […] to describe the real persons who come into court […]." Yet "[a]fter stating the requisite of citizenship, and showing that a corporation cannot be a citizen, and consequently that it cannot sue or be sued in the courts of the United States, the court [went] on to add, 'unless the rights of the members can be exercised in their corporate name.'"[139] It was upon this ground that the Court sustained its jurisdiction over the corporate parties and affirmed that of the lower Court. Apparently bamboozled by this absurdity, Daniel's dissent in Rundle continued:

> "This strange and obscure qualification, attempted by the court, of the clear, legal principles previously announced by them, forms the introduction to, and apology for, the proceeding, adopted by them, by which they undertook to adjudicate upon the rights of the corporation, through the supposed citizenship of the individuals interested in that corporation. They assert the power to look beyond the corporation, to presume or to ascertain the residence of the individuals composing it, and to model their decision upon that foundation. In other words, they affirm that in an action at law, the purely legal rights, asserted by one of the parties upon the record, may be

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[136] *Rundle v Delaware & Raritan Canal Co.*, 55 US 80, 98 (1852).

[137] *Rundle v Delaware & Raritan Canal Co.*, 55 US 80, 102 (1852).

[138] *Bank of United States v. Deveaux*, 9 U.S. 61 (1809).

[139] *Rundle v Delaware & Raritan Canal Co.*, 55 US 80, 99-100 (1852). Certain internal quotations omitted.

> maintained by showing or presuming that these rights are vested in some other person who is no party to the controversy before them."

How exactly do corporations as separate legal entities without creator endowed inalienable rights or any rights recognized in the Constitution become State Citizens by virtue of the Citizenship of their interested members who aren't a party to a case?

See *Bank of United States v. Planters' Bank of Georgia*,[140] decided nearly thirty years before *Rundle* declaring that a suit against a bank incorporated by the State of Georgia is no more a suit against the State of Georgia, than against any individual corporator; and Justice Johnson's dissent therein.

Rundle and *Devaux* therefore, marked the first *ultra vires* "amendments" to the Constitution by fraudulently erasing the precisely defined boundaries between sentient biological beings and corporations established by the Constitution.

By no coincidence, four years after *Rundle*, Abraham Lincoln purportedly wrote the following in a letter to Col. William F. Elkins:

> "I see in the near future a crisis approaching that unnerves me and causes me to tremble for the safety of my country…corporations have been enthroned and an era of corruption in high places will follow, and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people until all wealth is aggregated in a few hands and the Republic is destroyed."[141]

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[140] *Bank of United States v. Planters' Bank of Georgia,* 22 U.S. 904, 906 (1824).

[141] What Lincoln Foresaw: Corporation Being "Enthroned" After the Civil War and Re-writing the Laws Defining Their Existence by Rick Crawford citing U.S. President Abraham Lincoln, Nov. 21, 1864 letter to Col. William F. Elkins. The Lincoln Encyclopedia: The Spoken and Written Words of A. Lincoln. Arranged for Ready Reference, Archer H. Shaw (NY, NY: Macmillan, 1950).

In the early 1900s, the issue concerning the status, standing, and capacity between the People and corporations arose again in the case of *Hale v. Henkel,*[142] where this Court held:

> "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 or to his neighbors to divulge his business, or to open his doors to an 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. 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.
>
> Upon the other hand, the corporation is a creature of the State. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the State and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers."

Decades later, in the case of *Connecticut Insurance v. Johnson,*[143] – and precisely at the time of the "New Steal" – this Court went on to once again exercise its transcendent arbitrary Constitutional-amending-powers to grant new and revolutionary rights to corporations by declaring that the word "person" in the so-called "14th Amendment" included corporations as citizens of the United States– something the American People were never told at the time of the "Amendment's" purported "ratification". Surely a Constitutional amendment that would change the make-up of the sovereign body politic of the Nation to include artificial corporate entities as Citizens could not only could not have been accomplished by judicial fiat,

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[142] *Hale v. Henkel*, 201 U.S. 43, 74 (1906).

[143] *Connecticut General Life Ins. Co. v. Johnson*, 303 U.S. 77 (1938).

but would also have to have been ratified by the People in conventions of the States, which clearly never happened either at the time the "14th Amendment" was proposed or when corporations were made "persons" by this "Court".

Justice Black's dissent in *Johnson,* incorporated and fully set forth herein, illuminated these very troubling issues. In pertinent part, Black said:

> "The history of the Amendment proves that the people were told that its purpose was to protect weak and helpless human beings and were not told that it was intended to remove corporations in any fashion from the control of state governments."[144]

It should be very carefully noted that despite the "14th Amendment's" purported intent to protect "weak and helpless human beings", "14th Amendment" shitizenship makes no declaration of inalienable rights to life, liberty or property whatsoever. At the time of its non-existent "ratification" this Court clearly distinguished between State Citizenship that guaranteed inalienable rights from shitizenship of the United States that doesn't in the *Slaughterhouse Cases*[145]:

> "there is a citizenship of the United States, and a citizenship of a state, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual." *Id.* p.74.
>
> "An examination of the history of the causes which led to the adoption of those amendments and of the amendments themselves demonstrates that the main purpose of all the three last amendments was the freedom of the African race, the security and perpetuation of that freedom, and their protection from the oppressions of the white men who had formerly held them in slavery." *Id.* p.37.
>
> "The first clause of the fourteenth article was primarily intended to confer citizenship on the negro race, and secondly to give definitions of citizenship of the United States and citizenship of the States, and it recognizes the

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[144] *Id. 85-90.*

[145] Slaughterhouse Cases, 83 U.S. 36 (1872).

distinction between citizenship of a State and citizenship of the United States by those definitions." *Ibid.*[146]

See also *Valkenburg v. Brown*,[147] wherein the Supreme Court of California contemporaneously held that the People domiciled in California do not owe their citizenship to the 14th Amendment.

Therefore, there was no reason whatsoever to change the common usage of the word "person" to include an incompetent corporation unless the intent was to manipulate and deceive the American People and gain Federal (Feudal) control of corporations. But this was only part of the agenda. The next was to destroy State Citizenship and the inalienable rights guaranteed thereby by compounding the American People into one common mass as citizens of the United States under complete Federal (Feudal) control. (This will be further evidenced in a later section).

This brings us squarely to the evidence of the instant case and how, pursuant to the Business and Professions Code and the holdings of California "Courts", the word "person" also means corpse-oration. When applied to the prosecution of the People under the licensing laws this results in a summary civil execution divesting the People of their inalienable rights and biological status, standing, and capacity at Law and subjects them to Roman civl law.

Section §7025 of the Code defines who the legal entities are that the Code applies to. In other words, who must obtain a license as a "contractor" as defined by §7026. In relevant part, §7025(b) declares that:

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[146] It should be carefully noted that Petitioner is *not* racist and is *not* citing the Slaughterhouse cases as a means to assert "white privilege". He loves humanity in all of its unique and diverse forms and expressions. Rather, his intent is to further expose the weapon of racial inequality and segregation as it still thrives in American "law" as part of the two class Feudal system. The belief in inequality is a complete and total fiction of ignorance and fear that cannot stand in truth by even the most superficial observation.

[147] *Valkenburg v. Brown*, 43 Cal. 43, 47 (Cal. Supreme Ct. 1872).

> "Person" as used in this chapter includes an individual, a firm, partnership, corporation, limited liability company, association or other organization, or any combination thereof."

Under the doctrine of statutory construction, *expressio unius est exclusion alterius*, "the expression of certain things in a statute necessarily involves exclusion of other things not expressed […]"[148] Notably, the words "Citizen" or "natural person" have been excluded to clearly indicate that Chapter 9. Contractors does not apply to the People. In comparison, see §5219 where the Legislature clearly defines person to include a "natural person": "[p]erson includes natural person, firm, cooperative, partnership, association, limited liability company, and corporation."

If we hypothetically assume the word "individual" (as used in §7025(b)) means one of the People, then we're immediately struck by the conclusion that the People have the same status, standing, and capacity as the other incompetent, artificial entities listed therein and defined to be a "person" (i.e. a firm, partnership, corporation, LLC, etc.).

Looking further in the Code, §7068.1(c)(2) recognizes a "natural person". Therein, use of the word "[p]erson is limited to natural persons, notwithstanding the definition of "person" in Section 7025."

The fact that a natural person in §7068.1(c)(2) does not mean a person as defined by §7025 is very significant because §7068.1(c)(2) pertains to who must qualify for a contractor's license. Here, the statue specifically states that *only* "natural persons" can qualify for a license. This is obviously because corporations, limited liability companies and the other non-sentient artificial commercial entities listed in §7025 have no cognitive functioning and are therefore incompetent to pass a competency examination, background check, or other licensing requirements.

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[148] *Dyna-Med, Inc. v. Fair Employment & Housing Commission*, 43 Cal.3d 1379, 1391 fn. 13 (1987). Internal quotations and citations omitted.

They also have no creator endowed inalienable rights– only privileges bestowed by government as they are creations of the State. This is further evidenced by §7068.1(a) which states that "[t]he [natural person] *qualifying* ***on behalf of an individual*** *or firm* […] shall be responsible for exercising direct supervision and control of his or her employer's or principal's construction operations […]."[149] In other words, a natural person must qualify for the license of an "individual" (and all other fictitious entities) which means that an "individual" cannot possibly be a natural person.

Despite all of the foregoing, the State of California believes the People are in fact "individuals" with the same status, standing, and capacity as lifeless incompetent corpse-orations and subject to Chapter 9 of the Business and Professions Code. Compare the cases of *Twenty-Nine Palms v. Bardos*[150] with *MW Erectors v. Neiderhauser Ornamental & Metal Works Co., Inc.*[151] evidencing no creator endowed inalienable rights were recognized in the living man Paul Bardos and he was treated exactly the same as the corpse-oration, MW Erectors. See also *Humphreys v. Bereki*[152] where this issue was directly raised on "appeal" and the living man Adam Bereki was determined to be an "individual" and treated the same as MW Erectors. See especially Exhibit [P] "Overview of World Bondage and Separation from Life" by the Living Man kenneth scott House of Cousens; fully incorporated and set forth herein.[153]

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[149] Bolded and italicized emphases added.

[150] *Twenty-Nine Palms v. Bardos,* 210 Cal. App. 4th 1435 (2012).

[151] *MW Erectors v. Neiderhauser Ornamental & Metal Works Co., Inc.*, 36 Cal. 4th 412, 426 (Cal. Supreme Ct. 2005)

[152] *Humphreys v. Bereki*, 2018 Cal. App. Unpub. LEXIS 7469 pp.10-11 (2018).

[153] Admittedly, Petitioner has only barely scratched the surface in the research and study of Law and history when compared to that of this Overview by kenneth scott. As a result, Petitioner has not forensically examined all of the means of fraud and deceit exposed therein. It is titled an "Overview" for a reason and in Petitioner's opinion should only be taken in that capacity– as a pointer that says "look over here".

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Like all other evidentiary issues required to state a claim and thereby vest the Court with subject matter jurisdiction, the Humphreys failed to present any known evidence at "trial" that Petitioner was a "person" (individual) to whom the licensing laws applied. (Vf). As this Court has declared, "[j]ust as [c]onviction upon a charge not made would be sheer denial of due process, so is it a violation of due process to convict and punish a man without evidence of his guilt."[154] See also *Bass v. United States,*[155] finding that the Court directed a verdict as to an essential element of the offense that Bass was an "employee" and therefore subject to the Internal Revenue Code.

Based on the foregoing, Petitioner is of the opinion that because the "Judgment Order" subjects him effectively to civil death with prejudice by depriving him of his biological status, standing, and capacity, and therefore his inalienable rights to life, liberty, and property and forces him into bankruptcy, thereby divesting him of his entire qualifying life estate, that it is a bill of attainder rather than a bill of pains and penalties.

By directing a verdict without evidence that Petitioner was incompetent and an "individual" to whom the licensing laws applied, and by sanctioning the fraud perpetrated by the California "Legislature" and "Governor", summarily determining Petitioner's "competency" and subjecting his inalienable rights to the liens of the licensing laws, "Judge" Chaffee violated judicial process and thereby deprived the Court and himself of subject matter jurisdiction. This denial of judicial process was excessive, cruel, and unusual punishment unto itself. Coupled with the additional excessive, cruel, and unusual punishment already evidenced, it deprived

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[154] *Thompson v. City of Louisville*, 362 U.S. 199, 206 (1960). Internal quotations and citations omitted.

[155] *Bass v. United States*, 784 Fed. 2d. 1282, 1284 (1986).

Petitioner of a judicial determination of his rights and thereby subjected him to a bill of attainder.

….One has to wonder why corporate giants are so central in the movement to censor free speech in our present time of Great Awakening? Do "they" know the day of reckoning has come? Not only do they have no standing in the People's Courts of Law in the United States, CONgress is not vested with any authority to grant "them" rights, privileges, or immunities under the Constitution.

g. The California "CONstitution of 1879" Did Not Vest the Superior Court of California With Subject Matter Jurisdiction in This Case.

California was admitted as a "free" State into the union of States known as the United States on September 9, 1850 under English/American common Law as opposed to Roman civil law[156] as declared by the Supreme Court of California in the case of *Fowler v. Smith*[157]:

> "When the territory now comprised in the State of California was under Mexican dominion, its judicial system was that of the Roman law, modified by Spanish and Mexican legislation. Upon the formation of the present State government, that system was ordained by a constitutional provision to be continued, until it should be changed by the Legislature. At the first session of the Legislature an act was passed, adopting the common law of England; and on the 22d of April, 1850, another act was passed, repealing all the laws previously in force, but providing, "that no right acquired, contracts made, or suits pending, shall be affected thereby."

Under the Constitution of 1849, the judicial power of California was vested in District Courts with original general jurisdiction in cases at common Law and equity by Article I, §6, which declared that:

> "The District Courts shall have original jurisdiction, in law and equity, in all civil cases where the amount in dispute exceeds two hundred dollars, exclusive of interest. In all criminal cases not otherwise provided for, and in all issues of fact joined in the probate courts, their jurisdiction shall be unlimited."

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[156] CIVIL LAW. "Civil Law," "Roman Law" and "Roman Civil Law" are convertible phrases, meaning the same system of jurisprudence.

[…] 1. The system of jurisprudence held and administered in the Roman empire, particularly as set forth in the compilation of Justinian and his successors […] **as distinguished from the common law of England and the canon law.**

2. That rule of action which every particular nation, commonwealth, or city has established peculiarly for itself; **more properly called "municipal" law, to distinguish it from the "law of nature" and from international law**. Black's Law Dictionary by Henry Campbell Black, Revised Fourth Edition. (St. Paul, Minn.: West Publishing Co., 1968), p. 312. Bolded emphases added.

[157] *Fowler v. Smith,* 2 Cal. 568 (Cal. Supreme Ct. 1862).

The District Courts of original general jurisdiction were distinguished from County Courts of limited or inferior *statutory* jurisdiction in "*special cases"* by Article I, §1 and §9:

> "Sec. 1. The judicial power of this State shall be vested in a Supreme Court, in District Courts, in County Courts, and in Justices of the Peace. The Legislature may also establish such municipal and other inferior courts as may be deemed necessary.
>
> Sec. 9. The County Courts shall have such jurisdiction, in cases arising in Justices Courts, and in special cases, as the Legislature may prescribe, but shall have no original civil jurisdiction, except in such special cases."

In differentiating between the Superior District Courts and the inferior county and justice Courts, the Supreme Court of California held, that "[t]he other Courts of this State [referring to Courts other than the District Courts] are inferior and of limited powers. They are made Courts of Record by our statutes, but they have only statute and not common law jurisdiction[.]"[158]

What was meant by the term "special cases" stated in Article I, §9 was also clarified by the Supreme Court of California in the case of *Parsons v. Tuolumne Co. Water Co.*[159]:

> "The Constitution permits the Legislature to confer on the County Court jurisdiction in "special cases," and it is now necessary to consider what was meant by the term special cases. If there is no limit to it, then the Legislature is unrestrained from giving to that Court all the original powers of the other Courts. In *Hudson v. Caulfield*, and in *Reed's Heirs v. McCormick*, we examined this proposition, and came to the conclusion that each branch of the judicial department had its functions assigned by the Constitution, and was beyond the control of either of the other departments of the Government, as far as its powers and jurisdiction were concerned.

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[158] *Ex Parte Knowles,* 5 Cal. 300, 306 (Cal. Supreme Ct. 1855).

[159] *Parsons v. Tuolumne Co. Water Co.*, 5 Cal. 43 (Cal. Supreme Ct. 1855). (Citations omitted).

> In consonance with the opinions in those cases, we think that the term "special cases" was not meant to include any class of cases for which the Courts of general jurisdiction had always supplied a remedy.
>
> The "special cases," therefore, must be confined to such new cases as are the creation of statutes, and the proceedings under which are unknown to the general frame-work of Courts of Common Law and Equity."

In addition to exercising common Law general jurisdiction however, District Courts also heard and determined "special cases" involving remedies created by statute that were independent of their common Law or chancery powers. This distinction was most clearly stated by the Supreme Court of Illinois:

> "A court of general jurisdiction may have conferred upon it by statute a special statutory jurisdiction not arising out of the common law, from which such court draws its general jurisdiction, nor exercised according to the course of the common law but which is outside the general jurisdiction of such court. In such a case its jurisdiction is special, and its proceedings and judgments are treated as the judgments and proceedings of courts of special jurisdiction. When a court is in the exercise of special jurisdiction that jurisdiction is limited to the language of the act conferring it. That court has no powers from any other source."[160]

Examples of "special cases" would be proceedings in the administration of the contractor's license laws under the Business and Professions Code, or those in probate[161] dealing with the estates of deceased persons, both of which are purely statutory in their origin and were entirely unknown to the common Law.

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[160] *Cent. Ill. Pub. Serv. Co. v. Indus. Comm'n*, 293 Ill. 62, 65-6 (Ill. Supreme Ct. 1920). Citation omitted.

[161] *In re estate of Strong*, 119 Cal. 663, 666-7 (1898). "Probate proceedings being purely statutory, and therefore special in their nature, the superior court, although a court of general jurisdiction, is circumscribed in this class of proceedings by the provisions of the statute conferring such jurisdiction, and may not competently proceed in a manner essentially different from that provided." Citation omitted.

When hearing special cases and thereby sitting in "special statutory jurisdiction" District Courts sat as a Court of limited or inferior jurisdiction. Their jurisdiction was not presumed and according to the course of the common Law, but derived entirely by statute.[162] Therefore, Courts sitting in purely statutory proceedings "ha[d] no general [law or] equity jurisdiction."[163] They are not judicial Courts but administrative Courts proceeding according to administrative law.

1. Common Law General Jurisdiction Abolished

On May 7, 1879 the California "CONstitution of 1879" was purportedly "ratified" despite the fact that the Constitution of 1849 was never repealed. Exhibit [A]p. .

Since it's "ratification", one source has found that the California Constitution has been altered over 500 times.[164] It is unknown how any of the People of California could reasonably keep track of this many alterations to their fundamental law. A Constitution is supposed to rest on a relatively fixed foundation, not on wheels.

While this is not the time to forensically analyze each of the alterations, there was a nefarious agenda behind some of them involving the People's right to a republican form of government and depriving them of a judicial forum for the determination of their rights. For discussion purposes, all of the material

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[162] "[W]henever a new right is created by statute, and the enforcement of such right is committed to a court (even) of general original jurisdiction, that such court *quoad hoc* is an inferior court, and must pursue the statute strictly." *Cohen v. Barrett*, 5 Cal. 195, 210 (Cal. Sup. Ct. 1855). "[T]here is "a fundamental distinction between the law and equity jurisdiction of the superior court and its [purely statutory] probate jurisdiction." *Estate of Scarlata*, 193 Cal. App. 2d 35, 41 (1961). Quotations and citation omitted.

[163] *Estate of Scarlata*, 193 Cal. App. 2d 35, 41 (1961).

[164] https://www.kcet.org/socal-focus/california-constitution-altered-over-500-times-u-s-constitution-only-27

alterations to the "CONstitution of 1879" (currently allegedly effect) will be distinguished from the *original* version of it that was initially "ratified."

As a consequence of the "ratification" of the "CONstitution of 1879" all of the Courts in the Constitution of 1849 were abolished except the Justices and Police Courts.[165] To restructure the judicial branch of California's government, Article VI, §1 of the *original* version of the "CONstitution of 1879", declared that:

> "[t]he judicial power of the State shall be vested in the Senate sitting as a Court of Impeachment, in a Supreme Court, Superior Courts, Justices of the Peace, and such inferior Courts as the Legislature may establish in any incorporated city or town, or city and county."

Like Article VI, §6 of the Constitution of 1849, Article VI, §5 of the *original* "CONstitution of 1879" carefully defined the subject matter to which the judicial power of California extended:

> "The Superior Court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars, and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage, and of all such special cases and proceedings as are not otherwise provided for. And said Court shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in Justices' and other inferior Courts in their respective counties as may be prescribed by law. They shall be always open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the State; provided, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof affected by such action or actions, is situated. Said Courts, and their

> Judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days."

It should be carefully noted that the judicial power was specifically vested in "in all cases in equity, and in all cases at law" with stated exceptions. Today however, Article VI, §5 no longer exists. It was entirely repealed in 1966 by California Proposition 1A, the *Legislatively referred* "Constitutional Revision Amendment". See Exhibit [V]– a copy of the Voter Information Guide for the 1966 General Election.[166] By no coincidence, this is the same year when the Federal (Feudal) Rules of Civil Procedure were being implemented to abolish the distinction between actions at law and suits in equity, and the distinction between civil actions and suits in admiralty to create one form of action.

The official summary of the proposed "Amendments" in the Voter Guide stated in relevant part that it "[r]epeals, amends, and revises various provisions of Constitution relating to separation of powers, and to the legislative, executive, and judicial departments […]." *Id.* p.3. It appears to have proposed the repeal and replacement of Article VI entirely. *Id.* pp. 40-49. Notably, the *original* Article VI, §5 that defined the subject matter jurisdiction of the Superior Courts in Law and Equity was replaced by the new Article VI, §5 that instead divided each city with municipal and justice court districts as provided by statute. *Id.* p.47.[167] The new Article VI. §5 was then repealed in 2002. Please click here to see that there is no Article VI, §5 in the current version of the "CONstitution of 1879."

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[166] Or: https://repository.uchastings.edu/cgi/viewcontent.cgi?article=1694&context=ca_ballot_props.

[167] See also *In re Application Guerrero,* 69 Cal. 88, 99 (Cal. Supreme Ct. 1886).

The significance of abolishing the *original* Article VI, §5 cannot be understated. A Constitution must specify the subject matter jurisdiction(s) to which the judicial power will extend as this not only determines what types of claims the Court can process, but also the forms and modes of proceeding and the nature of relief that can be granted. For example, Article III, §2 of the National Constitution declares: "[t]he judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; […]." If Article III, §2 were removed like Article VI, §5 it would be obvious there would be no subject matter jurisdiction to which the judicial power of the United States would extend.

The only other reference to subject matter jurisdiction in the "CONstitution of 1879" of today appears in Article VI, §10 which declares that:

> "The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition directed to the superior court in causes subject to its appellate jurisdiction. Superior courts have original jurisdiction in all other causes."

Notably missing is any recognizable jurisdiction to which the judicial power of California extends. To declare that the Superior Courts have "original jurisdiction in all other causes" does not confer subject matter jurisdiction on Superior Courts because there is no such thing as a subject matter jurisdiction in the Constitution, history, or laws of California or the United States known as "all other causes".

Even if there were such a subject matter jurisdiction called "all other causes", to what forms of proceeding or principles would the Courts exercising this

"jurisdiction" administer justice? The "CONstitution of 1879" makes no reference to any. Moreover, the judicial power of the United States must be capable of acting upon the case or controversy and there is no such jurisdiction in the Constitution for the United States that extends to "all other causes."

The Superior Courts cannot possibly have jurisdiction of "all other causes" for at least two other reasons. First, because "the district courts [of the United States…] have […] exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction […]." Second, because the Superior Courts have no power whatsoever to hear and determine "special cases" as will be evidenced in the next section. This is because the "CONstitution of 1879 does not vest any power in the Legislature to confer subject matter jurisdiction on Superior Courts in any statutory proceeding whatsoever.

To declare that the Superior Courts, Courts of Appeal and Supreme Court have original jurisdiction in cases of *habeas corpus, mandamus, certiorari,* and prohibition is also not a grant of subject matter jurisdiction because these prerogative writs known through antiquity are not a subject matter jurisdiction unto themselves. They are a type of action arising within the subject matter jurisdiction of English/American common Law as administered by Courts whose forms and modes of proceeding were according to the course of that Law. To declare that Courts have the power to issue these writs without having been granted the subject matter jurisdiction in which the authority of the writs is derived would be like giving someone a car with no engine.

Article VI, §10 of the "CONstitution of 1879" therefore fails to vest the Superior Courts of California with any known jurisdiction or principles upon which to administer justice. "A mere assumption of jurisdiction by a court, however long

continued, cannot confer a jurisdiction otherwise nonexistent under the constitutional grant of judicial power."[168]

2. *Special Statutory Jurisdiction in Special Cases Abolished*

Article VI, §1 of the *original* "CONstitution of 1879" declared in pertinent part that "[t]he Judicial power of the State shall be vested in […] Justices of the Peace, and such inferior Courts as the Legislature may establish in any incorporated city or town, or city and county." Today however, this grant of judicial power for the Legislature to establish inferior Courts and vest them with subject matter jurisdiction has been removed and replaced by the current Article VI, §1 which declares that "[t]he judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record."

There is clearly no judicial power vested in any case whatsoever referred to as a "special case" proceeding according to special statutory jurisdiction or in any Court sitting as an "inferior Court" not proceeding according to the course of the common Law. This alteration is akin to removing the following striked-through portion from the Constitution for the United States: "The judicial Power of the United States, shall be vested in one supreme Court, ~~and in such inferior Courts as the Congress may from time to time establish.~~"

It should also be carefully noted that Article VI, §1 of the *original "*CONstitution of 1879" which conferred judicial power on inferior Courts established by the Legislature, and Article VI, §13, which vested power in the Legislature to define the subject matter jurisdiction of these inferior Courts,[169] have also both been repealed. "Article VI, §10 [currently purportedly in effect] is silent to

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[168] *Cleveland Trust Co. v. Nelson*, 51 F.2d 276, 277 (1931).

[169] See also *In re Application Guerrero,* 69 Cal. 88, 99 (Cal. Supreme Ct. 1886).

any jurisdiction-setting power of the Legislature."[170] This would specifically apply to §7031(b) because, by its own language, §7031(b) vests statutory jurisdiction "in any court of competent jurisdiction in this state." There is no Court of competent jurisdiction! Unless the power or authority of a Court to perform a contemplated act can be found in the Constitution or laws enacted thereunder, the "legislature cannot either limit or extend that jurisdiction."[171]

There being no provision permitting the Legislature to vest the Superior Court with subject matter jurisdiction in §7031 actions, the Legislature was entirely without the power to do so. Consequently the Superior Court never had subject matter jurisdiction to hear or determine the case against Petitioner.

As a result of the foregoing, it is plainly evident there is no judicial Constitutional Court proceeding according to the course of the common Law or any other known competent jurisdiction in California. All proceedings in all of the purported "Courts" of California are therefore an "aristocratic or monarchical innovation" without the authority of Law and have been since at least 1966– a situation that can only be compared with this Court's recent ruling in the case of *McGirt v. Oklahoma*[172] and another case in Oregon, *State ex rel. Wernmark v. Hopkins.*[173]

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[170] *Communities for a Better Environment v. Energy Resources Conservation & Development Com.*, 57 Cal. App. 5th, 786, 798 (2020).

[171] *Pacific Tel. & Tel. Co. v. Eshleman*, 166 Cal. 640, 647 (Cal. Supreme Ct. 1913). Citations omitted.

[172] *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020).

[173] *State ex rel. Wernmark v. Hopkins,* 213 Ore. 669 (OR Supreme Ct. 1958).

h. Deprivation of the Rights to the Assistance of Counsel, Trial by Jury, and Proceedings According to the Course of the Common Law.

> *"Non erit alia lex Romae, alia Athenis, alia nunc, alia posthac, sed et apud omnes gentes, et omni tempore, una eademque lex obtenebit."*
>
> *(There will not be one law at Rome, another at Athens; one now and another afterward, but one law, eternal and immortal, shall bind all peoples together and for all time).*
>
> –*Swift v. Tyson*, 41 U.S. 1, 19 (1842)

The contractor's licensing laws are purely statutory in their origin and operation and were entirely unknown to the English/American common Law upon which California was admitted as a State in 1850. "[T]he common law here alluded to is not the common law of any individual state, (for it probably differs in all), but it is the common law of England, the grand reservoir of all our jurisprudence."[174]

Prior to the "enactment" of the licensing laws in 1929, the People's inalienable right to their time and labor was recognized by Article I, §1 of the California Constitutions, the common Law, and the Ninth Amendment to the Constitution.

At common Law the People were not subject to a total forfeiture unless by felony indictment of a grand jury. No fiction of law or presumption of "incompetence and/or dishonesty" could be foisted upon them without judicial process. And claims for hypothetical fictitious "[d]amages [could not] be recovered if the evidence [left] them uncertain, speculative, or remote."[175] In contrast, §7031 actions are based entirely upon fictions of incompetence and dishonesty and hypothetical injuries.

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[174] *Capital Traction Co. v. Hof,* 174 U.S. 1 (1899) citing *United States v . Wonson*, 28 F. Cas. 745, 750 (1812).

[175] *Page v. Bakersfield Uniform & Towel Supply Co.,* 239 Cal. App. 2d 762, 774 (1966). Citations omitted.

Proceedings pursuant to the §7031(b) are therefore not according to the course of the common Law.

Just as clearly, proceedings pursuant to §7031 are not a case arising under Equity as "[e]quity never lends its aid to enforce a forfeiture or penalty." At the heart of a Court of Equity is fundamental fairness and balance. For this reason, Equity recognizes the offset for the reasonable value of goods and services provided. Because these offsets were denied and the Supreme Court of California has held they are not available in §7031 cases, proceedings pursuant to §7031 are clearly not in Equity.

But if §7031 cases don't proceed according to common Law or Equity, what jurisdiction do they proceed under?

Recall that Courts when not proceeding according to the course of the common Law, had no common Law or Equity jurisdiction and were considered inferior Courts that proceeded strictly according to statute or statutory jurisdiction in "special cases."[176]

One of the "special statutory jurisdictions" operating outside of the jurisdictions of the Courts of common Law and Equity is that of international law, and a branch thereunder called the law merchant. "The law merchant of primitive times comprised both the maritime and commercial law of modern codes. From the earliest period in their history an intimate relationship has subsisted between them. Both applied peculiarly to the merchants, […] who formed a very distinct class from the rest of the community. Both laws grew up in a similar manner from the customary observances of [this] distinct class[,] and [b]oth laws were administered in […] courts which were distinct from ordinary courts [that…]

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[176] *Cohen v. Barrett*, 5 Cal. 195, 210 (Cal Supreme Ct. 1855). *Estate of Scarlata*, 193 Cal. App. 2d 35, 41 (1961).

differed from the common law [and…] had an international character."[177] "[The law merchant] applied both to the domestic trader and to the foreign merchant [and] embraced all who traded [offering no distinction] between the craftsman and the merchant."[178]

The law merchant was not the law of a particular State or country, but the general law of nations and the commercial world.[179] As declared by this Court in the case of *Swift v. Tyson,*[180] there will not be one law at Rome, another at Athens; one now and another afterward, but one law, eternal and immortal, shall bind all peoples together and for all time.[181]

The merchants not only had a special law, but also special Courts. These Courts "were to apply the Law Merchant, and not the common law. All manner of pleas concerning debt, covenant, and trespass fell within their jurisdiction."[182] The jurisdiction which these maritime Courts later came to exercise is called Admiralty.

"The jurisdiction of the admiralty was deemed a jewel of great lustre and value in the diadem or crown of the king, and was carried to great extent by the lord high admiral and his officers; but however it might be cherished and enlarged by them, in order to extend the king's and their power, and promote their interest, it was odious to the commons of England, who became alarmed at the encroachments

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[177] A History of English Law by W.S. Holdsworth, M.A., B.C.L, Volume I, Methuen & Co., 1903, p.300.

[178] *Id.* p.307.

[179] *Id.* p.301. See also Foundation Myth as legal formant: The medieval Law Merchant and the new Lex Mercatoria by Nicholas H.D. Foster disputing Holdsworth. Source: https://forhistiur.net/2005-03-foster/.

[180] *Swift v. Tyson*, 41 U.S. 1, 19 (1842).

[181] A Law Dictionary by James A. Ballentine, Bobbs-Merrill Company Publishers, 1916, p.333 citing 3 Kent. Comm. 1

[182] A History of English Law by W.S. Holdsworth, M.A., B.C.L, Volume I, Methuen & Co., 1903, p.312.

upon the jurisdiction of the courts of common law, and called loudly for the redress of the grievance."[183]

It was this same encroachment of admiralty jurisdiction and commercial and maritime law into the body of the country that became one of the principal causes of the American Revolution as declared in the Declaration of Independence. In their declaring their independence from the tyranny of King George III, the People avowed that "[h]e has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws, giving his assent to their acts of pretended legislation." This foreign and unwarrantable jurisdiction was specifically identified in the Resolutions of the Continental Congress, October 19, 1765[184]:

> "That the late Act of Parliament, entitled, An Act for granting and applying certain Stamp Duties, and other Duties, in the British colonies and plantations in America, etc., by imposing taxes on the inhabitants of these colonies, and the said Act, and several other Acts, **by extending the jurisdiction of the courts of Admiralty be- yond [sic] its ancient limits, have a manifest tendency to subvert the rights and liberties of the colonists."**

And in the Declaration and Resolves of the First Continental Congress, October 14, 1774[185]:

> "Whereas, since the close of the last war, the British parliament, claiming a power, of right, **to bind the people of America by statutes in all cases whatsoever,** hath, in some acts, expressly imposed taxes on them, and in others, under various presences, but in fact for the purpose of raising a revenue, hath imposed rates and duties payable in these colonies, **established a board of commissioners, with unconstitutional powers, [ie the administrative agencies of today]** and **extended the jurisdiction of courts of admiralty, not only for collecting the said duties, but for the trial of causes merely arising within the body of a county**:

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[183] *Bains v. James & Catherine*, 2 F. Cas. 410, 414 (1832).

[184] Source: https://avalon.law.yale.edu/18th_century/resolu65.asp. Bolded emphasis added.

[185] Source: https://avalon.law.yale.edu/18th_century/resolves.asp. Bolded emphasis added.

> *Resolved*, N.C.D. 5. That the respective colonies are entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law.
>
> The several acts of [King George] which impose duties for the purpose of raising a revenue in America, extend the power of the admiralty courts beyond their ancient limits, deprive the American subject of trial by jury, authorize the judges certificate to indemnify the prosecutor from damages, that he might otherwise be liable to, requiring oppressive security from a claimant of ships and goods seized, before he shall be allowed to defend his property, and are subversive of American rights."

"These declarations show that the same spirit which actuated their ancestors in England, descended to the colonists with equal zeal, in favour of the common law, the right of trial by jury, the restriction of admiralty jurisdiction to its ancient limits, and against its exercise over causes merely arising within the body of a county. It is not credible that principles, thus consecrated, would be abandoned by the people of the colonies, when they made themselves states, by their declaration of independence, or that they solemnly reversed them when they adopted the constitution. No state ever passed any law in accordance with the acts of parliament which led to the revolution, which in any way abridged the right of trial by jury, even in civil cases, or abrogated any principles of the common law, by substituting in their place the rules of the civil law, which had not been adopted in the mother country. Nor is there any pretence that the admiralty courts, in any of the states, between the declaration of independence and the adoption of the constitution, had ever assumed the jurisdiction of civil causes not cognizable by the courts of admiralty in England. On the contrary, all such courts whose decisions are known, have asserted and acted on the principle that their admiralty jurisdiction was confined to the cases, and must be exercised by the rules which had defined it in England."[186]

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[186] *Bains v. James & Catherine*, 2 F. Cas. 410, 414. (1832). Internal quotations omitted.

To discover exactly how the American People have today become "bound by statutes in all cases whatsoever" under Roman civil law and the law merchant, one need not look any further than the millions of statutes, codes, rules, and regulations governing every aspect of American life. The Business and Professions Code as exhibited herein being one example. For others, see the Building Code, Commercial Code, Corporations Code, Education Code, Elections Code, Family Code, Financial Code, Fish and Game Code, Insurance Code, Labor Code, Military and Veterans Code, Vehicle Code, and Welfare and Institutions Codes just to name a few. Not only is it impossible for any being to know all of these rules and regulations, there are so many in the California Vehicle Code alone that one cannot even drive down the street without committing one violation or another. But this is what we in America refer to as living in a "free country", "our democracy".

"None are more hopelessly enslaved than
those who falsely believe they are free."[187]

As a means of protecting their liberty and property in their new homeland, the People resolved that they were entitled to proceedings according to the course of the common Law as part of their "birthright",[188] not proceedings according to the course of an unknown jurisdiction called "all other causes" as a disguise for Roman civil law. Proceedings according to the course of the common Law were at the heart of why every State in the United States (except one– Louisiana) was admitted to the union under common Law and not Roman civil law. Indeed, it is the principles of the common Law that were "adopted as the foundation on which the state and [National] constitutions have been built."[189] The Constitution after all is declared to

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[187] Johann Wolfgang von Goethe.

[188] *Bains v. James and Catherine*, 2 F. Cas. 410, 415 (1832).

[189] *Bains v. James and Catherine*, 2 F. Cas. 410, 415 (1832). The right to judicial proceedings "according to the course of the common law" was also guaranteed to inhabitants of territories – those who had not yet become State Citizens – by Article II of the Northwest Ordinance of 1787.

be the "supreme Law of the *Land*."[190] The high seas are not subject to the sovereign power of the People of the United States.[191]

In order to more fully comprehend the distinction between Roman civil law and English/American common Law, the report of the Committee on the Judiciary in the Senate of California made in 1850[192] shines some light on the subject:

> "the Common Law allows parties to make their own bargain, and when they are made, hold them to strict compliance, whilst the Civil Law looks upon man as incapable of judging for himself, assumes guardianship over him, and interpolates into a contract that which the parties never agreed to. The one is protective of trade, and a free and rapid interchange of commodities, the other is restrictive of both."

Notwithstanding that each man's labor is his most sacred and inviolable personal property, under Roman civil law occupations of common right are nonexistent, citizens / residents are political subjects of the legislative power, and those who wish to pursue a particular profession or calling in order to earn a living are required to pay a fee or tax for a license for the "privilege" of doing so.

In examining the contract allegedly between Petitioner and the Humphreys, there is no agreement whereby Petitioner consented to be subject to the terms of the Business and Professions Code. In this way, the Code "interpolates into a contract [a commercial agreement with the municipal, corporate, STATE OF CALIFORNIA] that which the parties never agreed to" while "denying the parties the right to make their own bargain upon which they will be held in strict compliance." In doing so, the Code "looks upon [the parties] as incapable of judging for [themselves], [and] assumes guardianship over them."

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[190] Article VI, §2. Italicized emphasis added.

[191] *American Banana Co. v. United Fruit Co.*, 213 U.S. 347, 355 (1909).

[192] 1 Cal. Rpts. 588.

> *"[T]he right of acquiring and possessing property, and having it protected, is one of the natural, inherent, and unalienable rights of man. Men have a sense of property: Property is necessary to their subsistence, and correspondent to their natural wants and desires; its security was one of the objects, that induced them to unite in society. No man would become a member of a community, in which he could not enjoy the fruits of his honest labour and industry. The preservation of property then is a primary object of the social compact…"*[193]

But the adoption of the common Law wasn't the only protection put in place to keep the Admiralty and Roman civil law off of land. The power to exercise Admiralty jurisdiction was delegated by the People of the States to be exercised *exclusively* in the National Courts pursuant to Article III, §2. See also section 9 of the Judiciary Act of 1879, (1 Stat. 73) whereby: "the district courts shall have […] exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction […]." Most importantly, the People vested the judicial power of the United *only* cases in Law and Equity that arise under the Constitution or laws of the United States. "A case in Admiralty does not […] arise under the Constitution or laws of the United States."[194]

Article VI, §2 also declares that "[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made in pursuance thereof, shall be the supreme Law of the Land." As the laws of Admiralty and maritime do not arise under the Constitution, they are therefore not the "supreme Law of the Land".

Yet another protection is found in the Seventh Amendment where it is declared that "[i]n 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

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194 *American Insurance Co. v. 365 Bales of Cotton*, 26 U.S. 511, 545 (1828).

jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

It is also noteworthy that this Court's declaration in *Tyson*, supra, whereby "[t]here will not be one law at Rome, another at Athens; one now and another afterward, but one law, eternal and immortal, shall bind all peoples together and for all time" was later overruled at precisely the time of the New Steal in the case of *Erie R.R. v. Tompkins*,[195] where this Court held that:

> "[e]xcept in matters governed by the Federal Constitution or by Acts of Congress, the law to be applied in any case is the law of the State. Whether the law of the State shall be declared by its Legislature in a statute or by its highest court in a decision is not a matter of federal concern. There is no federal general common [commercial] 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."

Erie of course paved the way for the "adoption" of the Uniform Commercial Code by every so-called "State", the District of Columbia, and the Territories of the United States. In other words, *Erie* declared there was no Federal common [commercial] law, but the real agenda was in fact to further bind and subject the American People to Federal (Feudal) commercial common law under the Uniform Commercial Code, the modern codified version of the law merchant. But not one "State" was admitted into the Union under the law merchant. All except Louisiana were admitted under English/American common Law. And once again, there are only two jurisdictions to which the judicial power of the United States extends under the Constitution and laws of the United States: common Law and Equity.[196]

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[195] *Erie R.R. v. Tompkins*, 304 U.S. 64, 78 (1938). Internal quotations omitted.

[196] "A case in Admiralty does not […] arise under the Constitution or laws of the United States." *American Insurance Co. v. 365 Bales of Cotton*, 26 U.S. 511, 545 (1828).

There is no known authority that the "States" have "adopted" the law merchant/ Uniform Commercial Code and subjected the People thereto.

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Despite attending the mandatory public ~~school~~ fool system, Petitioner never received any meaningful and substantive education in the Constitution, history, and laws of the United States – like what he just explained above – and was therefore unable to discern the true nature and cause of the accusation against him to put on a competent defense at "trial". There is no coincidence the "officials" in charge of the public indoctrination system have removed all meaningful instruction in civics and Law so that an ordinary person summoned to "Court" won't have a clue about the atrocities being committed under the guise of "Law" and most certainly will not receive a full, fair, and impartial trial or appeal.

As Petitioner was also never informed of the true nature and cause of the accusation against him and never even notified of his right to *assistant* counsel for his defense, he never made a knowing, voluntary, or intelligent waiver of this right, thereby further depriving the trial "Court" and "Judge" Chaffee of personal and subject matter jurisdiction.[197]

Petitioner also never made a knowing, voluntary, or intelligent waiver of the right to trial by jury according to the course of the common Law. A trial by jury according to the course of the common Law is a jury that has the power to rule on the facts *and* the Law– a right denied not just in Petitioner's case, but in every other known case involving a "jury" in Commiefornia. See for e.g. *Georgia v.*

[197] *Johnson v. Zerbst*, 304 U.S. 458 (1938); *Ariz v. Fulminante*, 499 U.S. 279, 309-10 (1991).

Brailsford[198] and *Vanhorne's Lessee v. Dorarnce.*[199] "If the jury have no right to judge of the justice of a law of the government, they plainly can do nothing to protect the people against the oppressions of the government; for there are no oppressions which the government may not authorize by law."[200]

[198] *Georgia v. Brailsford*, 3 U.S. 1, 4 (1794).

[199] *Vanhorne's Lessee V. Dorrance*, 2 U.S. 304 (Circuit Ct. PA 1795).

[200] An Essay on the Trial by Jury by Lysander Spooner, 1852.

i. The Trial "Court" Lacked Subject Matter Jurisdiction to Proceed in Admiralty Jurisdiction.

Article I, §10 of the Constitution declares that "No State shall […] make any Thing but gold and silver Coin a tender for payment of debts."

If this is the case, one is immediately struck by the conundrum that there is no gold and silver coin anywhere in sight… Where did it go?

As an introduction, see The Money Masters, a documentary by Bill Still.[201]

"The history of virtually every ancient nation and empire reveals use of gold and silver coin as money. Some students of monetary history assert the proposition that nations attain greatness in part through the use of gold and silver in pure form as money. So long as ancient nations and states operated on a pure form of specie money, they retained the viability of their societies as well as their trade and commerce. However, when such societies allowed the debasement of their coin by either the national monarch or a private group, societal decay occurred, that nation quickly lost its strength and was either conquered or otherwise destroyed and became a part of history.

Delving deeper, it is quite easy to see how an adverse change in an ancient and established monetary system presages social destruction. Monarchs and rulers of ancient civilizations always sought to acquire wealth and power, and the ability to direct economic activity. The method for doing such was always ready at hand: the monetary system. These rulers, princes and monarchs would debase the coin coming through their treasuries by blending the precious metals with baser metals

[201] https://www.imdb.com/title/tt1954955/

in order to have more coins to spend. Operating under this unsound supposition, these unprincipled rulers would soon debase the ancient monetary standard, and the result would always be social ruin.

Another method demonstrated in history through which monarchs attempted to gain wealth and power involved delegation of certain powers over the national monetary system to certain private interests. The lifeblood of any nation is its monetary system; however, whenever any nation's monetary system has been delivered into the hands of any private group, that private group has always manipulated the monetary system for its own benefit at the expense of the rest of society. Social ruin is always the natural and proximate result of such an unlawful delegation of monetary powers to a private group.

There are certain medieval monetary scholars of considerable note who established certain basic premises for any monetary system, one of whom was Bishop Nicholas Oresme. Bishop Oresme wrote a book in Latin in the 14th century, De Moneta, which discussed the basic parameters for any just and lawful monetary system. According to Oresme, "money" could only be gold and silver coin, as it had always been in every society except those of a primitive nature. The basic premises of Oresme's treatise were that the monarch should coin the money, but he could not, without certain limited and just reasons, alter the coin, change its form or name, change the ratio of exchange between the precious metals, change the weight or material of the coins, or otherwise unjustly profit by any method of changing the basic monetary unit of a society. To do any of these, according to Oresme, was an act of tyranny:

> I am of opinion that the main and final cause why the prince pretends to the power of altering the coinage is the profit or gain which he can get from it.
>
> Therefore, from the moment when the prince unjustly usurps this essentially unjust privilege, it is impossible that he can justly take

> profit from it. Besides, the amount of the prince's profit is necessarily that of the community's loss. But whatever loss the prince inflicts on the community is injustice and the act of a tyrant and not of a king * * *.
>
> And so the prince would be at length able to draw to himself almost all the money or riches of his subjects and reduce them to slavery. And this would be tyrannical, indeed true and absolute tyranny."[202]

1. Money and Law are opposite sides of the same coin.

> *"The prohibitions not to make any thing but gold and silver coin a tender in payment of debts, and not to pass any law impairing the obligation of contracts, <u>were inserted to secure private rights</u> […]."*[203]

As all competent jurists know, money and law operate as opposite sides of the same coin. In other words, there are different forms of money and each of these circulates under different modes of proceedings or jurisdictions of law. Therefore, one's choice of money determines what rights, privileges, and immunities will be recognized should a dispute arise. For this reason, the Founding Fathers specifically chose gold and silver coin (also known as "specie") as the *only* "tender for payment of debts" under the Constitution and laws of the United States. Another form of tender such as checks, money orders, and promissory notes, also known as "negotiable instruments" or "commercial paper" was intentionally excluded.

"No State shall […] make any Thing but gold and silver Coin a tender for payment of debts."

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[202] <u>Exhibit [R] Memorandum of Law: The Money Issue by Larry Becraft</u>, fully incorporated and set forth herein.

[203] *Calder v. Bull*, 3 U.S. 386, 390 (1798). Underlined and italicized emphasis added.

Unlike gold and silver coin that circulate according to the course of the common Law, commercial paper circulates in commerce/Admiralty[204] and international law and *not* under the Constitution and laws of the United States.[205] Because commerce involves the relationship between debtors and creditors, commercial paper *cannot* be made tender for the *payment* of a debt under the Constitution because commercial paper can only *discharge* an obligation. As this Court declared in the case of *Cohens v. Virginia*,[206] "[l]et it be that the act of discharging the debt is a mere nullity and that it is still due."

The case of *Bank of Columbia v. Okely,*[207] evidences exactly how the form of tender one uses to either pay or discharge an obligation determines the jurisdiction and whether one's private rights under the Constitution are recognized. In the case, Mr. Okely entered into a private *commercial* contract involving commercial paper with the Bank of Columbia. The contract provided a summary (non-judicial) remedy for dispute resolution without a trial by jury or proceedings according to the course of the common Law. A dispute arose between Okely and the Bank whereby he was subjected to the summary proceedings and denied a trial by jury. Okely subsequently claimed that his right to trial by jury secured by the Seventh Amendment to the Constitution had been violated.

In response, this Court held that State and National Constitutions "were intended to secure the individual from [the] arbitrary exercise of the powers of

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[204] "The exclusive jurisdiction in admiralty cases was conferred on the national government, as closely connected with the grant of the commercial power." *New Jersey Steam Navigation Co. v. Merchants' Bank*, 47 U.S. 344, 392 (1848). "The law respecting negotiable instruments may be truly declared in the language of Cicero, adopted by Lord Mansfield in Luke v. Lyde, 2 Burr. R. 883, 887, to be in a great measure, not the law of a single country only, but of the commercial world." *Swift v. Tyson*, 41 U.S. 1, 19, (1842).

[205] *American Insurance v. 365 Bales of Cotton*, 26 U.S. 511, 545 (1828).

[206] *Cohens v. Virginia*, 19 U.S. 264, 403 (1821).

[207] *Bank of Columbia v. Okely*, 17 U.S. 235 (1819).

government[,]"[208] not private agreements. Recognizing that the People have the power "to submit themselves to the exercise of summary proceedings, or to temporary privation of rights[,]"[209] this Court went on to declare that:

> "[b]y making the note negotiable at the bank of Columbia, [Okely] chose his own jurisdiction; in consideration of the credit given him, he voluntarily relinquished his claims to the ordinary administration of justice, and placed himself only in the situation of an hypothecator of goods, with power to sell on default, or a stipulater in the admiralty whose voluntary submission to the jurisdiction of that Court subjects him to personal coercion."[210]
>
> "[W]ith this explanation, there is nothing left to [Okely] to complain of. What he has lost, he has voluntarily relinquished[.]"[211]

Because Okely voluntarily signed the private commercial contract with the Bank and submitted himself to the terms of the agreement that provided for a summary remedy in Admiralty, he had no right to a judicial trial according to the course of the of common Law or a trial by jury. As such, this was clearly not a suit at common Law arising under the Constitution, but one under Admiralty/Roman civil law.

Simply put, rights secured by State and National Constitutions which recognize sovereign inalienable rights on Land, do not necessarily apply at sea in international waters. This is why the Constitution for the United States is declared

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[208] *Id.* p.244

[209] *Id.* p.243

[210] *Id.* at p.243. See also section 4 of the so-called "14th Amendment" whereby "[t]he validity of the public debt of the United States authorized by law, […] shall not be questioned." The "14th Amendment" not only fails to recognize any inalienable rights, the acceptance of the "benefits" or shitizenship guaranteed by it results in a presumption of a voluntary waiver of rights to the ordinary administration of justice rendering anyone who accepts the benefits "a hypothecator of goods, […] or a stipulater in the admiralty whose voluntary submission to th[at] jurisdiction […] subjects him to personal coercion."

[211] *Bank of Columbia v. Okely*, 17 U.S. 235 (1819).

to be the "supreme Law of the Land."[212] The land and the sea are two different venues governed by totally different jurisdictions and laws.

Based on Article I, §10 of the Constitution, Article IV, §§34-35 of the California Constitution of 1849 forbid the Legislature and People from chartering banks. It did however allow associations to form for the deposit of gold and silver coin, but not to make, issue, or circulate commercial paper:

> "Sec. 34. The Legislature shall have no power to pass any act granting any charter for banking purposes; but associations may be formed, under general laws, for the deposite of gold and silver, but no such association shall make, issue, or put in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money.
>
> Sec.35 The Legislature of this State shall prohibit, by law, any person or persons, association, company, or corporation, from exercising the privileges of banking, or creating paper to circulate as money."

See also the Report of the Debates in the Convention of California on the formation of the State Constitution in September and October, 1849 regarding the discussion of the evils of paper money, pp. 108-121.

Despite the foregoing, Article IV, §§34-35 magically disappeared from the "CONstitution of 1879." The same happened with Article VIII regarding "State Debts" whereby the Legislature was forbidden from creating debt greater than $300,000. Is there any wonder why the new "CONstitution of 1879" was needed?

Recall, that the reason the founding fathers excluded commerce/Admiralty jurisdiction from arising under the Constitution and laws of the United States is because it was one of the principal causes of the American Revolution and that the People declared in their Declaration of Independence that King George III had

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[212] Article VI, §2.

"combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws, giving his assent to their acts of pretended legislation."[213]

The People had had enough of feudalism and the King's tyrannical use of Admiralty to subvert their rights and liberties by amongst other things "binding them by statute in all cases whatsoever" under Roman civil law and the commercial law merchant. Despite all of the protections the framers put in place to ensure Admiralty could not be used again to subvert the rights and liberties of the People, that is precisely what has happened– at least in part.

Certain power-mad individuals intent on seizing control of the United States and overthrowing its Republican form of government based on the rule of Law and the consent of the governed, began a calculated and systematic erosion of these principles over the last two centuries. A significant part of the plan – in addition to the purported "ratification" of the "14th Amendment" under martial law, making corporations citizens, and denying the People proportional representation in their States and Congress – was to raise the high-water mark of the tide (the Ancient limits of Admiralty) and jurisdictionally sink or submerge the United States in the sea of commerce and debt by confiscating all gold coin, gold bullion, and gold certificates and forcing the People onto a debt-based commercial monetary system

[213] Emphases added.

under the guise of a "New Deal." [214] We don't say "we're under water" when we're in debt for no reason.

Under the debt-based Federal (Feudal) Reserve System, Federal Reserve Notes are not Lawful money and cannot be redeemed in gold and silver coin.[215] Federal Reserve Notes are simply evidence of the so-called "national debt" and have no intrinsic value as "credit" as most of us have been led to believe. According to Marriner S. Eccles, former chairman of the Federal Reserve Board under FDR (Fascist Dictator Roosevelt) "if there were no debt in our money system […] [t]here wouldn't be any money."[216] See also Congressional Record– House, August 19, 1940, pp.10548-10555 stating "the Federal Reserve System is a private banking system, and every dollar of credit it puts into circulation is based on someone's debt […]") *Id.* p.10550. In other words, if the national debt were "repaid," there wouldn't be any "money."

As a result, the People have no inalienable right to their liberty or property and therefore cannot own anything because Lawful *payment* in specie is against the public policy of the United States. See House Joint Resolution 192, (48 Stat. 112), June 5, 1933. Therefore, all property purchased with Federal Reserve Notes, and

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[214] *United States v. Levy*, 137 F.2d 778 (1943); Executive Order 6102; 12 USC §95a. See also *Wickard v. Filburn,* 317 U.S. 111 (1942) (extending Congress's interstate commerce clause powers to a farmer growing wheat on his farm) and *Propeller Genesee Chief v. Fitzhugh,* 53 U.S. 443, 453 (1852) regarding extending Admiralty beyond its ancient limits on land:

> "Now the judicial power in cases of admiralty and maritime jurisdiction, has never been supposed to extend to contracts made on land and to be executed on land. But if the power of regulating commerce can be made the foundation of jurisdiction in its courts, and a new and extended admiralty jurisdiction beyond its heretofore known and admitted limits, may be created on water under that authority, the same reason would justify the same exercise of power on land."

[215] Federal Reserve Notes are also not "dollars". See the Coinage Act of 1792 (1 Stat. 246) defining dollar "to contain three hundred and seventy-one grains and four sixteenth parts of a grain of pure, or four hundred and sixteen grains of standard silver."

[216] Hearings Before the Committee on Banking and Currency, House of Representatives, Seventy-Seventh Congress, First Session on H.R. 5479, Revised, Part 2.p.1338

other commercial papers appears to be nothing more than security for the "national debt".

"You'll own nothing and be happy about it."[217]

The obvious purpose in creating a debt-based monetary system was to implement a system of global domination and control (a "New World Order") to perpetually bind the People of the world and thereby subject them as debt slaves to a never-ending and constantly accumulating debt, interest, taxes, and "elastic"[218] currency that could be manipulated at the King's behest to enrich himself. The King of course being private banking cartels and other super-rich.

As evidenced, a large portion of this agenda was carried out under the name of the "New Deal" without any Constitutional authority whatsoever– thieves obviously do not consult the Constitution prior to stealing countries. The jury is still out though on whether this was actual theft or a gift because the American sheeple actually handed the thieves their gold coin, gold bullion, and gold certificates doing exactly what their "democratic" dictator disguised as a beloved President told them to do.

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[217] If any American wants to discover who really owns their real property even if their mortgage (mort=death; mortgage=death gauge/pledge) has been fully discharged, they can simply stop discharging the franchise use tax called a "property tax" for the privilege of renting space for a residence. Property taxes are a lien upon all real property. Therefore, the property title is not held in allodium or inalienable and one has no inalienable right to property. By not paying the franchise fee, the home ~~owner~~ borrower will no longer have the license/franchise/privilege of residence and the property will be foreclosed to collect the franchise fees.

Petitioner was unable to verify whether the statement "You'll own nothing and be happy about it" was made by Klaus Schwaub, but it doesn't matter whether he or anyone said it or not. One need only open their eyes and see for themselves. For further details, see You'll Own Nothing and Be Happy!?- The Great Reset by JP Sears.

[218] Federal Reserve Act of 1913, Pub. L. 63-43 "An Act To provide for the establishment of Federal reserve banks, to furnish an elastic currency, to afford means of rediscounting commercial paper, to establish a more effective supervision of banking in the United States, and for other purposes."

Not only did the 63rd CONgress at the time of purportedly "enacting" the Federal Reserve Act of 1913 not have a lawful quorum commensurate with Article I, §2, Cl.3 to do any business at all (see section X) they also had no authority to incorporate a bank[219] or to transfer their powers under Article I, §8, Cl.3 "[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes" to the "President"; and certainly not under the false and fraudulent pretense of a banking "emergency". According to Senate Report 93-549, "[s]ince March the 9th, 1933, the United States has been in a state of declared national emergency […]. Under the powers delegated by these statutes, the President may: seize property; organize and control the means of production; seize commodities; assign military forces abroad; institute martial law; seize and control all transportation and communication; regulate the operation of private enterprise; restrict travel; and, in a plethora of particular ways, control the lives of all American citizens." "This vast range of powers, taken together, confer enough authority to rule the country without reference to normal Constitutional processes."

> *"Basic to the constitutional structure established by the Framers was their recognition that [t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."*[220]

None of this however could be carried out without the full cooperation and support of this "Court" and the American sheeple every step of the way.[221]

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[219] *Veazie Bank v. Fenno*, 75 U.S. 533 (1868). Nelson, J. And Davis J. dissenting opinion incorporated and fully set forth herein, noting especially that "the power to incorporate banks was not surrendered to the Federal Government, but reserved to the States [or to the People]; and it follows that the Constitution itself protects them, or should protect them, from any encroachment upon this right."

[220] *Northern Pipeline v. Marathon Pipeline*, 458 U.S. 50, 57-8 (1982) citing *Buckley v. Valeo*, 424 U.S. 1, 122 (1976). (Per curiam)(Internal quotations and citations omitted).

[221] *Legal Tender Cases*, 79 U.S. 457 (1871).

Like corpse-orations, debtors have no standing at common Law which is why California has no common Law Courts and CONgress has not vested the judicial power of the United States at Law or Equity in any inferior Court. It is also why there is no right to proceedings according to the cause of the common Law or a trial by jury in workers compensation and other insurance cases. Policies of insurance also arise under Admiralty/Maritime jurisdiction.[222]

2. The State of California had no jurisdiction over this case.

> *"The case of a State which pays off its own debts with paper money, no more resembles this than do those to which we have already adverted. The Courts have no jurisdiction over the contract. They cannot enforce it, nor judge of its violation."*[223]

In the instant case, each of the "payments" made by the Humphreys for materials and services rendered were by commercial paper in the form of checks and money orders to *discharge*[224] their obligation for the work performed. Exhibit [A3] pp.250-293. The Superior Court of California, County of Orange therefore lacked subject matter jurisdiction over this case. Not only does the Constitution of California not vest any of its Courts with Admiralty jurisdiction,[225] it has been *exclusively* vested in the District Courts of the United States by section 9 of the Judiciary Act of 1789.

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[222] *Delovio v. Boit,* 7 F. Cas. 418 (1815). So there can be no question what jurisdiction the California Vehicle Code requiring all motorists to have insurance (§16028) or the Affordable Care Act arises under.

[223] *Cohens v. Virginia*, 19 U.S. 264, 403 (1821).

[224] The Humphreys therefore have not Lawfully *paid* Petitioner anything. See §7031(b) requiring the return of "all compensation paid."

[225] Further evidence of Admiralty jurisdiction is that set-off was denied. "[T]he admiralty cannot entertain pleas of set-off." *Bains v. James and Catherine*, 2 F. Cas 410, 412 (1832).

j. The Humphreys Lacked Article III Standing.

While the California "CONstitution of 1879" does not have a "case or controversy"[226] standing requirement like the Constitution for the United States, the Constitution for the United States is the "Supreme Law of the Land." Therefore, the judicial power of the United States must be capable of acting upon all State action, especially when a defendant invokes the concurrent jurisdiction of the United States in State proceedings by claiming rights secured by the Constitution.

As declared by this Court:

> "[t]he irreducible constitutional minimum of standing contains three requirements. First and foremost, there must be alleged (and ultimately proven) an injury in fact – a harm suffered by the plaintiff that is concrete and actual or imminent, not conjectural or hypothetical. Second, there must be causation – a fairly traceable connection between the plaintiff's injury and the complained-of conduct of the defendant. And third, there must be redressability – a likelihood that the requested relief will redress the alleged injury.

The Humphreys claim under Business and Professions Code §7031(b) fails to meet even one of these standing requirements. They presented no evidence of an injury in fact that was concrete and actual; no evidence of a fairly traceable connection between their non-existent injury and Petitioner's conduct; and no evidence that their non-existent injury would be redressed by fining Petitioner $848,000.

In his challenges to jurisdiction and later on "appeal," (Exhibit [A6] pp.36-40), Petitioner invoked the judicial power of the United States by claiming that the punishment imposed upon him violated rights secured by the Constitution. Therefore, in order for the judicial power of the United States to act upon the case, the Humphreys claim would also have to meet the irreducible standing

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[226] Article III, §2; *Steel Co. v. Citizens for a Better Env't*, 523 U.S 83, 102-3 (1998). Citations and internal quotations omitted.

requirements or be dismissed *sua sponte*. Instead, the opposite happened– Petitioner's claims were dismissed as "meritless" on the grounds that "injury is not an element of a cause of action under [§7031(b)]."[227]

This Court has repeatedly declared that the judicial power of the United States is "limit[ed] […] to the resolution of cases and controversies[,]" "otherwise the power is not judicial."[228] Therefore, how could a State possibly create a cause of action that the judicial power of the United States was not capable of acting upon?

It is these fictional/hypothetical injuries where there is neither a victim/ injured party nor a nexus to any conduct that is likely to redress a non-existent injury that form the foundation used to create the untold millions of codes, rules, regulations and statutes to forcefully govern every aspect of the lives of the American People in their socialist totalitarian welfare "State" created by the New Steal.[229]

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[227] *Humphreys v. Bereki*, 2018 Cal. App. Unpub. LEXIS 7469 p.14 (2018).

[228] *Valley Forge Christian College v. American United for Separation of Church & State*, 454 US. 464, 472 (1982). Internal quotations and citations omitted.

[229] See also thickredline.org and the Starter Pack Handbook available under downloads.

III. "Appeal"– Fourth District Court of Appeals

On June 13, 2017, Petitioner timely appealed to the California Court of Appeals, Fourth Appellate District. The appeal was assigned to "Presiding Justice" Kathleen E. O'Leary and "Justices" Thomas M. Goethals, and Richard M. Aronson, (collectively "OLGA"), who arbitrarily affirmed Chaffee's "Judgment Order" finding that the fine imposed upon him was "disgorgement", a "non-punitive" "equitable remedy" and "civil consequence". See case #G055075, incorporated and fully set forth herein and OLGA's Opinion, Appendix [C], pp. 9–22; Exhibit [A16].

"Justices" OLGA first had a mandatory, non-discretionary, ministerial duty to first ensure the Fourth District Court of Appeals had personal and subject matter jurisdiction over Petitioner and the appeal.[230] As evidenced, Article I, §10 of the California Constitution does not vest any Court, let alone the Fourth District Court of Appeals with any known subject matter jurisdiction to exercise the judicial Power of California on appeal. Second, because there is no power vested by the "CONstitution of 1879" for the Legislature to vest Courts with any of the judicial power of California, Cal. Code of Civil Procedure §904.1(b), which purportedly makes appealable an order after final judgment, is without authority and void.[231]

Hypothetically assuming that the Court of Appeals had the requisite personal and subject matter to proceed with the appeal, "Justices" OLGA then had a mandatory, non-discretionary, ministerial duty to ensure the Superior Court of California, County of Orange had personal and subject matter jurisdiction over each issue in which the judicial power of California was exercised to deprive Petitioner of

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[230] *King Bridge Co. v. Otoe County*, 120 U.S. 225, 226 (1887).

[231] At the time of the "appeal" it should be noted that Petitioner believed and relied upon the fraud that the Cal. Constitution and §904.1(b) vested the Fourth District Court of Appeal with subject matter jurisdiction.

his liberty and property.[232] For the reasons already evidenced, the Superior Court of California lacked both personal jurisdiction over Petitioner and subject matter jurisdiction over the case.

Instead of the performing these sworn duties, "OLGA" proceeded to commit fraud on Petitioner and his estate by treasonously exercising the judicial power of California under color of law to sustain the fraud, deceit, treason and other rights violations committed by Chaffee in conspiracy with the Humphreys and Bissell. Rather than actually reading §7031(b) – which clearly and unambiguously calls for a total penal forfeiture – and following the precedent of the Supreme Court of California finding that §7031(b) imposed both a penalty and a forfeiture, they decided to make up their own term of "disgorgement" and find that §7031(b) imposed an "equitable remedy" despite affirming Chaffee's "Order" of a total forfeiture. This, despite the fact that the Humphreys never even stated a claim for "equitable disgorgement". See for e.g. Restatement of the Law 3d, Restitution and Unjust Enrichment, §51, comment *i*:

> "Allegations that the defendant is a wrongdoer, and that the defendant's business is profitable, do not state a claim in unjust enrichment. By contrast, a claimant who is prepared to show a causal connection between defendant's wrongdoing and a measurable increase in the defendants's net assets will satisfy the burden of proof as ordinarily understood."

Petitioner is unaware of any evidence on the trial "Court's" record that he was unjustly enriched $848,000, let alone $1. (Vf). A Court of Equity "never lends its aid to enforce a forfeiture or penalty."[233]

Perhaps even more troubling is that Petitioner raised nearly all of the aforementioned issues presented here on "appeal" in his Opening Brief, Exhibit [A6]. OLGA's response was that they found "no merit" to any of them, despite all of

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[232] *King Bridge Co. v. Otoe County*, 120 U.S. 225, 226 (1887).

[233] *Liu v. SEC*, 140 S. Ct. 1936, 1941. Internal quotations and citation omitted.

them aligning meritoriously with State and National Constitutional law. One august authority cited in his Brief was to the case of the *Town of Gilbert Prosecutors Office v. Downie*,[234] involving "disgorgement" and the criminal prosecution of an unlicensed contractor, where the Supreme Court of Arizona found that "a rule of total disgorgement [forfeiture] regardless of any benefit conferred on the victim […] may lead to absurd or troubling results." Discussing the issue, the high Court found that "when determining the proper amount of restitution to be paid to a victim, consideration should be made for [the] value conferred on the victim;" *Id.* p.18. and, that restitution "should not compensate victims for more than their actual loss." *Id.* p.13. Citing both the Seventh[235] and Ninth[236] Circuit Courts of Appeals, the Gilbert Court declared that they "[found] no significant difference between returning cash, one form of value, and returning other forms of value, such as permits, chattels, services, or other property [and that the concept of] loss is […] rooted in value, not solely in the exchange of money." *Id.* p.25. Explaining the Seventh Circuit case, the Court stated that "the defendant embezzled funds from a hospital patient under the guise of making improvements to the patient's home [and that] the starting point for determining restitution was the amount embezzled from the victim. From this amount, the court [then] subtracted expenditures made on improvements to the victim's home [and] concluded that such expenditures did not differ in principle from taking the money from one of [the victim's] bank accounts and depositing it in another."[237]

In a concurring opinion, Justice Hurwitz added that under the pretense of a total forfeiture of "disgorgement" without offsets for the value conferred, "a homeowner who received flawless work from an unlicensed contractor would be

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[234] *Town of Gilbert Prosecutors Office v. Downie*, 218 Ariz. 466 p.24 (2008).

[235] *United States v. Shephard*, 269 F. 3d 884 (7th Cir. 2001).

[236] *United States v. Matsumaru*, 244 F.3d 1092, 1109 (9th Cir. 2001). See also *People v. Fortune*, 129 Cal. App. 4th 790 (2005).

[237] *Id.* p.17. (Citations and internal quotations omitted).

refunded the full amount paid but would nonetheless also retain the work performed." He concluded "[i]t is impossible for me to view such a victim as having suffered any loss, economic or otherwise..." *Id.* p.30.

Despite the foregoing, OLGA's opinion fails to even mention the *Gilbert* case let alone how they specifically arrived at §7031(b) being an "equitable remedy" or "disgorgement." How is it even remotely possible for the People to receive a full, fair, and impartial appeal if the "Court" is not actually going to hear a Plaintiff's arguments and provide a competent response to each of the issues that are actually raised?

Upon receiving OLGA's opinion affirming Chaffee's fraudulent "Judgment Order" (on Halloween of all days) Petitioner filed a Petition for Rehearing. Exhibit [A17]. The first issue stated "Error in Law: This Court erroneously ruled disgorgement is not a "penalty" contrary to US Supreme Court Jurisprudence." The Petition was denied without any explanation. Exhibit [A18].

By affirming the fraud and the deprivations of rights, liberty, and property committed by Chaffee, "Justices" OLGA exercised the judicial power of California without personal and subject matter jurisdiction to further punish Petitioner by depriving him of his right to a full, fair, and impartial *judicial* appeal, equal protection of the law, and the taking of his rights, liberty and property without just compensation, resulting in a bill of pains and penalties.

> *"We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution."*[238]

[238] *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

IV. Motion to Vacate Void Judgment– Superior Court of California, County of Orange

On January 31, 2019, Kevin J. Lane, Clerk/Administrator of the Court of Appeal for the Fourth Appellate District issued a Remittitur to the Superior Court of California, County of Orange. Exhibit [A3] p.1560. That same day, the Humphreys filed a "Memorandum of Costs on Appeal" in the trial "Court" in the amount of $1,112.40. Exhibit [A3] p.1576.

As the Humphreys and Bissell continued to conspire to invoke the jurisdiction of the Superior "Court" to unlawfully take more of Petitioners property, he responded by filing a Motion to Vacate Void Judgment on February 19, 2019. Exhibit [A19]. The Motion once again challenged the jurisdiction of the Superior and Appellate "Courts" to render judgment in violation of the Constitution. His arguments provided august authorities of this Court and evidence that rebutted the presumptive validity of the challenged judgments.

The Humphreys responded to the Motion by filing an Opposition. Exhibit [A20]. Among the "arguments" presented were that the judgments of the Superior and Appellate "Courts" were "*res judicata*". In support thereof, the Humphreys claimed that "[…] Mr. Bereki has shot his wad on this issue at all levels of review […]" and […he] clearly lacks a sufficiently developed understanding of jurisdictional and constitutional law […] and apparently is unable to accept the fact that his position has no basis in law". *Id.* p.1641.[239] Despite their "opposition," the Humphreys failed to provide any evidence or other authority that in any way substantiated the personal and/or subject matter jurisdiction of the trial and appellate "Courts" to render judgment in their favor, including any opposition to

[239] Despite being an "adult" male human being, Mr. Bissell appears to lack the knowledge that the male reproductive system is regenerative.

any of Petitioner's arguments that rebutted the presumptive validity of the "Judgments".

Petitioner responded by filing a reply to the Humphreys opposition. Exhibit [A21]. Among his responses were: (1) that the doctrine of res judicata does not apply to void judgments; (2) that "[a] void judgment is, in effect, no judgment. By it no rights are divested; from it no rights can be obtained. Being worthless itself, all proceedings founded upon it are equally worthless. It neither bars nor binds anyone[;]" and, (3) that where evidence is admitted without objection that shows the existence of the invalidity of a judgment or order valid on its face, it is the duty of the court to declare the judgment or order void.[240]

Oral argument commenced on March 15, 2019 before "Supervising Judge" James J. Di Cesare. Appendix [D], Exhibit [A22] (Reporters Transcript and Minute Order). Immediately prior to the hearing, Di Cesare issued a "tentative order" denying Petitioner's Motion on the grounds that:

> "[the] arguments presented on this motion were already raised an rejected, and the appellate decision affirming the underlying judgment on the merits is now final. Upon remittitur the court is revested with jurisdiction of the case only to carry out the judgment as ordered by the appellate court. (*People v. Dutra*, 145 Cal. App. 4th 1359, 1365-1366 (2006).) Arguments on the merits of the underlying judgement cannot be entertained anew here. The Motion is therefore denied." Exhibit [A23].

The essence of the tentative ruling in *Dutra* was that "[a] trial court may not disobey a remittitur, as that would amount to overruling the appellate court's decision, thereby violating a basic legal principle: Courts exercising inferior jurisdiction must accept the law declared by courts of superior jurisdiction. It is not their function to attempt to overrule decisions of a higher court." *Id.* p.1362. But if OLGA's Opinion and Remittitur were void because they were issued without

[240] *Marlenee v. Brown*, 21 Cal. 2d 668, 678 (Cal. Supreme Ct. 1943).

Constitutional authority, they had no binding legal effect whatsoever on the trial Court's jurisdiction because a judgment rendered in violation of judicial process is void– an issue which Petitioner directly raised but Di Cesare refused to acknowledge.

Di Cesare had a mandatory, non-discretionary, ministerial duty to investigate Petitioner's claims for deprivations of his rights, liberty, and property, and that he was not given a full, fair, and impartial trial and appeal under both State and National law. "The requirement of determining whether the party against whom an estoppel is asserted [has] had a full and fair opportunity to litigate is a most significant safeguard"[241] and "[…] estoppel cannot apply when the party against whom the earlier decision is asserted did not have a full and fair opportunity to litigate that issue in the earlier case."[242] "If a defendant were convicted and punished for an act that the law does not make criminal, there can be no room for doubt that such a circumstance inherently results in a complete miscarriage of justice and presents exceptional circumstances that justify collateral relief."[243]

By refusing to perform a full, fair, and impartial investigation into Petitioner's claims and to vacate the judgements that were void on their face, and upon which presumptive validity had been rebutted without opposition, Di Cesare acted without personal and subject matter jurisdiction and joined the conspiracy perpetrated by Chaffee, OLGA, Bissell, and the Humphreys to excessive, cruelly, and unusually punish Petitioner; take his rights, property, and liberty without lawful authority and just compensation; and deprive him of equal protection of the law and judicial process, resulting in a bill of attainder.

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[241] *Blonder-Tongue Labs v. University of Illinois Found*, 402 U.S. 313, 329 (1971).

[242] *Allen v. McCurry*, 449 U.S. 90, 95 (1980). Internal quotations and citations omitted.

[243] *United States v. Stoneman*, 870 F.2d 102, 104 (3d. Cir. 1989). Internal brackets, quotations, and citation omitted.

"We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution."[244]

[244] *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

V. Petition for Review– Supreme Court of California

On or about December 9, 2018, Petitioner filed a timely Petition for Review, Exhibit [A24], with the Supreme "Court" of California, at the time believing the that "Court" had subject matter jurisdiction under the "CONstitution of 1879" to hear and determine his Petition. See Case #252954, incorporated and fully set forth herein.

The Petition challenged the jurisdiction of the Superior and Appellate "Courts" to render and affirm judgment in violation of the California CONstitution and the Constitution for the United States.

Ordinarily, review by the Supreme Court of California is not mandatory under the California CONstitution. However, in this instance, it *was* mandatory under both Constitutions because Petitioner had a right to not be punished without a full, fair, and impartial *judicial* trial and appeal, both of which had been denied. Without the Supreme Court of California's intervention, he would be deprived of any judicial Constitutional Court in California upon which to obtain redress for the *ultra vires* deprivation of his rights, liberty, and property. Denying his Petition would be yet another fundamental violation of judicial process and equal protection and result in another bill of pains and penalties because of the punishment imposed by continuing the unlawful taking of his rights, liberty, and property without judicial process.

Despite the foregoing, an unknown majority of the "Justices" sitting *en banc* consisting of Tani Cantil-Sakouye, Carol A. Corrigan, Goodwin H. Liu, Mariano-Florentino Cuellar, Leondra R. Kruger, Joshua P. Groban, and Ming W. Chin, ("SCJUSTICES"), denied the Petition for Review. Appendix [E] p. 38; Exhibit [A27]. Conveniently, the "Supreme Court" has no record of which of these "Justices" denied the Petition. Exhibit [C] pp.2595-2608.

Based on the foregoing, the SCJUSTICES either had a mandatory duty to (1) inform Petitioner that it had no subject matter jurisdiction over his appeal, based upon the fact that the "CONstitution of 1879" does not confer subject matter jurisdiction on the Supreme Court of California to hear or determine any case whatsoever; or, (2) to exercise the judicial power of California to perform a full, fair, and impartial investigation into Petitioners claims because he was overtly denied a judicial trial and appeal. The "Justices" did neither and thereby joined the conspiracy perpetrated by Chaffee, OLGA, Di Cesare, Bissell, and the Humphreys to excessive, cruelly, and unusually punish Petitioner; take his rights, property, and liberty without lawful authority and just compensation; and deprive him of equal protection of the law and judicial process, resulting in a bill of attainder.

> *"We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution."*[245]

[245] *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

VI. Petition for Writ of Certiorari

On or about May 13, 2019, Petitioner filed a Petition for Writ of Certiorari with this Court. The Petition was denied on October 7, 2019. See case# 18-1416, incorporated and fully set forth herein.

VII. United States District Court, Central District of California

> *"[T]he general government will at all times stand ready to check the usurpations of the state governments. If [the People's] rights are invaded by either, they can make use of the other as the instrument of redress."*[246]

There being no judicial Constitutional Court of California to obtain redress, Petitioner filed a verified complaint in the form of an Independent Action in Equity in the United States District Court, Central District of California, ("USDC"), on October 28, 2019. See Case # 8:19-CV-02050, incorporated and fully set forth herein.

Petitioner's First Amended Complaint filed on November 8, 2019 included a request for the assistance of counsel, declaratory relief, injunctive relief, and restitution. It stated that it was a direct attack on the jurisdiction of the California trial and appellate "Courts" and that it was a direct as opposed to a collateral attack because the issues in the case had never actually been litigated by a competent Court with subject matter jurisdiction and there was no competent Court in California upon which to make such a direct attack. The case was assigned to "Judge" Consuelo B. Marshall.

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[246] Federalist No. 28. Alexander Hamilton; Source: https://avalon.law.yale.edu/18th_century/fed28.asp.

On October 28, 2019, Petitioner also filed separate requests to proceed in forma pauperis and for the assistance of counsel. The request to proceed in forma pauperis was granted. However, Marshall denied his request for the assistance of counsel. Appendix [F] pp.39-40, Exhibit [A31].

Assuming CONgress had vested the USDC with subject matter jurisdiction at Equity to hear and determine Petitioner's claims, his verified complaint invoked the power of the Court to act. However, even if this were so, it was lost when Marshall refused to appoint him assistant counsel under the Sixth Amendment and/ or Article I, §15 of the "CONstitution of 1879." This is because Petitioner had a right to the appointment of assistant counsel at "trial" that he was never informed of or afforded.

On November 19, 2019, the Humphreys filed a Notice of Motion and Motion to dismiss pursuant to FRCP, Rules 12(b)(1), 12(b)(6), and 12(b)(7). Exhibit [A32]. The Humphreys argued Petitioner's claim for relief was barred by the doctrines of res judicata, collateral estoppel and "Rooker-Feldman,"[247] because his claim was in form and substance another appeal. They claimed that Article IV, §1 of the Constitution and 28 U.S.C. §1738 required Federal courts to give full faith and credit to State Court judgments when those judgments would be given preclusive effect by the Courts of that State.

Assuming Marshall retained jurisdiction based on her denial of Petitioner's request for *assistant* counsel, she had a mandatory, non-discretionary, ministerial duty to investigate his claim that he was not given a full, fair, and impartial trial or appeal. Under this Court's precedents "the requirement of determining whether the party against whom an estoppel is asserted [has] had a full and fair opportunity to

[247] Based on the cases of *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and *District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462 (1983).

litigate is a most significant safeguard,"[248] and "collateral estoppel cannot apply when the party against whom the earlier decision is asserted did not have a full and fair opportunity to litigate that issue in the earlier case."[249] "If a defendant were convicted and punished for an act that the law does not make criminal, there can be no room for doubt that such a circumstance inherently results in a complete miscarriage of justice and presents exceptional circumstances that justify collateral relief."[250]

For all of the reasons evidence herein, Petitioner obviously did not receive a full, fair, and impartial opportunity to litigate at "trial" or on "appeal".

On February 6, 2020, Marshall *arbitrarily* granted the Humphreys Motion to Dismiss *with prejudice* based on the collateral estoppel and Rooker-Feldman doctrines. Appendix [G], pp. 41–50 or Exhibit [A35]. Instead of performing her sworn, non-discretional, ministerial duty to vacate the void "Judgment(s)" whose presumptive validity had been rebutted by Petitioner and were *unopposed* by the Humphreys, Marshall arbitrarily declared that "[t]he purpose of the [Rooker-Feldman] doctrine is to protect state judgements from collateral federal attack,"[251] and "[t]he Court finds [Petitioner's] action is barred pursuant to the Rooker-Feldman doctrine because [he] seeks relief from the state court judgment and alleges legal error by the state trial and appellate court."[252] See *Thos. P. Gonzalez Corp. v. Consejo Nacional De Produccion De Costa Rica*,[253] finding that the Court

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[248] *Blonder-Tongue Labs v. University of Illinois Found*, 402 U.S. 313, 329 (1971).

[249] *Allen v. McCurry*, 449 U.S. 90, 95 (1980). Internal quotations and citations omitted.

[250] *United States v. Stoneman*, 870 F.2d 102, 104 (3d. Cir. 1989). Internal brackets, quotations, and citation omitted.

[251] Opinion p.45, lines 19-20.

[252] Opinion p.47, lines 25-28.

[253] *Thos. P. Gonzalez Corp. v. Consejo Nacional De Produccion De Costa Rica*, 614 F.2d 1247, 1256 (9th Cir.1980). See also Moore's Federal Practice 3D, §60.44[5][b] "[i]f judgement is void, Court has no discretion and must grant relief."

had a non-discretionary duty to grant relief and vacate a void judgment where the Court lacked jurisdiction.

Marshall would be correct if the word "valid" were inserted such that "the purpose of the Rooker-Feldman doctrine was to protect *valid* state judgements from collateral attack"– not just any state judgment, and certainly not one that is void for lack of personal and subject matter jurisdiction. "Unless a court has jurisdiction, it can never make a record which imports uncontrollable verity to the party over whom it has usurped jurisdiction, and he ought not, therefore, to be estopped from proving any fact which goes to establish the truth of a plea alleging the want of jurisdiction."[254]

Marshall acknowledged Petitioner's claims: (1) that the State trial and appellate Courts violated due process; (2) lacked subject matter jurisdiction; and, (3) that §7031 was unconstitutional because it is penal in nature. Despite this, she declared that each of these issues "were actually litigated by [him] in the state court action[s] and necessarily decided in a final judgment,"[255] concluding as a result that he was "collaterally estopped from bringing [the] action."[256] Despite these conclusions, her opinion fails to include any independent analysis, investigation, or resolution of these issues demonstrating they were fully, fairly, and impartially adjudicated thereby vesting the State trial and appellate Courts with personal and subject matter jurisdiction to render and affirm "Judgment". Marshall's opinion also fails to cite any authority whereby an arbitrary void judgment in violation of the Constitution can be collaterally estopped or is subject to the Rooker-Feldman doctrine. Because judgments rendered without personal or subject matter jurisdiction are void and not entitled to full faith and credit elsewhere the doctrines

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[254] *Harris v. Hardeman*, 55 U.S. 334, 341 (1853).

[255]Opinion p.49, lines 16-17.

[256] *Id.* p.49, lines 20-23.

of collateral estoppel and Rooker-Feldman do not apply and cannot be used to overrule or supersede the Constitution.[257] "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."[258]

More specifically, neither *Rooker* nor *Feldman* was a case involving a State Court acting without personal and/or subject matter jurisdiction resulting in a void judgment. In *Rooker* this Court held that the State Court "had jurisdiction of both the subject matter and the parties; [and] that a full hearing was had therein […]."[259] In *Feldman* this Court held that "a United States District Court has no authority to review final judgements of a state court in judicial proceedings."[260] The key words being "*judicial* proceedings" and "*final* judgments". A fake "trial" put on by a "Judge" acting *coram non judice* cannot in any manner be considered a *judicial* proceeding whose fraudulent "Judgment Order" results in finality or full faith and credit. "[T]he principle of finality rests on the premise that the proceeding had the sanction of law […]."[261]

As "[a] court is a place where justice is legally administered, [where a court lacks subject matter jurisdiction] the defendant has had no trial under the laws of the land."[262] This Court has also held it is a "universal principle" that judgments can be collaterally attacked when questions of *power in the officer* or fraud in the

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[257] *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291 (1980) citing *Pennoyer v. Neff*, 95 U.S. 714, 732-3 (1877). "A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere."

[258] *Miranda v. Arizona*, 384 U.S. 436, 491 (1966).

[259] *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 *** (1923).

[260] *D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983).

[261] *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270 (2010) citing Restatement (second) of Judgments §12, Comment a.

[262] *Ex Parte Giambonini*, 117 Cal. 573, 576 (Cal. Supreme Ct. 1897).

party are raised.[263] Moreover, vacating a void judgment is a mere formality, *not* a "de facto appeal", and does not intrude upon the notion of state-federal interests.[264] A State has no interest in the form of standing to enforce a void judgment.

This Court has also repeatedly made it clear that District Courts can entertain independent actions that attack State Court judgments as void. See *Atchison, T & S.F. Ry. Co. v. Wells*, 265 U.S. 101, 103 (1924) (1 year post *Rooker*); and *Simon v. Southern Railway Co.*, 236 U.S. 115, 122 (1915) (pre *Rooker*). See also *United States v. Bigford*, 365 F.3d 859, 865 (10th Cir. 2004) citing *Burnham v. Super. Ct. of Cal.*, 495 U.S. 604, 608–9 (1990) and *Williams v. Life Sav. & Loan*, 802 F.2d 1200, 1202 (10th Cir. 1986).

District Courts can also entertain independent actions to vacate void judgments when such claims are also authorized by State law. In *Parsons Steel Inc. v. First Alabama Bank,*[265] this Court held that pursuant to 28 USC §1738 (the Full Faith and Credit Act), a "federal court *must* give the judgment *the same effect* that it would have in the courts of the State in which it was rendered."[266] Under California law:

> *"A Void Judgment Is Subject to Attack at Any Time, Either Directly or by Way of an Independent Action in Equity.*
>
> A judgment void on its face because rendered when the court lacked personal or subject matter jurisdiction or exceeded its jurisdiction in granting relief which the court had no power to grant, is subject to collateral attack at any time. An attack on a void judgment may also be direct, since a court has inherent power, apart from statute, to correct its

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[263] *Vorhees v. Jackson*, 35 U.S. 449, 478 (1836) citing *U.S. v. Arredondo*, 31 U.S. 691 (1832).

[264] *In re James*, 940 F.2d 46 (3rd Cir. 1991).

[265] *Parsons Steel Inc. v. First Alabama Bank,* 474 U.S. 518 (1986).

[266] *Id.* at 523. Italicized emphasis added.

> records by vacating a judgment which is void on its face, for such a judgment is a nullity and may be ignored."[267]
>
> See also Cal. Code of Civil Procedure §1916 whereby "[a]ny judicial record may be impeached by evidence of a want of jurisdiction in the Court or judicial officer, of collusion between the parties, or of fraud in the party offering the record, in respect to the proceedings."

On this issue, Marshall's opinion relies on the holding of the Supreme Court of California in the case of *DKN Holdings LLC v. Faerber,*[268] where the Court declared the circumstances in which collateral estoppel and issue preclusion apply: "(1) after final adjudication (2) of an identical issue (3) actually litigated and necessarily decided in the first suit and (4) asserted against one who was a party in the first suit or one in privity with that party." Not one of these constitutes a holding that collateral estoppel/issue preclusion applies to an arbitrary judgment by a "Court" acting without personal and/or subject matter jurisdiction. And none of these overrule Art. 6, §2 of the Constitution. Once again, "[w]here rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."[269]

Marshall also arbitrarily used the Rooker-Feldman doctrine to deny Petitioner's Constitutional "fascial" and "as applied" challenges to Business and Professions Codes §7031(a), §7031(b), and §7071.17 on the grounds that the relief he sought was an "order vacating or voiding the state court judgment."[270] While Petitioner's prayer for relief admittedly requested vacating and declaring the State "Judgment" void, Marshall omitted the fact that his request also included "any

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[267] *Rochin v. Pat Johnson Manufacturing Co.*, 67 Cal. App.4th 1228, 1239 (1998). Italicized emphasis original. Citations omitted.

[268] *DKN Holdings LLC v. Faerber,* 61 Cal. 4th 813, 825 (2015).

[269] *Miranda v. Arizona*, 384 U.S. 436, 491 (1966); *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (1990) (Citations omitted). *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291 (1980) citing *Pennoyer v. Neff*, 95 U.S. 714, 732-3 (1877).

[270] *Id.* p.47, lines 10-11.

other relief [that] the Court determine[d] reasonable and just." "[U]nder [a] general prayer, other relief may be granted than that which is particularly prayed for."[271]

Contrary to Marshall's arbitrary opinion denying relief, *Feldman* actually held that the facial challenge to the constitutionality of a state statute could not be precluded because it "[does] not require review of a judicial decision in a particular case" and "is a challenge to the validity of the rule rather than a challenge to an application of the rule."[272] Petitioner therefore had a right to challenge the Constitutionality of these statutes and to a judicial remedy. "Whenever the legislature passes an act which transcends the limits of the police power, it is the duty of the judiciary to pronounce it invalid."[273]

"[A]n unconstitutional law is void and is as no law. An offence created by it is not a crime. A conviction under it is not merely erroneous, but is illegal and void and cannot be a legal cause of imprisonment. […] If laws are unconstitutional and void, the […] Court acquired no jurisdiction of the causes […]."[274] Therefore, if §7031(a) or §7031(b) were found to be unconstitutional, declaring the judgments void would be the precise relief the Marshall would have (and did have) a non-discretionary, ministerial duty to grant. "Dismissal for lack of subject-matter jurisdiction because of the inadequacy of the federal claim is proper only when the claim is so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise completely devoid of merit as not to involve a federal controversy."[275]

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[271] *English v. Foxall*, 27 U.s. 595, 612 (1829).

[272] *Noel v. Hall*, 341 F.3d 1148,1157 (9th Cir. 2003) citing *District of Columbia Court of Appeals v. Feldman*, 406 U.S. 462, 486-7 (1983); Plaintiff's Opposition to Defendants Motion to Dismiss, Dkt. 17, p.18.

[273] *Noel v. Hall*, 341 F.3d 1148,1157 (9th Cir. 2003) citing *District of Columbia Court of Appeals v. Feldman*, 406 U.S. 462, 486-7 (1983).

[274] *Ex parte Siebold*, 100 U.S. 371, 376-7 (1879).

[275] *Steel Co. v. Citizens for a Better Env't*, 523 U.S 83, 89 (1998).

Finally, while Petitioner's Complaint was not captioned as a Petition for *non-statutory* writ of *habeas corpus* (Art. I, §9, Cl. 2), the *substance* was in fact a challenge to the jurisdiction of the State Courts to bind him indefinitely in constructive custody and financially destroy him amounting to civil capital punishment with prejudice. "The writ of *habeas corpus* is the fundamental instrument for safeguarding individual liberty against arbitrary and lawless state action."[276] *Habeas* relief is also not barred by any of the estoppel doctrines asserted by the Humphreys.[277]

As a result of the foregoing, Marshall joined the conspiracy perpetrated by Chaffee, OLGA, Di Cesare, SC JUSTICES, Bissell, and the Humphreys to excessively, cruelly, and unusually punish Petitioner; take his rights, property, and liberty without lawful authority and just compensation; deprive him of equal protection of the law, judicial process, and the right to Petition the United States for redress of grievance, resulting in a bill of attainder in violation of Article I, §9.

But Marshall's lawless assault on Petitioner's rights, liberty, and property did not stop there. On February 26, 2020, he filed a timely notice of appeal of her *ultra vires* "Order" granting the Humphreys Motion to Dismiss. On February 27, 2020, Marshall then filed another arbitrary and *ultra vires* "Order" revoking his previously granted in forma pauperis status and declaring his appeal "frivolous". Appendix [H], pp. 51-52, or Exhibit [A36].

According to this Court, an appeal is frivolous if it lacks any arguable issue in law or fact.[278] As Petitioner's appeal contained arguable issues of law, it was clearly not frivolous.

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[276] *Harris v. Nelson*, 394 U.S. 286, 290-91 (1969); *Ex parte Siebold*, supra.

[277] *Noel v. Hall*, 341 F.3d 1148, 1151 (2003).

[278] *Nietzke v. Williams*, 490 U.S. 319, 325 (1989).

"We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution."[279]

[279] *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

VIII. United States Court of Appeals for the Ninth Circuit

> *"This court need not, and will not, stand idly by and allow [State] officials to take private property arbitrarily, capriciously, in bad faith, or for what is essentially a private purpose."*[280]
>
> *–Ninth Circuit Court of Appeals*

On March 20, 2020 Petitioner filed a Motion for the Appointment of Assistant Counsel and to Proceed *in Forma Pauperis* on appeal in the United States Court of Appeals for the Ninth Circuit. Exhibit [A38]. See case# 20-55181, incorporated and fully set forth herein. He also filed a "Statement of Why This Appeal Should Go Forward." Exhibit [A39].

While Petitioner's appeal was pending, this Court issued its decision in *Liu v. SEC*, supra, a case in which it vacated the Ninth Circuit's affirmation of the USDC's judgment imposing yet another *ultra vires* penal forfeiture disguised as "equitable disgorgement". See *SEC v. Liu*, 262 F. Supp. 3d 957 (2017) and *SEC v. Liu*, 754 Fed. Appx. 505 (9th Cir. 2018). Pursuant to *Liu*, Petitioner immediately filed a Notice/Request for Consideration of Additional Authorities. Exhibit [A41].

Despite the resounding clarity evidencing the purported nature of "disgorgement" declared in *Liu*, "Chief Justice" Sidney Thomas and "Associate Justices" Atsushi Tashima and William Fletcher of the Ninth Circuit, (collectively "TTF"), arbitrarily dismissed his appeal as "frivolous" with no further explanation. Appendix [I], p.53 or Exhibit [A42].

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[280] *Midkiff v. Tom,* 702 F.2d 788, 798 (9th Cir. 1983). Citation and internal quotations removed.

"Justices" TTF thereby denied Petitioner his right to an appeal, subjected him to a bill of attainder or pains and penalties by violating their mandatory, non-discretionary, ministerial duties to protect his Constitutional rights to judicial process and to not be punished without a full, fair and impartial *judicial* hearing according to law as mandated by Article I, §9 of the Constitution. Furthermore, they joined the conspiracy with State officials, the Humphreys, and Bissell to violate his rights to equal protection of the law, to not be excessively, cruelly, and unusually punished, to not have his property unreasonably seized or taken without just compensation, and to petition the United States for Redress of Grievance. TTF's failure to exercise the judicial power of the United States where it was given to provide Petitioner relief from the lawless actions of the State "officials" and "Judge" Marshall is treason to the Constitution.

> *"We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution."*[281]

[281] *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

IX. Petitions for Redress of Grievance to the Legislative and Executive and Judicial Branches of California and the United States.

There being no judicial Constitutional Court in California, Petitioner filed Petitions for Redress of Grievance with the Legislative and Executive branches of California pursuant to Article I, §3 of the "CONstitution of 1879."

1. Orange County Sheriff-Coroner Department.

On 8/6/20 and 9/2/20, Petitioner filed Petitions for Redress of Grievance for the deprivation of his rights under color of law and the criminal taking of his rights, liberty and property by force without lawful authority with the Orange County Sheriff-Coroner Department, ("OCSD"), an agency of the County of Orange that has Executive jurisdiction over the Superior Court of California, County of Orange, Central Justice Center (the "trial" Court). See Exhibit [C] pp. 2559-2594 and Exhibit [D] pp.4348-4350; 4356-4363; pp.4469-4506, 4531-2; 4537; 4540; 4547-4551. The OCSD refused to conduct a full, fair, and impartial investigation into Petitioner's claims and closed his case, claiming "there [was] no criminal activity able to be discovered from what has been reported." Apparently treason, fraud, robbery and conspiracy aren't criminal. See also Exhibits [E17] and [E18]: Audio Recordings of calls with OCSD Investigator Leeb and the OCSD's refusal to intervene.

> *"To lay with one hand the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law […]."*[282]

[282] *Loan Ass'n v. Topeka*, 87 U.S. 665, 664 (1874).

Whether the OCSD perceived the deprivation of Petitioner's rights as criminal or not is irrelevant. The OCSD had (and continues to have) a mandatory duty to intervene and investigate when Constitutional rights are being violated and cannot curtail Petitioner's rights by refusing to investigate his claims.[283] See also Exhibit [J], the Orange County Sheriff-Coroner Department Policy Manual, containing the following policies:

> **MISSION STATEMENT / CORE VALUES**
>
> The men and women of the Orange County Sheriff's Department are dedicated to the protection of all we serve. We provide exceptional law enforcement services free from prejudice or favor, with leadership, integrity, and respect. *Id.* p.3.
>
> **100.3 CONSTITUTIONAL REQUIREMENTS**
>
> All Members shall observe and comply with every person's clearly established rights under the United States and California Constitutions. *Id.* p.9.
>
> **1001.2 CANONS OF ETHICS CANON ONE**
>
> PEACE OFFICERS SHALL UPHOLD THE CONSTITUTION OF THE UNITED STATES, THE STATE CONSTITUTION, AND ALL LAWS ENACTED OR ESTABLISHED PURSUANT TO LEGALLY CONSTITUTED AUTHORITY. *Id.* p.431.
>
> **CANON FIVE**
>
> PEACE OFFICERS SHALL RECOGNIZE THAT OUR SOCIETY HOLDS THE FREEDOM OF THE INDIVIDUAL AS A PARAMOUNT

[283]"An officer's duty to intervene does not arise until a person's constitutional rights are being violated […]." *Lujano v. County of Santa Barbara*, 190 Cal. App. 4th 801 (2010); The immunities conferred on a public entity by Gov. C §818.2 and §8184.4 apply only in connection with discretionary activities, not in connection with mandatory duties […] that cannot be ignored. *Walt Rankin & Associates, Inc. v. City of Mirrieta,* (80 Cal. App. 4th 1255 (2000).

PRECEPT, WHICH SHALL NOT BE INFRINGED UPON WITHOUT JUST, LEGAL, AND NECESSARY CAUSE. *Id.* p.434.

When the investigating Deputy closed Petitioner's case and refused to return his subsequent call or emails, Petitioner made a complaint to OCSD supervisory personnel evidencing the blatant deficiencies in the OCSD's investigation, including failing even to review the documentary evidence he submitted. Exhibit [D] pp.4469-4506; Exhibit [C] pp.2781-89. Despite one of the OCSD supervisors acknowledging Petitioner's complaint and claiming he would "look into it and get back to [him]", (Exhibit [D] p.4472), no response from the supervisor has been received, (Exhibit [D] pp. 4357, 4540), and the OCSD has no records of any investigation into Petitioner's complaint. Exhibit [C] pp.2684-5, 2694-2779.

2. City of Santa Ana- Santa Ana Police Department

On 2/7/20, 6/5/20, 7/13/20, and 7/20/20, Petitioner filed Petitions for Redress of Grievance for deprivation of his rights under color of law and the criminal taking of his property by force without lawful authority with the Santa Ana Police Department, ("SAPD"), an agency of the City of Santa Ana in which the Superior Court of California, County of Orange, Central Justice Center and Fourth District Court of Appeals are located. The SAPD refused to intervene or investigate Petitioners claims.

After the SAPD refused to intervene or investigate his claims, Petitioner filed a "Citizen Complaint" against the involved SAPD employees for dereliction of duty. While the SAPD claimed that it "investigated" Petitioner's "Citizen Complaint," it refused to acknowledge that the officers were derelict in their duty, based apparently on an unwritten and undisclosed policy that the SAPD owes no duty in at least this instance to intervene, investigate, or protect the rights, liberty and

property of Petitioner as guaranteed by the California CONstitution and the Constitution for the United States. See Exhibit [D] pp.4205-4235; 4507-4530; 4534-36. This is like saying the police will investigate an excessive force claim by a Citizen who was brutalized while at the same time refusing to acknowledge any brutality occurred despite the victim standing in front of them with a bloody face. How exactly does that work? Has the "investigation" not failed before it even began?

As a former police officer, Petitioner intimately understands that Executive agencies are not a substitute for a judicial appeal. But he never got an appeal. And the whole point of a tripartite Republican form of government is that each of the branches acts as a check and balance to the other. Since Petitioner was unable to get relief in any judicial Constitutional Court in California and his rights, liberty, and property were being taken without lawful authority, members of the Executive had a non-discretionary duty to intervene, investigate his claims, and protect his rights, liberty, and property.

3. Governor of California- Gavin Newsom

Petitioner also filed Petitions for Redress of Grievance to Governor Gavin Newsom's office on August 25, 2019, (Exhibit [D] p.4089–4101); June 29, 2020, (Exhibit [D] pp.4309-4334); and, December 28, 2020, (Exhibit [D] pp.4510-4522).

After not receiving a response to any of these complaints, Petitioner filed a Public Records Act request on March 1, 2021 requesting copies of all of the complaints he had made; including all documents evidencing the Governor's investigation into his claims. See Exhibit [D] pp.4556-4563. Petitioner received a digital response from Newsom's office. See Exhibit [H4]. Despite producing records and evidence pertaining to the above complaints and others, no documents were produced evidencing any investigation into Petitioners claims whatsoever.

The primary duty of the Governor of California is to "see that the law is faithfully executed."[284] See also Cal. Gov. Code §12010 whereby "[t]he Governor shall supervise the official conduct of all executive and ministerial officers." Noting that these duties are *mandatory* and *not* discretionary, Newsom had a duty to intervene and investigate Petitioner's claims and to supervise the conduct of the employees of the OCSD and SAPD to ensure they performed their sworn duties after he (Newsom) was duly noticed of their deficiencies. As of the date of the filing of this Petition, neither Newsom's office nor the SAPD or OCSD have informed Petitioner of either re-opening, continuing, or beginning any investigation into his complaints and have not, to Petitioner's knowledge, intervened or taken any remedial action to actually "protect" Petitioner and his rights, liberty, and property.

It should also be noted that none of the members of the SAPD beyond the rank of Police Officer (with exception of Chief David Valentin) have taken and subscribed an oath of office commensurate with Article XX, §3 of the California Constitution,[285] SAPD Department Policy,[286] and the City of Santa Ana Municipal Code.[287] In other words, there appears to be no supervisory personnel in office at the SAPD (with the exception of Chief Valentin) despite each of the "supervisory" employees involved in Petitioner's complaint fraudulently representing to Petitioner that they were supervisors and apparently accepting compensation from the public treasury for a position they do not Lawfully occupy. These supervisory positions

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[284] Cal. Constitution, Article V, §1.

[285]"Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, *shall, before they enter upon the duties of their respective offices,* take and subscribe the following oath or affirmation […]" Italicized emphasis added.

[286] Santa Ana Police Department Policy 102.3 declares "All department members, when appropriate, **shall** take **and** subscribe to the oaths or affirmations **applicable to their positions**." Bolded emphasis added.

[287] Santa Ana Municipal Code section 1105 declares "Each […] officer and full-time employee **shall**, **before entering upon the duties of his office**, take **and** subscribe an oath or affirmation as prescribed by law and to be filed and kept in the office of the director of personnel." Bolded emphasis added.

require specific oaths of office because they entail certain duties to be performed beyond that of a police of officer, including the supervision of police officers and the investigation of complaints against officers.

The same situation is occurring at the OCSD where none of the "supervisory" personnel involved in Petitioner's complaints has taken or subscribed an oath for their respective office or position beyond the rank of deputy sheriff. Even "Sheriff" Don Barnes "Oath of Office", (Exhibit [O] p.43), appears to be his own appointment to the office of Sheriff. Assuming this is in fact a valid Oath of Office for the Sheriff, he is the only supervisor of the personnel involved in Petitioner's complaints that could receive and investigate Petitioners claims for dereliction of duty, yet his office refused to meet with Petitioner. Exhibit [D] pp.4547-4551.[288]

Pursuant to Cal. Gov. Code §12011 "[t[he Governor shall see that all offices are filled and their duties performed. If default occurs, he shall apply such remedy as the law allows. If the remedy is imperfect, he shall so advise the Legislature at its next session."

4. California Assembly- Assemblywoman Cottie Petrie-Norris

On 1/13/20, 2/21/20, 4/15/20, and 9/17/20 Petitioner filed Petitions for Redress of grievance with the office of California Assemblywoman Cottie Petrie-Norris. After repeatedly ignoring Petitioners claims, Petrie-Norris' office ultimately claimed that it made a formal request to the Legislative counsel for review of his complaint but then refused to respond to Petitioner any further. He has been unable to obtain any information that a full, fair, and impartial investigation was made into his complaints and has not received any form of redress or substantive disposition of

[288] See Exhibit [C] for numerous Public Records Act requests of the SAPD and OCSD for the Oaths of Office for its employees and Exhibit [O].

his claims. See Exhibit [C] pp.1725-1731, 2369-81, Exhibit [D] pp.4129-4135, pp.4152-3, 4413-14; Exhibit [K] pp.21-22.

Petrie-Norris' office has also refused to reply to Petitioner's Public Records Act request for all documents evidencing the complaints he made to her office and her investigation thereof. Exhibit [D] pp.4552-3; 4557

5. California Senate- Senator John M.W. Moorlach

Throughout mid August and September 20,2020 Petitioner also filed a Petition for Redress of Grievance with California Senator John M.W. Moorlach's office. In response to his claims, he was told by Senator Moorlach's Chief of Staff, Lance Christensen, that about "ninety percent of the bills they [(the Legislature)] pass […are] unconstitutional [… and that…] unless a court finds it unconstitutional and requires some sort of remedy there is literally nothing we can do about it." Exhibit [D] pp. 4335-8, 4341-47. Christensen then closed Petitioner's complaint *Id.* p.4344. See also pp. 4353-5.

6. Judicial Council of California, United States Department of Justice, Fourth District Court of Appeal, Superior Court of California, County of Orange, California Legislature.

Petitioner filed numerous Petitions for Redress of Grievance to the Judicial Council of California, United States Department of Justice, Supreme Court of California, Fourth District Court of Appeal, and the Superior Court of California, County of Orange. See Exhibit [D] pp.4106-4156, 4164-4166; and, 4164. To his knowledge, none of these agencies have investigated his claims or intervened to protect his rights, liberty and property.

7. California Commission on Judicial Performance.

On June 3, 2020, Petitioner made a complaint to the Commission on Judicial Performance, ("Commission"), against Chaffee, O'Leary, Goethals, Aronson, Cantil-Sakouye, Corrigan, Liu, Cuellar, Kruger, and Groban. Exhibit [D] pp.4168-4201. Included with the complaint were digital exhibits exhibiting the complaint allegations.[289] The complaint stated:

> The above named judges are perpetrating criminal fraud on the People of California by denying them rights secured by the California Constitution and the Constitution for the United States. I was ordered to forfeit about $930,000 for allegedly performing construction work without a contractors license pursuant to Business and Professions Code sections §7031(a) and (b). This fine is 46 times my qualifying net worth and 186 times the comparable criminal monetary penalty. The California supreme Court has declared §7031(b) "imposes a strict penalty" yet the Courts refuse to recognize the excessive fines clause (Art 1, Sec. 17, or the the 8th Amendment). In my case (and that of many others), the Courts do not make an analysis about a defendants ability to pay, or consider the proportionality of the offense. This being an in personam forfeiture – and one capable of financially destroying a defendant – minimally requires defendants have all the of the heightened protections of criminal proceedings yet §7031 cases take place in a civil context. The lower Courts refuse to even recognize §7031's penal nature. As a result of the judgment against me a lien has been placed on a home upon which I am the legal title holder and my ability to earn a living in construction suspended. The People of California have no access to a judicial court in California to resolve these heinous miscarriages of justice.

Petitioner received a written response from the Commission on July 13, 2020. Exhibit [D] pp.4200-01. In relevant part, the response stated that "[a] judge's legal error might be a basis for investigation by this commission if there is sufficient evidence of bad faith, bias, abuse of authority, disregard of fundamental rights, intentional disregard of law, or any other purpose other than the faithful discharge of duty. The information you have provided is not sufficient to establish those factors."

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[289] These Exhibits are included in the files available on dropbox at the web address mailed or emailed to each Respondent and this Court on usb drive.

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The unwritten policy(ies), custom(s) and procedure(s) of each of these agencies to: (1) refuse to intervene and fully, fairly, and impartially investigate Petitioner's claims for deprivation of his Constitutionally protected rights; and, (2) their refusal to intervene and fully, fairly, and impartially investigate his formal complaints about subordinates in dereliction of their sworn duties is furtherance of the conspiracy to deprive Petitioner of his rights, liberty, and property as evidenced herein by force and under color of law without lawful authority. Furthermore, their behavior is a direct violation of Petitioner's rights to Petition his government for Redress of Grievance and to a Republican form of government. The refusal of the employees of these agencies to perform their sworn duties is a direct and proximate cause to the continuing harm being perpetrated upon Petitioner.

As there is clearly no means of obtaining Redress of Grievance through *any* branch of California government, it is plainly obvious that the government has been subverted to what the founders referred to as an "aristocratic or monarchical innovation."[290] In other words, a de facto socialist government.

[290] Federalist No. 43, James Madison. Source: https://avalon.law.yale.edu/18th_century/fed43.asp.

X. There is No Lawful Representative Form of Government in California or the United States and Therefore No Consent of the Governed or Quorum to do Any Legislative Business.

Article IV, §4 of the Constitution declares that "[t]he United States shall guaranty to every State in this Union a Republican Form of Government […]."[291] Since at least 1879, and commensurate with the purported ratification of the California "CONstitution of 1879", there has not been even one increase in "representation" in the California Legislature despite the explosion of its population to more than 39 million people.[292]

Under the current ratio of "representation" there is about one "representative" for every 487,500 people. This means that if even one percent of the People per year petitioned their representative for a Redress of Grievance, the representative would have to fully, fairly, and impartially investigate and resolve thirteen complaints within an eight-hour day, every single day of the year– a feat of human impossibility. One person cannot possibly provide any meaningful and substantive representation to nearly half-a-million People.

Even more absurd and troubling is the presumption that a "representative" who has likely never even met the near half-a-million People they purportedly "represent", could possibly do so in any meaningful and substantive way. This is directly evidenced by the aforementioned Petitions for Redress of Grievance Petitioner filed with the offices of both his State Assemblywoman and Senator. Despite multiple requests, he was never even allowed to directly speak with either of them. The Assemblywoman's office refused to provide any evidence or findings of

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[291] Article IV, §4.

[292] The California population estimate is 39,512,223 according to: https://www.census.gov/quickfacts/CA.

its "investigation" of his complaint and the Senator's office closed his complaint without any investigation or findings whatsoever.

Article I, §14 of the original Constitution of California declared that "[r]epresentation shall be apportioned according to population." According to the California Secretary of State, this original Constitution of 1849 has never been repealed.[293]

Where are these "representatives"?

Why was the requirement of proportional representation entirely deleted from the so-called "CONstitution of 1879"?

Using the ratio of representation found in Article I, §2, Cl. 3 of the Constitution of around one representative for every thirty-thousand People as contemplated by the "Founding Fathers" for proportionate representation, the California Assembly should have at least 1,300 representatives for a population of 39 million People. Not 80.

Because there is no meaningful and substantive representation of the People of California in the so-called California "Assembly," and therefore no "consent of the governed" the "Legislature" has no quorum to do any business at all resulting in denying the People of California a representative Republican form of government based on the rule of Law and the consent of the governed.

This is not a "political question" because "[t]he very purpose of the Bill of Rights [the entire Constitution is a bill of rights] was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the

[293] Exhibit [K] p.98

courts."[294] The Constitution declares that "[t]he United States *shall* guaranty to every State in this Union a Republican Form of Government […]"[295] and based on all of the foregoing evidence, the Executive and Legislative officials of the United States have clearly not abided their sworn duty to ensure this guarantee. There is also no lawful Congress of the United States in which to refer resolution of this grievance to even if it were to be considered a political question. This is because "CONgress" is also in direct violation of Article I, §2, Cl. 3. Not only was there no Constitutional authority pursuant to Article V for CONgress to enact the apportionment Act of June 18, 1929, (46 Stat. 21.), fixing the House of Representatives at 435, the number of "representatives" in the House at the time did not even remotely constitute a quorum to pass it even if there were authority.

The Constitution declares that "Representatives […] *shall be apportioned* among the several States […]."[296] Representation was clearly intended by the Founders to be proportioned according to the change in size of the population. Therefore, an act fixing the number of representatives irrespective of an exponential growth in population would be required to conform to the amending procedures declared in Article V and would thereby have to have been submitted to the People in conventions of the States, not by an enactment of "CONgress" without a lawful quorum to do any business at all. According to the Constitution, there should be about 11,000 members of Congress.[297] Not 435.

Therefore, the only remaining branch of government in the United States in which to Petition for Redress under the First Amendment to the Constitution is this Court. "[T]he judicial power of every well constituted government must be co-

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[294] *Board of Education* v. *Barnette*, 319 U.S. 624, 638 (1943).

[295] Article IV, §4. Italicized emphasis added.

[296] Article I, §2, Cl. 3. Italicized emphasis added.

[297] Based upon the 2020 census population of the 50 States of 331,108,434. Source: https://www.census.gov/library/stories/2021/04/2020-census-data-release.html. 331,108,434/30,000= 11,036.

extensive with the legislative, and must be capable of deciding every judicial question which grows out of the constitution and laws."[298]

For the record, Petitioner is not meaning to imply that 11,000 sociopaths would be better than 435. Even one empathetic mature adult human being could perform the role of an entire "assembly." The real issue here is the mental and emotional health of our representatives, not how many there are. But since the Constitution makes no such fitness qualifications at this time, Petitioner asserts the ratio of representation required by Art. 1, §2, Cl. 3 as 11,000 representatives are a lot harder to manipulate, buy off, and control by special interest groups and private banking cartels than 435. Moreover, after the American People fix the corrupt and rigged voting systems, it is likely the representatives they actually elect will be in office rather than those foisted upon them by those who seek to and have overthrown the American Republic.

Petitioner also claims, that since there is no lawful quorum in Congress in which to Petition for Redress of Grievance, that his right to do so as secured by the First Amendment has been violated.

1. A Constitutional Republic vs. a majority-rule democracy.

Perhaps the best way of illustrating how our Constitutional Republic has been overthrown by a Federal (Feudal) socialist government is by a diagram comparing the two systems. A Constitutional Republic that recognizes creator endowed inalienable (private) rights as ordained and established by "We The People" found in the Declaration of Independence, State Constitutions, and the Ninth and Tenth Amendments, looks like this:

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[298] *Cohens v. Virginia*, 19 U.S. 264, 384 (1821).

Constitutional Republic

Creator
People/ human beings
Constitution
Government
Public Servants
Statute Law
Corporations

A de facto Federal (Feudal) socialist government not based on the rule of Law or consent of the governed otherwise referred to as a majority rule "democracy" looks like this:

Majority Rule Democracy

X- Unk.
Majority
Government
Public Servants
Case & Statute Law
Corporations
People/ human beings

In this second illustration, a democracy ruled by the majority places human beings at the bottom, and an unknown elite, Mr. "X" at the top. The majority (or mob) elects a government to hire public "servants" who write laws primarily for the benefit of corporations. These corporations are either owned or controlled by Mr. X, a clique of the ultra-wealthy who seek to restore a two-class feudal society. They exercise their vast economic power so as to turn all of America into a feudal zone.

In a majority (mob) rule democracy, the rights of human beings occupy the lowest priority in this chain of command. Those rights often vanish over time, because democracies eventually self-destruct. The enforcement of laws within this scheme is the job of administrative (not judicial Constitutional) tribunals, who

specialize in holding individuals to the letter of all rules and regulations of the corporate state**,** no matter how arbitrary and with little if any regard for fundamental human (private) rights. It is important to note that in this scheme the essence an intelligent source or creator of life is not recognized and all ~~rights~~ revocable privileges and property belong to and flow from the almighty State.

Having usurped the Constitutional Republican government, the de facto Federal government operates as a private government services corporation whereby the People become subject thereto by waiving their rights (often without any knowing, voluntary, or intelligent waiver) as result of receiving government benefits. See especially Exhibit [I] "Invisible Contracts" by George Mercier and Cal. Civil Code §3521 "[h]e who takes the benefit must bear the burden. In this scheme, the People accept government benefits believing they are coming from their Constitutional Republican government when they're not. A government services corporation is not a lawful government, it is a municipal corporation that functions in commerce, not Law. See for e.g. *Bank of United States v. Planters Bank of Georgia.*[299]

By accepting benefits such as social (in)security, passports, bank accounts, postal service, voter registration, etc., one must bear the burdens of the "invisible contracts" with the de facto Federal government which equate to the millions of codes, rules, and regulations designed to control every aspect of American life. See especially Exhibit [U]: "How the government justifies treating you as a subject and extorting you and what you can do about it" by Dr. John Parks Trowbridge III. In way or another to receive these benefits, one must declare they are a citizen of the

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[299] *Bank of United States v. Planters Bank of Georgia,* 22 U.S. 907 (1824). "It is, we think, a sound principle, that *HN4* when a government becomes a partner in any trading company, it devests itself, so far as concerns the transactions of that company, of its sovereign character, and takes that of a private citizen. Instead of communicating to the company its privileges and its prerogatives, it descends to a level with those with whom it associates itself, and takes the character which belongs to its associates, and to the business which is to be transacted."

United States and a "person" "*subject* to the jurisdiction thereof". See Exhibit [K] p.02– U.S. Passport Application Item 1 and p.08 and p.17 of the California Voter Registration. So-called "14th Amendment" shitizenship not only fails to recognize any inalienable rights, the acceptance thereof seems to result in the presumption of a voluntary waiver of rights to the ordinary administration of justice rendering anyone who accepts such benefits "a hypothecator of goods, […] or a stipulater in the admiralty whose voluntary submission to th[at] jurisdiction […] subjects him to personal coercion"[300] by virtue of section 4 of the "Amendment" which declares that "[t]he validity of the public debt of the United States authorized by law, […] shall not be questioned."

In the Constitutional Republic, however, the rights of the People are supreme. The People delegate (but don't surrender) their sovereign power through a written contract, called a Constitution, which empowers government to hire public servants to write laws primarily for the benefit of the People. The corporations occupy the lowest priority in this chain of command, since their primary objectives are to maximize the enjoyment of human rights, and to facilitate the fulfillment of individual responsibilities. The behavior of public servants is tightly restrained by contractual terms, as found in the Constitution. Statutes and case law are created primarily to limit and define the scope and extent of public servant power.

> *"In the United States, sovereignty resides in the people, who act through the organs established by the Constitution. The Congress as the instrumentality of sovereignty is endowed with certain powers to be exerted on behalf of the people in the manner and with the effect the Constitution ordains. The Congress cannot invoke the sovereign power of the people to override their will as thus declared."*[301]

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[300] *Id.* at p.243.

[301] *Perry v. United States*, 294 U.S. 330, 353 (1935).

Within a Constitutional Republic, sovereigns are never subject to their own creations, and the Constitutional contract is such a creation. No fiction can make a natural born subject. That is to say, no fiction, be it a corporation, a statute law, or an administrative regulation, can mutate a natural born Sovereign into someone who is subject to his own creations. See also "No Treason" by Lysander Spooner.

IX. These Claims are Made Under Extreme Duress, Coercion, and Emergency

Based upon all of the foregoing, Petitioner has been subjected to a condition of constructive custody having no other available means for redress available in any branch of his purported State or National government. There being no Lawful republican form of government in California or the United States, Petitioner makes these claims under extreme duress, coercion, and emergency.

a. Claims made pursuant to Article I, §10, not the "14th Amendment."

Petitioner specifically challenges the jurisdiction of the State Court "judgements" evidenced herein and Cal. Business and Professions Codes §7028, 7031, and §7071.17 pursuant to Article I, §10 of the Constitution to avoid any confusion that he is accepting any benefit as a so-called "14th Amendment" person/ citizen of the United States and therefore subject to the burdens of such shitizenship/ martial law jurisdiction. There is no authority in the Constitution for CONgress – not to mention the 39th CONgress acting without a quorum to do any business at all – to create a so-called "citizen of the United States."

Rather than actually "free[ing] the African race", the "14th Amendment" has been used as a means to grant revolutionary rights and citizenship to corporations, destroy the inalienable rights of State Citizenship, and compound the American People into one common mass subject to the jurisdiction of Admiralty/Roman civil Law and federal regional martial law rule to destroy the Republican form of American government.

Therefore, in the event this Court refuses to grant Petitioner relief pursuant to Article I, §10, he asserts that the violations of the Bill of Rights evidenced herein are also secured by Article IV, §4 whereby "[t]he United States shall guaranty to every State in this Union a Republican Form of Government […]" Should this Court also refuse to determine these rights are secured by Article 4, §4, he asserts the "14th Amendment" under further duress and coercion.

RESTITUTION AND DAMAGES

I. Restitution

The Thirteenth Amendment declares that "[n]either slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

As a result of the aforementioned fraud, deceit, treason, and other deprivations of rights, liberty, and property perpetrated on Petitioner to convict of him of a crime without lawful authority he has been subjected to a condition of involuntary servitude to defend himself and protect his rights to life, liberty, and property. In addition to being forbidden from earning a living as a contractor, Petitioner was forced to perform a multi-year forensic examination into the Constitution, history, and laws of California and the United States to be able to discover the true nature and scope of the fraud perpetrated upon him, to put on a meaningful and substantive defense, and to report it to the proper authorities. This condition of involuntary servitude began at least on March 28, 2017, the day Chaffee announced his "decision" in "Court" and continues to this day.

Petitioner has not been paid for his time and labor and believes that the rate he should reasonably be paid is the same rate for legal services provided by a lawyer, such as Mr. Bissell, whose customary rate is $300 per hour (Exhibit [A3] p.123). Petitioner's time and labor is just as valuable as Mr. Bissell's and his work product clearly surpasses that of Mr. Bissell and most attorneys and "Judges". Using the calculation of $300 per hour * eight hours per day * five days per week * 233 weeks (for the weeks of April 3, 2017 – September 17, 2021) + four, eight-hour

days (March 28-31, 2017) $9600, the compensation due Petitioner and which he demands according to further proof is $2,805,600.

Undoubtedly Respondents Humphreys and Bissell will claim that they acted upon the judgments of the Superior "Court" and the Fourth District "Court" of Appeal that are presumed to be valid, and as a result, that they have no liability in restitution. A judgment can only be presumed valid if the Court had personal and subject matter jurisdiction. As evidenced, neither did. Moreover, Respondents admitted their intent to prosecute Petitioner and they knew, or reasonably should have known, that the Constitution of California vests the entirety of the Executive power in the Governor to prosecute for the commission of a public offense and that the punishment prescribed by §7031(b) was a total penal forfeiture for which they had no standing. Finally, even if they had made a mistake, Petitioner filed eight different actions challenging the jurisdiction of the "Court" requiring them to provide competent authority that they had standing to the relief they sought and were awarded, each time notifying them of their unlawful actions that were unduly causing Petitioner harm. At no time did they ever provide competent authority to support their standing. They also refused to answer the Bill of Particulars designed specifically to bring awareness to these issues.

Mr. Bissell is also a seasoned lawyer with more than thirty years at the bar. He is an officer of the Court having a sworn duty[302] to support the Constitution of California and the Constitution of the United States. He therefore has a duty not to violate either Constitution or to conspire with official actors in State action to deprive Petitioner of his Constitutionally protected rights.[303]

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[302] Exhibit [O] pp.45-46.

[303] Cal. Business and Professions Codes §6067, §6068(a), §6068(c).

Petitioner has also incurred costs or cost-related liabilities in the estimated amount of $300,000. Some of these costs or cost-related liabilities may however be closely intertwined with a separate claim for damages to be presented by Petitioner.

Subsequent to the fraudulent "Judgement Order" dated April 20, 2017, an Abstract of Judgment was fraudulently created and filed by the Humphreys or Bissell with the office of the Clerk-Recorder of Orange County. Exhibit [A3] pp.1023-1030. The Abstract has attached to the real property held in the name The Living Trust of Adam Bereki restraining Petitioner from the free and unfettered use of the property and to manage his estate thereby resulting in further damages. Exhibit [A3] pp.1311-1315. As a result of being restrained from legally working in his profession as a contractor and having been subjected to involuntary servitude to defend his rights to life, property, and liberty, Petitioner and his estate are unable to make the mortgage or property tax payments. While the property was actually given to his mother more than a decade ago, he has been informed by numerous attorneys that since the Living Trust is the legal title holder, the "Courts" will not likely recognize any private contract between him and his mother and that he is responsible party. Whatever the case, Petitioner's mother will be retiring effective September 30, 2021, and she will be unable to make the mortgage or property tax payments as well. Therefore, to avoid the inevitable foreclosure proceedings and even further irreparable harm, Petitioner requests this Court provide the immediate relief as detailed in the prayer for relief.

II. Damages and Punitive Damages

As a result of the aforementioned fraud, deceit, treason, domestic violence, and other crimes and offenses perpetrated by Respondents et al. acting under color of law to deprive Petitioner of his rights to life, liberty, and property, he has suffered severe emotional, psychological, and physical distress resulting in

continuing adverse health conditions and irreparable harm and money damages (to him and his estate) estimated at more than 50 million dollars.

Petitioner intends to amend this complaint for claims for damages and punitive damages resulting from trespass, trespass viet armis, fraud, malicious prosecution, and intentional or negligent infliction of emotional distress.

CONCLUSION

Ernst Huber, a leading Nazi theorist, in a definitive presentation of the Nazi political-legal position wrote[304]:

> "The authority of the Fuhrer is complete and all-embracing; it unites in itself all the means of political direction; it extends into all fields of national life; it embraces the entire people, which is bound to the Fuhrer in loyalty and obedience. The authority of the Fuhrer is not limited by checks and controls, by special autonomous bodies or individual rights, but is free and independent, all-inclusive and unlimited."

On what happens to personal liberty in the "total state", Huber stated:

> "Not until the nationalistic political philosophy had become dominant could the liberalistic idea of basic rights be really overcome. The concepts of personal liberties of the individual as opposed to the authority of the state had to disappear; it is not to be reconciled with the principle of the nationalistic Reich. There are no personal liberties of the individual which fall outside the realm of the state and which must be respected by the state ... There can no longer be any question of a private sphere, free of state influence, which is sacred or untouchable before the political unity. The constitution of the nationalistic Reich is therefore not based upon a system of inborn and inalienable rights of the individual ...
>
> In such regimes there is no longer any distinction between private matters and public matters; there are no private matters."
>
> "The only person who is still a private individual in Germany," declared Robert Ley, a member of the Nazi hierarchy, ..." is somebody who is asleep."

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[304] Exhibit [N]: National Socialism: Basic Principles, Their Application by the Nazi Party's Foreign Organization, and the Use of Germans Abroad for Nazi Aims" U.S. Department of State, U.S. Govt. Printing Office (1943) as cited in the Objectivist Newsletter February 1969.

PRAYER FOR RELIEF

> *"The defendant who removes a judgment rendered against him by a State Court into this Court for the purpose of re-examining the question, whether that judgment be in violation of the constitution or laws of the United States, does not commence or prosecute a suit against the State, whatever may be its opinion where the effect of the writ may be to restore the party to the possession of a thing which he demands."*[305]

Petitioner hereby requests this Court provide the following immediate, emergency relief:

1. Take all Lawful action required to restore the Constitutional Republican governments of California and the United States;

2. Declare that California Business and Professions Codes §7028, §7031, and §7071.17 are unconstitutional on the grounds of each and every applicable issue raised herein and all other(s) the Court finds to have violated the California Constitution and the Constitution for the United States;[306]

3. Declare that the "Judgment Order" dated April 20, 2017, (Appendix [B], pp. 7–8; (Exhibit [A2]), in case#30-2015-00805807 is void for want of personal and/or subject matter jurisdiction on the grounds of each and every applicable issue raised herein and all other(s) the Court finds to have violated the California Constitution and the Constitution for the United States;

4. Declare that the "Opinion", (Appendix [C], pp. 9–22; (Exhibit [A16]), in case #G055075 is void for want of personal and/or subject matter jurisdiction on the grounds of each and every applicable issue raised herein and all other(s) the Court finds to have violated the California Constitution and the Constitution for the United States;

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[305] *Cohens v. Viriginia*, 19 U.S. 264, 412 (1821).

[306] This Court shall not avoid its duty to "say what the law is" by asserting its sanctimoniously self-proclaimed "Ashwander Doctrine" to dispose of any of the issues presented by this case without addressing each of them meritoriously. In the event this Court decides to invoke its Ashwander Doctrine to avoid telling Petitioner and the American People the truth by refusing to answer the difficult issues presented, Petitioner reserves the right to challenge the Constitutionality of the "Ashwander Doctrine."

5. Order the Clerk-Recorder of Orange County to remove the Abstract of "Judgement" lien related to case# 30-2015-00805807 within five calendar days;

6. Order that Petitioner be Lawfully compensated for his time and expenses so that he can Lawfully pay his obligations and avoid bankruptcy and/or foreclosure proceedings;

7. Order the Superior "Court" of California, County of Orange to refund any and all fees charged to Petitioner within ten calendar days and to dismiss any liens on the case associated with Petitioner's *in forma pauperis* status;

8. Order the California "Court" of Appeal, Fourth Appellate District to refund any and all fees charged to Petitioner within ten calendar days and to dismiss any liens on the case associated with Petitioner's *in forma pauperis* status;

9. Declare that Respondents Karen Humphreys and Gary Humphreys are estopped from proceeding on any of their remaining causes of action on the grounds fraud, violating judicial process, and conspiring with State officials to deprive Petitioner of his rights to life, liberty, and property.

10. Declare that the following "Orders" of the United States District Court, Central District of California in case# 8:19–CV–02050 are void on the grounds of each and every applicable issue raised herein and all other(s) the Court finds to have violated the California Constitution and the Constitution for the United States: (1) Order, Denial of the Assistance of Counsel, Appendix [F], pp.39–40, (Exhibit [A31]); (2) Order, Dismissal of Case with Prejudice, Appendix [G], pp. 41–50, (Exhibit [A35]); (3) Order, Denial of In Forma Pauperis and Frivolous Appeal, Appendix [H], pp. 51-52, (Exhibit [A36]);

11. Declare that the "Order" of the United States Court of Appeals for the Ninth Circuit, Appendix [I], p.53, (Exhibit [A42]), case# 20-55181, is void on the grounds of each and every applicable issue raised herein and any other(s) the Court finds to have violated the California Constitution and the Constitution for the United States;

12. All other relief the Court deems Lawful, reasonable, and just.

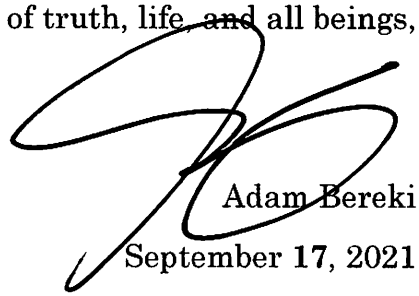
I declare under penalty of perjury of the laws of United States of America that the foregoing verified statements of fact are true and correct.

Let Freedom Ring!

(Please click the above link to listen to the song "Independence Day" sung by the amazing Martina McBride).

May all beings discover that we are not separate as we have been told and believed, but each unique and diverse expressions of this seamlessly unified reality we call life.

In love of truth, life, ~~and~~ all beings,



Adam Bereki

September 17, 2021

No. _____, Original

IN THE
Supreme Court of the United States

Adam A. Bereki

Petitioner,

v.

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT;
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE;
SUPREME COURT OF CALIFORNIA;
CALIFORINIA LEGISLATURE;
UNITED STATES DISTRICT COURT,
FOR THE CENTRAL DISTRICT OF CALIFORNIA;
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT;

Richard M. Aronson; Willam Bissell; Tani Cantil-Sakouye; David Chaffee; Ming W. Chin; Carol A. Corrigan; Mariano-Florentino Cuellar; James Di Cesare; William Fletcher; Thomas Goethals; Joshua P. Groban; Gary Humphreys; Karen Humphreys; Leondra R. Kruger; Law Offices of William G. Bissell; Goodwin H. Liu; Consuelo B. Marshall; Kathleen E. O'Leary; Sidney Thomas; and, Atsushi Tashima.

Respondents,

CERTIFICATE OF SERVICE

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William Henshall
First Judicial District
P.O. Box 281676
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ccaspari@live.com

Pursuant to Supreme Court Rules, Rule 29, On September 17 and 18th, 2021, I, Virginia Wells, served a digital copy[1] of the Motion for the Appointment of Assistant Counsel, Motion to Proceed *In Forma Pauperis*, Motion for Leave to File Verified Emergency Petition for Writ(s) of Error and/or non-statutory *Habeas Corpus*, the Motion for Leave to File, Verified Emergency Petition for Writ(s) of Error and/or non-statutory *Habeas Corpus,* and Proof of Service along with a digital copy of the Appendix and Exhibits, in the above captioned action by email[2] and/or USPS Certified or First Class mail[3] or both as indicated below, upon the following:

Solicitor General of the United States, Room 5616
Department of Justice
950 Pennsylvania Ave. N.W.
Washington, DC 20530-0001
Certified Mail: 7017 0660 0000 0984 5379

United States District Court for the Central District of California
411 West Fourth St., Rm 1053
Santa Ana, CA 92701-4516
Certified Mail: 7017 0660 0000 0984 5386

United States Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939
Certified Mail: 7017 0660 0000 0984 5393

Office of the California Attorney General
600 West Broadway, Suite 1800
San Diego, CA 92101-3702
619.738.9000
Certified Mail: 7017 0660 0000 0984 5362

---

[1] The digital copies consisted of a link to a dropbox file to view or download all of the documents and a link to the website, www.thespiritoflaw.com to view or download all of the documents.

[2] From the email account of abereki@gmail.com. Served on September 18, 2021.

[3] Only a letter consisting of Notice, a hyperlink to a dropbox file to view or download all of the documents and a hyperlink to the website, www.thespiritoflaw.com to view or download all of the documents was sent. A copy of the letter is annexed hereto on pp.7-8.

Office of the Governor of California
Governor Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814
Legal Affairs Unit: govlegalunit@gov.ca.gov
Certified Mail: 7017 0660 0000 0984 5409

Superior Court of California, County of Orange
700 W. Civic Center Dr.
Santa Ana, CA 92701
Certified Mail: 7017 0660 0000 0984 5416

Court of Appeal, Fourth Appellate District, Division 3
601 W. Santa Ana. Blvd.
Santa Ana, CA 92701
c/o alex.Reynoso@jud.ca.gov
Certified Mail: 7017 0660 0000 0984 5437

California State Legislature
P.O. Box 942849
Sacramento, CA 94249-0000
Cottie Petre-Norris c/o Claire Conlon:
claire.Conlon@asm.ca.gov
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DECLARATION OF VIRGINIA WELLS

I, Virginia Wells, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on September 17, 2021 in Orange County, California.

Virginia Wells

Adam Bereki
695 Town Center Dr. Ste. 700
Costa Mesa, California 92626
916.585.3016
adamabereki@gmail.com

NOTICE

This letter is to inform you that you (or your client) is a named party in a complaint that has been filed in the original jurisdiction of the United States Supreme Court. You can download the Motion for Leave to File, Petition for Emergency Writ(s) of Error and/or non-statutory *Habeas Corpus,* Appendix, Exhibits, Proof of Service, and other Motions by clicking on or typing this tiny url link in your web address bar: https://tinyurl.com/2pzpwz8t, or by clicking on the direct link below if you received this notice by email:
https://www.dropbox.com/sh/z52wxk7n2ypbf4f/AADJtrbCX7_ctHjb6yyDs6Fua?dl=0

You can also view, download, or print the above documents from:
http://www.thespiritoflaw.com

If you do not have internet access, please contact me by phone (above) and I will mail you a USB drive with the documents in digital form. Please note that I have filed a request to proceed *in forma pauperis* with the Court. Due to the exorbitant cost of reproducing thousands of pages of documents and the postage to mail them, I am unable to send you the aforementioned complaint and supporting documents in printed form.

You can view the rules for the United States Supreme Court online at:
https://www.supremecourt.gov/filingandrules/rules_guidance.aspx

I remain open and available to discuss this matter and/or settlement with you by telephone, video conference, or in person. Please do not hesitate to reach out.

Sincerely,

Adam Bereki

Note: the date of this letter is the date of the Proof of Service or date that this email was sent, whichever is earlier.

Gmail Adam Bereki <abereki@gmail.com>

NOTICE AND SERVICE

Adam <abereki@gmail.com> Fri, Sep 17, 2021 at 9:44 AM
To: "Reynoso, Alex" <alex.reynoso@jud.ca.gov>, "wbissell wgb-law.com" <wbissell@wgb-law.com>, govlegalunit@gov.ca.gov, "Conlon, Claire" <Claire.conlon@asm.ca.gov>, Antoinette Cincotta <Antoinette.Cincotta@doj.ca.gov>, Michael.Mongan@doj.ca.gov, hr@ca9.uscourts.gov, judgechaffee@adrservices.com

Good day,

To the parties in the attached Certificate of Service, you are hereby notified that you have been named in a suit in the original jurisdiction of the United States Supreme Court. Please refer to the Notice attached to the Certificate of Service (or copied below) for directions on how to download a copy of the documents.

To those who have received this email on behalf of those listed in the Certificate of Service, please forward this email and all attachments to them.

Sincerely,

/s/ Adam Bereki

Adam Bereki
695 Town Center Dr. Ste. 700
Costa Mesa, California 92626
916.585.3016
adamabereki@gmail.com

NOTICE

This letter is to inform you that you (or your client) is a named party in a complaint that has been filed in the original jurisdiction of the United States Supreme Court. You can

download the Motion for Leave to File, Petition for Emergency Writ(s) of Error and/or non-statutory *Habeas Corpus,* Appendix, Exhibits, Proof of Service, and other Motions by clicking on or typing this tiny url link in your web address bar: https://tinyurl.com/2pzpwz8t, or by clicking on the direct link below if you received this notice by email:
https://www.dropbox.com/sh/z52wxk7n2ypbf4f/AADJtrbCX7_ctHjb6yyDs6Fua?dl=0

You can also view, download, or print the above documents from:
http://www.thespiritoflaw.com

If you do not have internet access, please contact me by phone or email (above) and I will mail you a USB drive with the documents in digital form. Please note that I have filed a request to proceed *in forma pauperis* with the Court. Due to the exorbitant cost of reproducing thousands of pages of documents and the postage to mail them, I am unable to send you the aforementioned complaint and supporting documents in printed form.

You can view the rules for the United States Supreme Court online at:
https://www.supremecourt.gov/filingandrules/rules_guidance.aspx

I remain open and available to discuss this matter and/or settlement with you by telephone, video conference, or in person. Please do not hesitate to reach out.

Sincerely,

/s/ Adam Bereki

Note: the date of this letter is the date of the Proof of Service or date that this email was sent, whichever is earlier.

2 attachments

EMERGENCY PETITION FOR WRIT(S) OF ERROR AND NON-STATUTORY HABEAS CORPUS.pdf
2041K

CERTIFICATE OF SERVICE REDACTED.pdf
3158K

UNITED STATES POSTAL SERVICE.

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3101 W SUNFLOWER AVE
SANTA ANA, CA 92799-0100
(800)275-8777

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Product	Qty	Unit Price	Price
First-Class Mail® Letter San Diego, CA 92101 Weight: 0 lb 0.40 oz Estimated Delivery Date Mon 09/20/2021	1		$0.58
Certified Mail® Tracking #: 70170660000009845362			$3.75
Affixed Postage Affixed Amount: $0.58			-$0.58
Total			$3.75
First-Class Mail® Letter Sacramento, CA 94249 Weight: 0 lb 0.40 oz Estimated Delivery Date Mon 09/20/2021	1		$0.58
Certified Mail® Tracking #: 70161370000063641731			$3.75
Affixed Postage Affixed Amount: $0.58			-$0.58
Total			$3.75
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Total			$3.75
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Affixed Postage Affixed Amount: $0.58			-$0.58
Total			$3.75
Grand Total:			$30.00
Credit Card Remitted Card Name: VISA Account #: XXXXXXXXXXXX8829 Approval #: 05471D Transaction #: 732 AID: A0000000031010 Chip AL: VISA CREDIT PIN: Not Required CHASE VISA			$30.00

****

7017 0660 0000 0984 5409

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Certified Mail Fee	$3.75
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.58
Total Postage and Fees	$4.33

0115 24

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09/16/2021

Sent To: OFFICE OF GOVERNOR
Street and Apt. No., or PO Box No.: 1303 10TH ST STE 1173
City, State, ZIP+4: SACRAMENTO, CA 95814

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Santa Ana, CA 92701

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Certified Mail Fee	$3.75
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.58
Total Postage and Fees	$4.33

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09/16/2021

Sent To: SUPERIOR COURT OF CA COUNTY OF ORG.
Street and Apt. No., or PO Box No.: 700 W. CIVIC CTR. DR
City, State, ZIP+4: SANTA ANA, CA 92701

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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San Francisco, CA 94119

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Certified Mail Fee	$3.75
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.58
Total Postage and Fees	$4.33

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09/16/2021

Sent To: NINTH CIRCUIT COURT OF APPEALS
Street and Apt. No., or PO Box No.: PO BOX 193939
City, State, ZIP+4: SAN FRANCISCO, CA 94119-3939

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7017 0660 0000 0984 5362

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Washington, DC 20530

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Certified Mail Fee	$3.75
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.58
Total Postage and Fees	$4.33

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09/16/2021

Sent To: SOLICITOR GENERAL OF US
Street and Apt. No., or PO Box No.: 950 PENN. AVE RM 5616
City, State, ZIP+4: WASH. DC 20530-0001

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7017 0660 0000 0984 5386

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Santa Ana, CA 92701

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Certified Mail Fee	$3.75
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.58
Total Postage and Fees	$4.33

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09/16/2021

Sent To: US DISTRICT CT. CENTRAL DIST
Street and Apt. No., or PO Box No.: 411 W. 4TH ST RM 1053
City, State, ZIP+4: SANTA ANA, CA 92701

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7017 0660 0001 1525 5437

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OFFICIAL USE

Certified Mail Fee	$3.75
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.58
Total Postage and Fees	$4.33

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SANTA ANA P&DC USPS CA 92799 SEP 16 2021 Postmark Here

09/16/2021

Sent To: COURT OF APPEAL 4TH DIST.
Street and Apt. No., or PO Box No.: 601 W. SANTA ANA BLVD
City, State, ZIP+4: SANTA ANA, CA 92701

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 1370 0000 6364 1731

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Sacramento, CA 94249

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Certified Mail Fee	$3.75
$	$0.00
Extra Services & Fees *(check box, add fee as appropriate)*	
☐ Return Receipt (hardcopy)	$ $0.00
☐ Return Receipt (electronic)	$ $0.00
☐ Certified Mail Restricted Delivery	$ $0.00
☐ Adult Signature Required	$ $0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.58
$	
Total Postage and Fees	$4.33
$	

0115
24

USPS CA 92799 SEP 16 2021 SANTA ANA P&DC

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09/16/2021

Sent To: CALIFORNIA STATE LEGISLATURE
Street and Apt. No., or PO Box No.: PO BOX 942849
City, State, ZIP+4®: SACRAMENTO, CA 94249-000

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7017 0660 0000 0984 5379

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San Diego, CA 92101

OFFICIAL USE

Certified Mail Fee	$3.75
$	$0.00
Extra Services & Fees *(check box, add fee as appropriate)*	
☐ Return Receipt (hardcopy)	$
☐ Return Receipt (electronic)	$ $0.00
☐ Certified Mail Restricted Delivery	$ $0.00
☐ Adult Signature Required	$ $0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.58
$	
Total Postage and Fees	$4.33
$	

0115
24

SANTA ANA P&DC SEP 16 2021 USPS CA 92799

Postmark Here

09/16/2021

Sent To: ATTORNEY GENERAL OF CA
Street and Apt. No., or PO Box No.: 600 W. BROADWAY STE 1800
City, State, ZIP+4®: SAN DIEGO, CA 92101-3702

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Remove ×

Tracking Number: 70170660000009845409

Your item was picked up at a postal facility at 5:55 am on September 21, 2021 in SACRAMENTO, CA 95813.

Delivered, Individual Picked Up at Postal Facility

September 21, 2021 at 5:55 am
SACRAMENTO, CA 95813

Get Updates ∨

Text & Email Updates ∨

Tracking History ∨

Product Information ∨

See Less ∧

Tracking Number: 70170660000009845393 Remove ×

Your item was picked up at a postal facility at 11:42 am on September 20, 2021 in SAN FRANCISCO, CA 94105.

Delivered, Individual Picked Up at Postal Facility

September 20, 2021 at 11:42 am
SAN FRANCISCO, CA 94105

Get Updates ⌄

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Tracking Number: 70170660000009845386 Remove ×

Your item was picked up at a postal facility at 7:31 am on September 20, 2021 in SANTA ANA, CA 92702.

Delivered, Individual Picked Up at Postal Facility

September 20, 2021 at 7:31 am
SANTA ANA, CA 92702

Get Updates ⌄

See More ⌄

Remove ×

Tracking Number: 70170660000009845416

Your item was picked up at a postal facility at 7:50 am on September 20, 2021 in SANTA ANA, CA 92702.

Delivered, Individual Picked Up at Postal Facility

September 20, 2021 at 7:50 am
SANTA ANA, CA 92702

Get Updates

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Tracking Number: 70170660000009845362 Remove ×

Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.

In Transit, Arriving Late

September 26, 2021

Get Updates

Text & Email Updates

Tracking History

September 26, 2021
In Transit, Arriving Late
Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.

September 22, 2021, 1:30 am
Departed USPS Regional Facility

SAN DIEGO CA DISTRIBUTION CENTER

September 17, 2021, 12:41 pm
Arrived at USPS Regional Facility
SAN DIEGO CA DISTRIBUTION CENTER

September 16, 2021, 9:27 pm
Arrived at USPS Regional Origin Facility
SANTA ANA CA DISTRIBUTION CENTER

September 16, 2021, 10:06 am
USPS in possession of item
SANTA ANA, CA 92799

Feedback

Product Information

See Less

Tracking Number: 70170660000115255437

Remove ×

Your item was delivered to an individual at the address at 10:42 am on September 17, 2021 in SANTA ANA, CA 92701.

Delivered, Left with Individual

September 17, 2021 at 10:42 am
SANTA ANA, CA 92701

Get Updates

See More

Tracking Number: 70161370000063641731 Remove ×

Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.

In Transit, Arriving Late

September 24, 2021

Get Updates ⌄

Text & Email Updates ⌄

Tracking History ⌃

September 24, 2021
In Transit, Arriving Late
Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.

September 21, 2021, 2:06 am
Departed USPS Regional Destination Facility
SACRAMENTO CA DISTRIBUTION CENTER

September 20, 2021, 4:58 am
Arrived at USPS Regional Destination Facility
SACRAMENTO CA DISTRIBUTION CENTER

September 18, 2021, 12:37 am
Departed USPS Regional Origin Facility
SANTA ANA CA DISTRIBUTION CENTER

September 16, 2021, 9:25 pm
Arrived at USPS Regional Origin Facility
SANTA ANA CA DISTRIBUTION CENTER

September 16, 2021, 10:06 am
USPS in possession of item

SANTA ANA, CA 92799

Product Information

See Less

Tracking Number: 70170660000009845379 Remove X

Your item was delivered at 4:54 am on September 27, 2021 in WASHINGTON, DC 20530.

Delivered

September 27, 2021 at 4:54 am
WASHINGTON, DC 20530

Get Updates

Text & Email Updates

Tracking History

September 27, 2021, 4:54 am
Delivered
WASHINGTON, DC 20530
Your item was delivered at 4:54 am on September 27, 2021 in WASHINGTON, DC 20530.

September 25, 2021, 10:53 am
Available for Pickup
WASHINGTON, DC 20530

September 25, 2021, 7:36 am
Arrived at Post Office
WASHINGTON, DC 20018

September 22, 2021
In Transit to Next Facility

September 18, 2021, 12:37 am
Departed USPS Regional Origin Facility
SANTA ANA CA DISTRIBUTION CENTER

September 16, 2021, 9:27 pm
Arrived at USPS Regional Origin Facility
SANTA ANA CA DISTRIBUTION CENTER

September 16, 2021, 10:10 am
USPS in possession of item
SANTA ANA, CA 92799

Product Information

See Less

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs