

The state of Minnesota

Freeborn [county]

*In the state of Minnesota district court*

*[Sitting for the territory of Freeborn county]*

Melissa Lynn Hanson,

Plaintiff,

v.

**State of Minnesota (Corporate  
Capacity)**

Actors in Agency of State of  
Minnesota and each in their  
personal capacity:

**Tim Walz,**

**Kelly Dawn Martinez**

**Carla Cincotta,**

And

**Michael DeMars,**

**Matthew Finkenbiner**

And

**Special Agent Rezny,**

**Special Agent Biagni**

And

**Steven Schwab**

**Ross Leuning**

Defendants.

**SUMMONS**

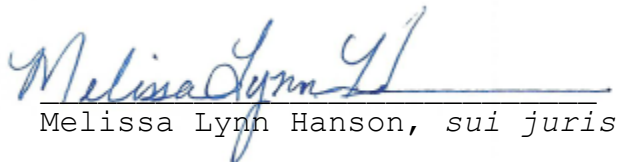
**THIS SUMMONS DIRECTED TO:**

<b>State of Minnesota (Corporate Capacity)</b>  C/O Office of Attorney General 445 Minnesota Street, Suite 1400 St. Paul, MN 55101	<b>Steven Schwab</b> Freeborn County Government Center 411 South Broadway Albert Lea, MN 56007
<b>Tim Walz</b> Office of Governor 130 State Capitol 75 Rev Dr. Martin Luther King Jr. Blvd. St. Paul, MN 55155	<b>Ross Leuning</b> Freeborn County Government Center 411 South Broadway Albert Lea, MN 56007
<b>Kelly Dawn Martinez</b> City Attorney 221 E. Clark Street Albert Lea, Mn 56007	<b>Special Agent Rezny</b> 445 Minnesota Street (Skyway level) St. Paul, MN 55101-2156
<b>Carla Cincotta</b> Minnesota Department of Public Safety 445 Minnesota Street Saint Paul MN 55101	<b>Special Agent Biagni</b> 445 Minnesota Street (Skyway level) St. Paul, MN 55101-2156
<b>Michael DeMars</b> <b>Inspector 8044</b> Freeborn County MDH Rochester District Office 18 Wood Lake Drive S.E. Rochester, MN 55904	
<b>Matthew Finkenbiner</b> <b>Inspector 8040</b> Freeborn County MDH Rochester District Office 18 Wood Lake Drive S.E. Rochester, MN 55904	

- 1. AN ACTION AT LAW HAS BEEN FILED AGAINST YOU.** The Plaintiff has commenced an action at law against you for money damages. The Declaration of Actions at Law [Complaint] is attached to this SUMMONS. **DO NOT THROW THESE PAPERS AWAY.** They are official documents that affect your legal rights. You must respond to the Declaration of Actions at Law [Complaint] even though it may not yet be filed with the Court and there may be no court file on this SUMMONS.
- 2. YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed the summons a written response called an Answer within 21 days of the date on which you received the SUMMONS. You must send a copy of your Answer to the Plaintiff at: **82299 200<sup>th</sup> Street, Hayward, Minnesota, 56043.**
- 3. YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Declaration of Actions at Law [Complaint]. If you believe that the Plaintiff should not be given everything asked for in the Declaration of Actions at Law [Complaint], you must state so in your answer.

- 4. YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Declaration of Actions at Law [Complaint]. If you do not want to contest the claims stated in the Declaration of Actions at Law [Complaint], you do not need to respond. A default judgment can then be entered against you for the relief requested in the Declaration of Actions at Law [Complaint].
- 5. LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

Dated on this 15<sup>th</sup> day of February, 2021:

  
Melissa Lynn Hanson, *sui juris*

*In the state of Minnesota district court*  
*[Sitting for the territory of Freeborn county]*

Melissa Lynn Hanson,

Plaintiff,

v.

**State of Minnesota (Corporate  
Capacity)**

Actors in Agency of State of  
Minnesota and each in their  
personal capacity:

**Tim Walz,**

**Kelly Dawn Martinez**

**Carla Cincotta,**

And

**Michael DeMars,**

**Matthew Finkenbiner**

And

**Special Agent Rezny,**

**Special Agent Biagni**

And

**Steven Schwab**

**Ross Leuning**

Defendants.

Civil Case No. \_\_\_\_\_

**RE: 24-CR-21-137**

**Declaration of Actions at Law**

**Trespass on the Case**

**(Verified)**

INDUCEMENT

I, Melissa Lynn Hanson, *sui juris*, a woman and one of the People, captioned as Plaintiff, and in this court of record bring my claims in an action at common law to proceed according to the course of the common law and the law decreed for the case for judgment of liability to the demand of money damages made herein against State of Minnesota – in its Corporate capacity, Tim Walz, Kelly Dawn Martinez, Carla Cincotta, Michael DeMars, Matthew Finkenbiner, Special Agent Rezny, Special Agent Biagni, Steven Schwab, and Ross Leuning – each in their full capacity as a man or woman and captioned as the named Defendants (individually “Defendant”, collectively “Defendants”), for my claims in respect of criminal charges docketed as **Case No. 24-CR-21-137**:

- that named Defendants – acting in agency of State of Minnesota acted individually and in concert with Tim Walz to intentionally cause me and my business harm;
- that said persons acted under color of law and under color of authority upon FRAUD IN LAW, FRAUD BY OMISSION, and FRAUD IN FACT to charge me with a statutory crime as a “person” whose rights, duties, and remedies are at the will of the legislature;
- that I was not personally served with the summons and complaint giving prior notice of a hearing for purpose of arraignment;

- that notwithstanding is the *ad hoc* "law" purported by executive order EO20-99 issued in FRAUD BY OMISSION and by FRAUD IN LAW under color of law and color of authority operating as *ex post facto* under guise of having the full force and effect of law as one duly enacted by the legislature and upon which all tortuous acts derived; and
- that Defendant Martinez put me and my family in harm's way by directing the initiation of an EMERGENCY SIGNAL upon a fictitious emergency.

#### GENERAL DECLARATIONS

##### ***Law Decreed for the Case***

1. The Law Decreed for the Case not included within the body of this Declaration is fully incorporated here by reference and attached as **EXHIBIT 1**.

##### ***The Plaintiff***

2. My christened name is Melissa Lynn.
3. My family name is Hanson.
4. I am a woman and one of the People to whom agents of the state and local governments are under duty upon the Constitutional Oath of Office to secure and protect my unalienable rights as guaranteed under the Constitution for the United States of America (1789-1791) and the Minnesota Constitution and under the common law of the land.
5. I live on the soil and land within the exterior boundaries of Minnesota, one of the several States of the Union party to the Constitution for the United States of America as signed on September 17, 1787 and adopted in 1791.
6. I have 100% legal interest in my private business known as MLH Enterprises L.L.C. d/b/a The Interchange ("Business").

***The Defendants***

7. This action at law is against the named Defendants each in their personal capacity excepting against State of Minnesota in a corporate capacity.
8. State of Minnesota is the principle through which Defendants are its agents.
9. The individual acts with respect to each named Defendant and their contribution have been established by the records supporting the criminal case and the referenced documents therein and are matter of record.
10. Tim Walz issued Executive Order EO 20-99 under Office of the Governor upon which acts of all other named Defendants acted in his agency.
11. Kelly Dawn Martinez appeared as the prosecuting attorney for the City of Albert Lea to prosecute charges of statutory crimes against me.
12. Matthew Finkenbiner [as Inspector #8040] obtained information after entry into my place of business for the purpose of initiating and supporting criminal charges against me.
13. Michael DeMars [as Inspector #8044] obtained information after entry into my place of business for the purpose of initiating and supporting criminal charges against me.
14. Special Agents Biagini and Rezny conducted an executive order compliance check within my business premise for purposes of bringing the criminal charges against me.
15. Defendant Cincotta conducted executive order compliance by gathering social media information for purpose of prosecution.
16. Steven Schwab exercised functions of the tribunal without findings of fact to establish *in personam* and subject-matter jurisdiction upon prior direct and written objection to the proceedings and jurisdictional challenge thereto and on the record.
17. Ross Leuning exercised functions of the district court without findings of fact to establish *in personam* and subject-matter jurisdiction upon direct and written objection to the proceedings and jurisdictional challenge thereto and on the record.



***Cease and Desist***

18. I sent a Cease and Desist Letter establishing the violation of my rights protected by the Constitution and establishing the financial consequences for redress of continued acts of constitutional tort.
19. I sent the Cease and Desist to Defendant Keith Ellison by tracked U.S. Priority Mail on December 26, 2020 and received on December 28, 2020.
20. I sent the Cease and Desist to Defendant Justin Moor by tracked U.S. Priority Mail on December 26, 2020 and received on December 28, 2020.
21. I sent the Cease and Desist to Defendant Michael DeMars by tracked U.S. Priority Mail on December 26, 2020 and received on December 28, 2020.
22. I sent a Cease and Desist to Defendant Carla Cincotta by tracked U.S. Priority Mail on December 26, 2020 and received on December 28, 2020.
23. I sent a Cease and Desist to Defendant Matthew Finkenbiner by tracked U.S. Priority Mail on December 26, 2020 and received on January 2, 2021.

***2<sup>nd</sup> Cease and Desist Letter***

24. I sent the 2<sup>nd</sup> Cease and Desist Letter establishing contrary information to the that which the Governor propounded on the People as the purported cause for the social dictates under Executive Order and establishing once again the financial consequences for redress of continued acts of constitutional tort.
25. I sent the 2<sup>nd</sup> Cease and Desist to Defendant Justin Moor by tracked U.S. Priority Mail on January 4, 2021 and received on January 6, 2021.
26. I sent the 2<sup>nd</sup> Cease and Desist to Defendant Daniel Huff by tracked U.S. Priority Mail on January 4, 2021 and received on January 6, 2021.
27. I sent the 2<sup>nd</sup> Cease and Desist to Defendant Keith Ellison by tracked U.S. Priority Mail on January 4, 2021 and received on January 6, 2021.

***Affidavit/Declaration of Truth***

- 28. I created my Affidavit/Declaration of Truth declaring the harm caused by the tortuous acts of certain named persons acting in agency of the government.
- 29. I sent Affidavit/Declaration of Truth to Defendant Keith Ellison by tracked U.S. Priority Mail – received on January 27, 2021.
- 30. I sent Affidavit/Declaration of Truth to Defendant Daniel Huff by tracked U.S. Priority Mail – received on January 26, 2021.
- 31. I sent Affidavit/Declaration of Truth to Defendant Justin Moor by tracked U.S. Priority Mail – received on January 25, 2021.

***Jurisdiction and Venue***

- 32. This court is a court of record of general jurisdiction.
- 33. This court has jurisdiction under the Minnesota Constitution for the enforcement of and vindication for trespass of the People's rights under the common law of the land.
- 34. This court has concurrent jurisdiction with federal courts established and ordained with judicial power of the United States under Article III of the Constitution for the United States of America.
- 35. An action of trespass on the case has cognizance under common law.
- 36. This action at law is cognizable for remedy under 42 §§ U.S.C 1983, 1985, 1986.
- 37. The acts declared against each Defendant, individually and in concert occurred on land territory within the exterior boundaries of Freeborn county, a territorial land and political subdivision of Minnesota, one of the several States of the Union.

### ***Allegations***

38. The People living on the soil and land within the exterior boundaries of the Minnesota territory are under jurisdiction of the common law as known to the People at the time of the Declaration of Independence, Articles of Confederation, the Constitution for the United States of America (1789-1791), and the Northwest Ordinance.
39. The Northwest Ordinance guaranteed: "The inhabitants of said territory **shall always be entitled** to the benefits of the writ of habeas corpus, and trial by jury; . . . . **and of judicial proceedings, according to the course of the common law.** No man shall be deprived of his liberty or property, but by judgment of his peers or the [common] law of the land<sup>1</sup>. 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 or affect private contracts or engagements,** bona fide, and without fraud previously formed." An Ordinance for the Government of the Territory of the United States.
40. The Minnesota Constitution did not expressly repeal any part of the provision of the Northwest Ordinance with respect to the guarantee set forth in paragraph 39 as law of the land.
41. MLH Enterprises L.L.C. is my property from which I earn a living.
42. The building where business of The Interchange operates is on the soil and land within the exterior boundaries of the state of Minnesota.
43. Judicial remedy in these several States of the Union limit exercise of judicial power to cases or controversies at law, in equity, or admiralty.
44. This is a case at Law as I have standing with claims of particularized injury or wrongdoing suffered in fact from certain trespasses on the case and proceeding for redress in the demand for money damages against one or more named defendants.

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<sup>1</sup> "By 'law of the land' was intended a due course of proceeding according to the established rules and practice of the courts of common law, . . ." Hurtado v. California, 110 US 516, 522 (1884)

45. I have not entered into any written contract having informed consent and with consideration with a corporate body politic to which I was a party whereby I would consent to compulsory performance beyond the requirements for operation under the enacted statutes and promulgated regulations for the conduct of activities under business licensure.
46. I have not entered into any written contract having informed consent and with consideration between my business and the state of Minnesota to which I was a party and whereby I would consent to compulsory operation of my business beyond the requirements for operation under the enacted statutes and promulgated regulations for the conduct of activities under business licensure.
47. I have not engaged in any activity subject to maritime jurisdiction or jurisdiction under international law.
48. I am not a legal person in the form of an individual whose rights, duties, and remedy are at the will of the legislature.
49. I affirmatively assert that in my full capacity as a woman and one of the People, I have no duty to the state of Minnesota beyond that duty that exists under Natural and common law.
50. I affirmatively assert that in my full capacity as a woman and one of the People, I have no duty to the state of Minnesota beyond that duty that exists under common law or the obligation of enacted statutory law and implementing regulations as duly promulgated in the operation of my Business.
51. I have no known duty or obligation to the entity State of Minnesota.
52. No man or woman has claimed an injury against me having proximate causation to the conduct of my Business.
53. I am not a member of the executive branch of the government for and by the People of Minnesota.

**LEGAL DEFINITIONS**

**FRAUD**, in the sense of a court of equity, properly includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another.

**FRAUD IN FACT.** Actual, positive, intentional fraud. Fraud disclosed by matters of fact, as distinguished from constructive fraud or fraud in law.

**FRAUD IN LAW.** Fraud in contemplation of law; fraud implied or inferred by law; fraud made out by construction of law, as distinguished from fraud found by a jury from matter of fact.

**FRAUD BY OMISSION.** the suppression or omission of a material fact which a party is bound in good faith to disclose is equivalent to a false representation, since it constitutes an indirect representation that such fact does not exist.

**DECLARATION OF FRAUD**

I. All public executive officers connected with this case have failed to execute oaths of office in conformance with the requirements of Article VI, ¶ 3 of the Constitution for the United States of America (1791) to perfect the power of office exercised for the invasion of my place of business to force compliance with an unlawful Executive Order on property within the exterior land territorial boundaries of Minnesota, one of the several States of the Union and every *ultra vires* act therefrom to financially and emotionally destroy me and my Business.

54. Paragraphs 1 through 53 fully restated herein by reference.

55. Article VI, ¶ 3 of the Constitution for the United States of America (1789) states: "The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."
56. "[T]his Constitution" is "the Constitution for the United States of America" as adopted in 1791.
57. The United States of America is the style of the several States forming the Union as expressly established by the Articles of Confederation.
58. The People of the several States of the Union established and ordained "this Constitution" by their representative's signatures on September 17, 1787 in order to form a perfect Union of The United States of America as established in the Articles of Confederation.
59. "Each officer created by this article before entering upon his duties shall take an oath or affirmation to support the **constitution of the United States** and of this state and to discharge faithfully the duties of his office to the best of his judgment and ability." Minnesota Constitution, Art. V, § 6
60. Said oath of office conforms to the requirements of 4 U.S.C. § 101: "Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: "I, A B, do solemnly swear that I will support the Constitution of the United States."
61. The term "State" as used in 4 U.S.C. § 101 is limited to that territory under the exclusive legislative jurisdiction of Congress to wit: 4 U.S.C. § 110(d) The term "State" includes any **Territory or possession** of the United States.

62. The United States of America in Congress assembled may exercise two constitutionally delegated species of legislative power – the one, limited as to its objects, but extending all over the Union<sup>2</sup>: the other, an absolute, exclusive legislative power over the District of Columbia and **territories and possessions** of the United States<sup>3</sup>. “Whether any particular law be designed to operate without the [**territories and possessions** of the United States] or not, depends on the words of that law [4 U.S.C. § 101]” *Cohens v. Virginia*, 19 U.S. 264, 429 (1821).
63. **Territory and possessions** of the United States are those geographic areas within the constitutional jurisdiction of federal government for the United States of America are under the exclusive legislative jurisdiction of Congress and **excludes** the geographic territory within the exterior boundaries of several States of the Union party to the Constitution for the United States of America (1789).
64. When Congress intends to legislate within the exterior boundaries of the several States, it plainly expresses its intent and differentiates application apart from “any territory and possession of the United States” to wit: 4 U.S.C. § 124 – “The term “taxing jurisdiction” means **any of the several States**, the District of Columbia, or **any territory or possession of the United States...**”; 18 U.S.C. § 2510(3) – “‘State’ means any **State of the United States**, the District of Columbia, the Commonwealth of Puerto Rico, and **any territory or possession of the United States**; 7 U.S.C. § 6002(25) “The term ‘State’ means **any of the several States**, the District of Columbia and the Commonwealth of Puerto Rico”; 15 U.S.C. § 3301(34) ‘The term ‘State’ means **each of the several States** and the District of Columbia.
65. Upon information and reasoned belief, every executive public officer connected with this case has executed the Oath of Office.
66. Upon information and reasoned belief, every executive public officer connected with this case swore or affirmed to support the “Constitution of the United States” and the “Constitution of the State of Minnesota”.

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<sup>2</sup> Article 1 § 8

<sup>3</sup> See Article 1, § 8, cl 17.

67. "New States may be admitted by the Congress into this Union; but **no new State shall be formed or erected within the Jurisdiction of any other State**; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress." Article IV, § 3 of the Constitution for the United States of America (1791).
68. Absent an allegation as to the capacity in which State of Minnesota exists or acts and considering the prohibition of establishing a state within the exterior boundaries of one of the several States of the Union, State of Minnesota is presumed to exist and act in a corporate form and exercising its functions in commerce without the presumption of sovereign immunity.
69. Upon said information and said reasoned belief by application of principles and precision of law, the Oath of Office executed by every public officer involved in this matter is a nullity within the exterior territorial land boundaries of Minnesota, one of the several States of the Union.
70. Each Defendant holding a constitutional office of Public Trust or an appointed or elected office of Public Trust for the People of state of Minnesota who has executed this Oath of Office set forth in **paragraph 66** may execute their respective delegated functions of public office only within the exterior boundaries of land territory under the exclusive legislative jurisdiction of the United States of America in Congress assembled or within exterior boundaries of land territory of the State of Minnesota – undefined by the Minnesota Constitution and therefore unknown to the People.
71. No Defendant alleged that my business property is within land territory subject to the exclusive legislative authority of the United States of America in Congress assembled to perform functions of public office.
72. No Defendant alleged that my business property was on land territory within the exterior boundaries of the State of Minnesota.
- II. Defendant Walz issued EO 20-99 by FRAUD OF LAW and FRAUD OF OMISSION.**
73. Paragraphs 1 through 72 restated by reference.



74. The gravamen of the multiple commissions of **FRAUD ON THE COURT** founds upon the assumed<sup>4</sup> validity of the Executive Order 20-99.
75. All actions against me and the operation of my Business derive from the violation of the assumed validity of EO20-99 and the exercise of purported power therefrom.
76. "No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land<sup>5</sup> or the judgment of his peers". Minnesota Constitution, Art. I, § 2.
77. EO20-99 deprived me of the right in the nature of contract to operate my Business in the regular manner to which I deemed necessary and proper without due course of law proceeding in a court of common law or by judgment of my peers.
78. The Minnesota Constitution limits the unilateral power of the Governor to his capacity of commander-in-chief to command the military and naval forces to execute the laws, suppress insurrection and repel invasion. See Minnesota Constitution, Art., V, § 2.
79. The Minnesota Constitution delegates no power to the Governor to command the private affairs of the People or their business affairs by executive order.
80. The Minnesota Constitution delegates no power to the Governor to destroy the livelihood of the People in Minnesota under guise of public health and safety.
81. The Minnesota Constitution delegates no power to the Governor to trespass upon the People and their exercise of their natural and common law rights in the licensed conduct of their business.
82. The Minnesota Constitution prohibits the governor from faithfully executing any general law *ex post facto*.
83. Defendant Walz, in his official capacity as Governor, issued Emergency Executive Order 20-99 ("EO20-99").
84. EO20-99 asserts by FRAUD IN LAW that the Constitution vested the governor with the authority to dictate the private affairs of the People in the manner so specified in EO20-99

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<sup>4</sup> **ASSUME.** To accept something to be true without question or proof

<sup>5</sup> "By 'law of the land' was intended a due course of proceeding according to the established rules and practice of the courts of common law, . . ." *Hurtado v. California*, 110 US 516, 522 (1884).

85. EO20-99 conjunctively asserts by FRAUD IN LAW that the Constitution and applicable statutes vested the authority to wit: "by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:"
86. There is no enacted statute dictating the private affairs of the People in the manner so dictated by EO20-99.
87. EO20-99 cites as authority Minn. Stat. 2020, § 12.21 that provides the Governor with general direction and control of emergency management and may carry out provisions of Chapter 12.
88. EO20-99 specifically relies upon the authority of Minnesota Statutes 2020, section 12.21, subdivision 3(7) authorizing the Governor to cooperate with the president and the heads of armed forces, the Emergency Management Agency of the United States in "matters pertaining to the emergency management of the state and nation."
89. There is no statutory authority cited for the Governor to unilaterally dictate the conduct of "persons" in this state in any manner independent of said request for said **cooperation** as provisioned by Minn. Stat § 12.21, subd. 3(7).
90. Said **cooperation** includes "the direction or control of . . . the conduct of "persons" in the state, including entrance or exit from any stricken or threatened public place, occupancy of facilities, and . . . public meetings or gatherings."
91. Defendant Walz published no official request from the president or any head of the armed forces or the Emergency Management Agency of the United States for his **cooperation** to direct or control the conduct of the persons in this state in the manner so specified in EO20-99.
92. Absent official notice of the official request for **cooperation** requiring the direction and control of the conduct of the "persons" in this state in a manner so dictated by EO20-99, the power assumed is *ultra vires*<sup>6</sup> of the power delegated to the occupant seated in the office of the governor.
93. Defendant Walz stated nowhere in the EO20-99 that his dictate for the conduct specified therein is in **cooperation** with an official request from the president or any head of the armed forces or the Emergency Management Agency of the United States to perfect the authority granted by provisions of Chapter 12.

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<sup>6</sup> **Ultra vires** (Latin: "beyond the powers")

94. No claim was asserted by any Defendant of such official request from the president or any head of the armed forces or the Emergency Management Agency of the United States for his **cooperation** to direct or control the conduct of the "**persons**" in this state in the manner so specified in E020-99.
95. The "**persons**" in this state over whom the Governor may direct and control must be construed as limited to those under the executive authority of the Governor as creatures of the state authority.
96. "The rule that penal laws are to be **construed strictly** is perhaps not much less old than construction itself. It is founded on the tenderness of the law for the rights of individuals." *United States v. Wiltberger*, 18 US 35, 43 (1820).
97. The term "**person**" includes an individual<sup>7</sup>, firm, corporation, association, limited liability company, partnership, limited liability partnership, and other business organizations. Minn. Stat. 12.03,7a.
98. Under the common law maxim of statutory construction/interpretation *noscitur a sociis* , the meaning of word individual in the definition of "person" is known by the nature of the words or class of words that surround it in the definition and thus must be considered the singular form of a legal entity whose rights, duties, and remedies are subject to the will of the legislature.
99. The definition of the word "person" enumerates the word "individual" with a list of legal fictions and is complete.
100. The word "individual" has no statutory definition.
101. Under the common law maxims of *ejusdem generis*<sup>8</sup> and *expressio unius est exclusio alterius*<sup>9</sup>, and the Rule of Lenity<sup>10</sup>, the term "person" as defined does not include a man or woman whose rights come from the Creator and in whom sovereignty is vested over the government instituted by them to protect and secure those rights under natural and common law.

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<sup>7</sup> Individual. "As a noun, this term denotes a single person as distinguished from a group or class, and also, very commonly, a private or natural person as distinguished from a partnership, corporation, or association; but it is said that **this restrictive signification is not necessarily inherent in the word, and that it may, in proper cases, include artificial persons.** State v. Bell Telephone Co., 36 Ohio St. 310, 38 Am.Rep. 583." Black's Law Dictionary 4<sup>th</sup> Ed., pg. 913.

<sup>8</sup> *Ejusdem generis*. Latin. "Of the same kind".

<sup>9</sup> *Expressio unius est exclusio alterius*. ("the express mention of

102. The Defendants failed to establish any allegation of fact that I, as a woman with unalienable rights endowed to me by my Creator, have formed a legal entity in the form of an individual whose rights, duties, and remedy are subject to the will of the legislature.
103. The People have not delegated to their government the power to directly control them without their consent.
104. Defendants connected with this case commissioned **FRAUD BY OMISSION** of the material fact of the existence of an official request for **cooperation** of Defendant Walz to direct the conduct of persons in this state in the manner so specified by EO20-99.
105. Defendants commissioned **FRAUD IN LAW** for enforcement of the conduct specified in EO20-99.
106. All People in this state against whom agents have acted in the enforcement of conduct specified under EO20-99 were and are currently deprived of their unalienable rights protected and guaranteed under the 5<sup>th</sup> Amendment to the Constitution for the United States of America (1789-1791) and the Minnesota Constitution.
107. The legislature's declaration, as echoed by the Defendants, that an executive order has the full force and effect of general law against the People as one affecting the relationships that existed before the executive order is law *ex post facto*<sup>11</sup>.
108. The legislature's declaration that an Executive Order dictating the conduct of the People in this state is void *ab initio* in the nature of *ex post facto* law as one prohibited by the Minnesota Constitution.

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one thing excludes all others" or "the expression of one is the exclusion of others").

<sup>10</sup> **The rule of lenity**, also called the rule of strict construction, is a principle of criminal statutory interpretation that requires a court to apply any unclear or ambiguous law in the manner that is most favorable to the defendant. The rule has a long history in the law and has been an important element of the relationship between the courts and the legislature.

<sup>11</sup> An **ex post facto law** (corrupted from Latin: *ex postfacto*, lit. 'out of the aftermath') is a law that retroactively changes the legal consequences (or status) of actions that were committed, or relationships that existed, before the enactment of the law.

**III. Defendant DeMars and Defendant Finkenbiner entered the premise of my business for enforcement under color of law and under color of authority on FRAUD BY OMISSION and FRAUD IN LAW to obtain information for the prosecution of the criminal charges.**

109. Paragraphs 1 through 108 fully restated here by reference.

110. Minn. Stat. § 144.99, subd. 2 provides that an authorized agent may enter upon any property, public or private, for the purpose of **taking any action authorized under statutes, rules, or other actions listed in subdivision 1** including obtaining information from a person who has a duty to provide information under the statutes listed in subdivision 1, taking steps to remedy violations, or conducting surveys or investigations.

111. Minn. Stat. § 144.99, Subdivision 1 limits said agent's entry onto any property for the purposes of all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department.

112. There was no public notice duly promulgated by the Department for rules or orders incorporating the dictates specified by EO20-99 giving right of entry for purpose of enforcing EO20-99; otherwise an act of official trespass without a judicial warrant.

113. There was no law **now in force** or later **enacted** for the preservation of public health specifying conduct dictated by EO20-99 giving right of entry for purpose of enforcing EO20-99; otherwise an act of official trespass without a judicial warrant.

114. EO20-99 is not a statute enacted by the legislature.

115. EO20-99 is derived from an enacted statute only perfected by the factual elements to establish the authority delegated.

116. Absent disclosure of the required fact elements to establish the authority delegated, the power delegated by statute is inchoate and entry upon my Business property was necessarily an act of official trespass without a judicial warrant.

117. Defendant DeMars of the MDH Food, Pools, and Lodging Services ("MDH") entered the premises on December 16, 2020 without a judicial warrant and purportedly under authority of Minn. Stat. § 144.99, subd. 2.
118. Defendant DeMars of MDH found the operation of my Business was in purported violation of EO20-99.
119. Defendant Finkenbiner of the MDH Food, Pools, and Lodging Services ("MDH") entered the premises on December 19, 2020 without a judicial warrant and purportedly under authority of Minn. Stat. § 144.99, subd. 2.
120. Defendant Finkenbiner of MDH found the operation of my Business was in purported violation of EO20-99.
121. Defendants of MDH commissioned **FRAUD BY OMISSION** by failure to assert the predicate official request for the **cooperation** of Tim Walz to direct the conduct of persons in this state in the manner so specified by EO20-99.
122. Defendants of MDH engaged in an official act of trespass.
- IV. Defendant Martinez commissioned Fraud on the Court under office of the attorney for the City of Albert Lea for State of Minnesota as the real party in interest.**
123. Paragraphs 1 through 122 fully restated here by reference.
124. In this instant case, Defendant Martinez brought criminal charges against me in the case under Case No. 24-CR-21-137 on behalf of the State of Minnesota.
125. The Minnesota Constitution, Article II, Section 1 sets forth that "[t]his state shall be called "the **s**tate of Minnesota" and further sets forth the territorial land boundaries thereof for its jurisdiction.
126. The land territory for State of Minnesota is not known to the People by their Constitution and its boundaries over which its jurisdiction extends were not alleged.
127. The nature and authority of the entity "State of Minnesota" is not known to the People by their Constitution.

128. Defendant Martinez did not allege the capacity in which the entity State of Minnesota has standing against me as one of the People.

129. Defendant Martinez conducted this prosecution absent testimony of fact to establish probable cause I, Melissa Lynn Hanson, was under mask of legal fiction to be a "person" over whom EO 20-99 applied.

V. Defendant Martinez commissioned Fraud on the Court for purporting authority to prosecute criminal charges for the enforcement of EO20-99 against me as having the full force and effect of law.

130. Paragraphs 1 through 129 restated here by reference.

131. Defendant Martinez charged crimes against me as a "person" under Minn. Stat. § 12.45 for operation of my Business in the enforcement of EO20-99 - an executive order in the nature of ex post facto and not an enacted law of Minnesota.

132. While EO20-99 purports to have the force and effect of law derived from authority set forth under Minnesota Statutes 2020, section 12.21, subdivision 3(7), it is inchoate absent the official request for **cooperation** in the direction or control of "**persons**" within this state in the manner so dictated by EO20-99.

133. The legislature's declaration that an Executive Order dictating the conduct of the People in this state is void *ab initio* in the nature of ex post facto prohibited by the Minnesota Constitution.

134. Without specific alternative statutory authority and absent the production of the Official request for the Defendant Walz's **cooperation** in the manner so dictated by EO 20-99, Defendant Martinez's prosecution against me for operation of my Business are wholly without legislative authority and wholly without authority under common law and violate express protections under the Minnesota Constitution against said conduct.

135. Defendant Martinez commissioned Fraud on the Court **FRAUD IN LAW, BY FRAUD OF OMISSION, and BY FRAUD IN FACT** for her authority as the attorney for the City of Albert Lea to conduct this criminal prosecution on behalf of State of Minnesota.

### ***Duty***

136. Each Defendant has a presumed duty to know guarantees provisioned under the state and federal constitutions in exercise of any sovereign power delegated by the People.
137. Each Defendant has a presumed duty to know the law and the limits of the exercise of authority under terms of the law.
138. Each Defendant has a duty to not bear false witness against his fellow mankind.
139. Each Defendant has a common law duty to not commit trespass against the unalienable rights of his fellow mankind.
140. Each Defendant elected or appointed to public office breached his/her duty under oath of office and duty under common law to one of his/her fellow mankind.
141. Each Defendant as an officer or employee of exercising some function of public office breached his/her duty under common law to one of his/her fellow mankind.

### **DECLARATION OF CLAIMS**

- I. **First Cause of Action: Trespass on the Case (Trespass ab initio) against Defendant Leuning for exercising the power of the district court over me without my prior notice of the arraignment, without prior personal service of a summons and complaint, denying to me my assistance of counsel to enter a plea of not guilty without my voluntary, knowing, and intelligent consideration and consent on assistance of my counsel to the continuation of the proceedings absent in personam jurisdiction of the court.**
142. Paragraphs 1 through 141 restated here by reference.
143. The cause of action is cognizable under common law for a judge whose tortuous acts are in absence of jurisdiction by fact on the record.
144. The cause of action is cognizable under federal law codified at 42 U.S.C. §§ 1983 for a judge whose tortuous acts are in absence of jurisdiction by fact on the record.
145. I was in the court for another matter on January 28, 2021.
146. After conclusion of that matter, I was held over into an arraignment hearing for criminal **Case No. 24-CR-21-137.**



147. I stated on the record that I had no prior notice of the instant arraignment hearing.
148. I stated on the record that I did not receive prior service of the summons and complaint.
149. There was no certificate of service of the summons and complaint made on or before the date set for appearance.
150. Defendant Leuning failed his duty to dismiss the case for fatal defect in service of legal process.
151. Defendant Leuning continued the proceedings absent *in personam* jurisdiction.
152. Defendant Martinez stated that she mailed the summons and complaint on Monday [January 25, 2021].
153. Defendant Martinez then personally served me on the spot with a summons and complaint having no signatures whatever.
154. Defendant Leuning stated that I was arraigned but that I could have another hearing after I had a chance to review the charges.
155. The transcript of the proceeding shows Defendant Martinez's malicious and vindictive prosecution against me.
156. The transcript of the proceeding shows Defendant Martinez's malicious and vindictive prosecution to the point she moved for removal of Defendant Leuning for not granting the maximum amount of damage against me for which she argued in favor and with fervor.
157. The transcript of the proceeding shows Defendant Leuning's refusal to afford me assistance of counsel unless said counsel was a member of the American Bar Association.
158. The transcript of the proceeding shows Defendant Leuning's refusal to establish the jurisdiction over which the court would exercise judicial power as a court of record – whether it at law, in equity or in admiralty.
159. The record reflects that the court entered a plea of not guilty without having established *in personam* jurisdiction over me.
160. The record reflects the absence of all due process and jurisdiction in the deprivation of my liberty or property.

**DEMAND FOR REDRESS**

**WHEREFORE:** Because of the truthfulness of the foregoing cause of action and the facts in support thereof, I make **DEMAND** for MONEY DAMAGES against **DEFENDANT Leuning**, his full capacity as a man for the acts of wrongdoing as according to the following demands:

- A. **Compensatory Damages** in the amount of \$2,500,000.00 for infliction of mental anguish, loss of income from my Business, loss of enjoyment of life, and loss of my liberty.
- B. Considering that the trespass was intentional and a violation of constitutionally protected common law rights of the People and in **DEFENDANT Leuning** willful and contemptuous disregard of **DEFENDANT Leuning's** duty thereto under oath of office, **Special or Exemplary Damages** in the amount of **\$250,000.00** as the punitive value Congress has established with respect to any two or more persons who conspire to injure any person in any State in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States – They shall be fined as not to exceed \$250,000 under 18 U.S.C. § 241 and 18 U.S.C. § 3571(b).

**II. Second Cause of Action: Trespass on the Case (Trespass ab initio) against Defendant Schwab for exercising the power of the district court over objection, non-consent, and challenge to jurisdiction without establishing findings of fact from the record to conclude in personam and subject-matter jurisdiction as a matter of law and issuance of the order depriving me of my certain unalienable rights.**

- 161. Paragraphs 1 through 160 restated here by reference.
- 162. The cause of action is cognizable under common law for a judge whose tortuous acts are in absence of jurisdiction by fact on the record.
- 163. The cause of action is cognizable under federal law codified at 42 U.S.C. §§ 1983 for a judge whose tortuous acts are in absence of jurisdiction by fact on the record.
- 164. I filed my Objection, Non-Consent, and Jurisdictional Challenge on February 3, 2021.

165. My challenge to the in personam and subject-matter jurisdiction of this court as well as a challenge to each agent of the state of Minnesota's executed Oaths of Office and conformance with the requirements of Article VI, § 3 of the Constitution for the United States of America (1789) was filed on February 3, 2021 and served upon the Plaintiff on the same date.
166. No certificate of personal service or substituted service of legal process is on the record.
167. At the purported arraignment held in virtual open court by way of a Zoom Meeting, I first stated "on an for the record, I raise a **standing** objection to the further conduct of these proceedings until the court **in writing** enters a **finding of fact** from the record of the facts to establish personal and subject-matter jurisdiction as a matter of law against the challenges made thereto in my paperwork."
168. I also stated: "I further require the entry on the record of each official's or employee's oath of office in conformance with Article VI, paragraph 3 of the Constitution **for** the United States of America so adopted in 1789."
169. Defendant Schwab acknowledged reading of the paperwork that I filed.
170. Absent any production of evidence or proffer to the court of the alleged facts in the record by Defendant Martinez, Defendant Schwab opined that the court had jurisdiction on the basis that it was a district court and its jurisdiction was by statute.
171. Defendant Schwab assumed the cloak of the Plaintiff and removed from the Plaintiff's burden to establish the facts of jurisdiction and authority from the record against the challenges that I made thereto.
172. I objected to the opinion by stating: "while it is your opinion that the court has jurisdiction, you have not established the facts from the record against the challenges made thereto in order to conclude jurisdiction as a matter of law. Moving forward to deprive me of my property without establishing the facts of jurisdiction denies me due process under the 5<sup>th</sup> and 14<sup>th</sup> Amendments and you will have forfeited your absolute immunity to personal liability for damages for your acts."
173. Defendant Schwab did not establish findings of fact from the record as established and as challenged to conclude *in personam* and subject-matter jurisdiction of the court.

174. Defendant Schwab did not address the challenge to the validity of the executed oaths of office to perfect the respective authority delegated to each office on land within the exterior boundaries of Minnesota, one of the several States of the Union.
175. Defendant Schwab continued the proceedings in an attempt to arraign me over my repeated standing objection challenging the jurisdiction of the court.
176. After the Defendant Martinez performed what can best be described as "grand standing" on the Main Stream Media's propaganda of the china virus (now known as Covid-19) and absent any admissible evidence of injury in fact or even an allegation of a particularized injury having nexus to my purported conduct, Judge Schwab issued an ambiguous order to compel my behavior to conform with the dictates of whomever decides to create a version of the law for which to purport a violation thereof and to continue in compliance with these criminal proceedings against me.
177. Under threat of arrest or excessive bail, I agreed to the order under duress with all rights reserved – in spite of my standing objection.
178. Said Order stated: Post Bail or Bond with No Conditions, \$12,000, Remain law-abiding, make all future court appearances, Post Bail or Bond with Conditions – \$1,000, make and maintain contact with an attorney, Conditions, other, Comply with an and all executive orders.
179. I filed my Objection and Exception to the **void** Order on February 8, 2021.

**DEMAND FOR REDRESS**

**WHEREFORE:** Because of the truthfulness of the foregoing cause of action and the facts in support thereof, I make **DEMAND** for MONEY DAMAGES against **DEFENDANT Schwab**, his full capacity as a man for the acts of wrongdoing as according to the following demands:

C. DIRECT DAMAGES in the amount of \$13,000

D. **Compensatory Damages** in the amount of \$2,500,000.00 for infliction of mental anguish, loss of income from my Business, loss of enjoyment of life, and loss of my liberty.

And for each of the six charges of a statutory crime:

E. Considering that the trespass was intentional and a violation of constitutionally protected common law rights of the People and **DEFENDANT Schwab's** willful and contemptuous disregard of **DEFENDANT Schwab's** duty thereto under oath of office, **Special or Exemplary Damages** in the amount of **\$250,000.00** as the punitive value Congress has established with respect to any two or more persons who conspire to injure any person in any State in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States – They shall be fined as not to exceed \$250,000 under 18 U.S.C. § 241 and 18 U.S.C. § 3571(b).

**III. Third Cause of Action: Trespass on the Case (Trespass ab initio) against Defendant Martinez for malicious prosecution and abuse of the power of office.**

**180.** Paragraphs 1 through 179 restated here by reference.

**181.** The cause of action is cognizable under common law for a prosecutor whose tortuous acts are in absence of jurisdiction of the court and absence of authority for the enforcement of *ex post facto* law by fact on the record.

**182.** The cause of action is cognizable under federal law codified at 42 U.S.C. §§ 1983 for prosecutor whose tortuous acts are in absence of jurisdiction of the court by fact on the record.

**183.** Defendant intentionally and maliciously instituted criminal proceedings without probable cause of fact to establish that I was a "person" as alleged and to whom the EO 20-99 applied.

184. Defendant intentionally and maliciously instituted criminal proceedings knowing or having reason to know that general enforcement of EO 20-99 upon the People was prohibited by the Minnesota Constitution as *ex post facto* law.
185. Defendant Martinez's propounded imminent harm to the community in open court to urge the court's imposition of maximum penalty allowed by statute.
186. Defendant Martinez's profession in open court of imminent harm is inconsistent a course of statutory action for the provision of an arrest warrant for said imminent harm to anyone.
187. Defendant Martinez intentionally and maliciously maintained these criminal proceedings having reason to know that she did not have the duly executed summons with duly executed complaint and statement of probable cause personally served in accordance with requirements of Due Process and the Minnesota Rules of Criminal Procedure prior to the arraignment.
188. Defendant Martinez intentionally and maliciously maintained these criminal proceedings having reason to know or should have known that the court did not obtain *in personam* jurisdiction.
189. Defendant Martinez intentionally and maliciously maintained these criminal proceedings knowing or should have known that the court did not have subject-matter jurisdiction over the statutory crimes as charged against me as a "person".
190. Defendant Martinez intentionally and maliciously maintained these criminal proceedings knowing the fatal defect in substance of the summons and complaint and statement of probable cause.
191. Defendant Martinez intentionally and maliciously maintained these criminal proceedings knowing that she did not reissue and serve a summons and complaint in conformance to the requirements of Due Process and the Minnesota Rules of Criminal Procedure.

**DEMAND FOR REDRESS**

**WHEREFORE:** Because of the truthfulness of the foregoing cause of action and the facts in support thereof, I make **DEMAND** for MONEY DAMAGES against **DEFENDANT Martinez**, her full capacity as a woman for the acts of wrongdoing as according to the following demands:

F. DIRECT DAMAGES in the amount of \$13,000

G. **Compensatory Damages** in the amount of \$2,500,000.00 for infliction of mental anguish, loss of income from my Business, loss of enjoyment of life, and loss of my liberty.

And for **each** of the six charges of a statutory crime:

H. Considering that the trespass was intentional and a violation of constitutionally protected common law rights of the People and in **DEFENDANT Martinez's** willful and contemptuous disregard of **DEFENDANT Martinez's** duty thereto under oath of office, **Special or Exemplary Damages** in the amount of **\$250,000.00** as the punitive value Congress has established with respect to any two or more persons who conspire to injure any person in any State in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States — They shall be fined as not to exceed \$250,000 under 18 U.S.C. § 241 and 18 U.S.C. § 3571(b).

IV. **Fourth Cause of Action: Intentional trespass on the case (trespass ab initio) against each Defendant, individually and in concert, in the exercise of the power of office in agency of the entity State of Minnesota against me to extort my property and in trespass of my unalienable rights – protected by the Minnesota Constitution, the Constitution for the United States of America (1791), and the common law – under color of law and color of authority on FRAUD IN LAW, FRAUD BY OMISSION, and FRAUD IN FACT to cause me harm.**

192. Paragraphs 1 through 191 restated here by reference.

193. The cause of action is cognizable under common law.

194. The cause of action is cognizable under federal law codified at 42 U.S.C. §§ 1983 and 1985(3).

#### **DEMAND FOR REDRESS**

**WHEREFORE:** Because of the truthfulness of the foregoing cause of action and the facts in support thereof, I make **DEMAND** for MONEY DAMAGES against **EACH NAMED DEFENDANT, jointly and severally**, each in their full capacity as a man or woman – excepting State of Minnesota in a corporate capacity, for the acts of wrongdoing as according to the following demands:

I. DIRECT DAMAGES in the amount of \$13,000

J. **Compensatory Damages** in the amount of \$2,500,000.00 for infliction of mental anguish, loss of income from my Business, loss of enjoyment of life, and loss of my liberty.

And for **each** of the six charges of a statutory crime:

K. Considering that the trespass was intentional and a violation of constitutionally protected common law rights of the People and in **EACH** Defendant's willful and contemptuous disregard of **each** Defendant's duty thereto common law or under oath of office, **Special or Exemplary Damages** in the amount of **\$250,000.00 AGAINST EACH DEFENDANT** as the punitive value Congress has established with respect to any two or more persons who conspire to injure any person in any State in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States – They shall be fined as not to exceed \$250,000 under 18 U.S.C. § 241 and 18 U.S.C. § 3571(b).



V. **Fifth Cause of Action: Intentional trespass on the case (trespass ab initio) against Defendants Leuning, Schwab, and Martinez, individually and in concert, for having the power to prevent or aid in preventing the exercise of the power of office against me to extort my property and in trespass of my unalienable rights – protected by the Minnesota Constitution, the Constitution for the United States of America (1791), and the common law – under color of law and color of authority on FRAUD IN LAW, FRAUD BY OMISSION, and FRAUD IN FACT to cause me harm.**

195. Paragraphs 1 through 194 restated here by reference.

196. The cause of action is cognizable under common law and federal law codified at 42 U.S.C. § 1986.

197. Defendants Leuning, Schwab, and Martinez, individually and in concert, each had the duty under common law and constitutional authority under oath of office to prevent or aid in preventing the exercise of power causing the harm as I have alleged.

VI. **Sixth Cause of Action: Trespass on the Case (ab initio) against Defendant Walz for *ultra vires* exercise of power delegated to the office of Governor in generally dictating the conduct of the People on the inchoate power of EO 20-99 issued as *ex post facto* law and as enforced by every executive agent under his charge to deprive me of certain unalienable rights without due process of law.**

198. Paragraphs 1 through 197 restated here by reference.

199. The cause of action is cognizable under common law.

200. The cause of action is cognizable under federal law codified at 42 U.S.C. § 1983.

**DEMAND FOR REDRESS**

**WHEREFORE:** Because of the truthfulness of the foregoing cause of action and the facts in support thereof, I make **DEMAND** for MONEY DAMAGES against **DEFENDANT Walz and State of Minnesota, jointly and severally**, each in their full capacity as a man or woman – excepting State of Minnesota in a corporate capacity, for the acts of wrongdoing as according to the following demands:

- A. DIRECT DAMAGES in the amount of \$13,000
- B. Compensatory Damages in the amount of \$2,500,000.00 for infliction of mental anguish, loss of income from my Business, loss of enjoyment of life, and loss of my liberty.

And for each of the six charges of a statutory crime:

- C. Considering that the trespass was intentional and a violation of constitutionally protected common law rights of the People and in **EACH** Defendant's willful and contemptuous disregard of **each** Defendant's duty thereto under oath of office, **Special or Exemplary Damages** in the amount of **\$250,000.00 AGAINST EACH DEFENDANT** as the punitive value Congress has established with respect to any two or more persons who conspire to injure any person in any State in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States – They shall be fined as not to exceed \$250,000 under 18 U.S.C. § 241 and 18 U.S.C. § 3571(b).

**VII. Seventh Cause of Action: Intentional trespass on the case (trespass ab initio) against Defendant Martinez in directing the use of Emergency Signaling for the immediate summons of law enforcement putting me and members of my family in harm's way and inflicting mental anguish and emotional distress.**

- 201.** On February 3, 2021, I went to the office of Defendant Martinez.
- 202.** In her capacity in public office, Defendant Martinez's rights, authority, and duties are at the will of the legislature and as such she is under mask of legal fiction as a "person".

203. My purpose was to hand deliver a copy of my Objection, Non-Consent, and Jurisdictional Challenge ("Document") that I filed in the court and that I had certified to the court the accomplishment of this task.
204. I had attempted to make an appointment with her office but did not get a return phone call and the time was nearing closure point of the office.
205. I also requested the assistance of the Sheriff to accompany me in the service of the Document as a witness and to avoid any perception of threat by Defendant Martinez.
206. The Sheriff said that he could do legal service but couldn't guarantee service on February 3, 2021.
207. The Sheriff encouraged me to hand deliver the document myself and stated that I would have no issues in doing so as this was a normal event in that office.
208. I brought my son and daughter-in-law with me to video record the event to establish a record that I had indeed hand delivered the Document to Defendant Martinez and to establish record of the event itself.
209. Defendant Martinez has a history of exaggerating matter against me for purposes of maximizing the damage to me under color of her authority and under color of law.
210. Personal service of the Document was an integral and essential part of two criminal cases in which she is prosecuting against me.
211. The Document was essential to the hearing scheduled for the next day [February 4, 2021] on both cases.
212. The Document was a written and factual challenge to the jurisdiction of the court.
213. In good faith of proper notice, I wanted to make sure that she had the Document in advance of the scheduled hearing.
214. I entered the office with appropriate face covering.
215. The person attending the "reception" area was not wearing any face covering.
216. The person opened the dividing window and spoke with us.

217. I told said person that I was present to serve the Document upon Defendant Martinez.
218. Said person – without a mask – shut the dividing window and went to Defendant Martinez's office to get her.
219. We waited approximately 5 minutes.
220. Defendant Martinez came out of her office wearing a facemask.
221. I communicated to Defendant Martinez my purpose of hand delivering the Document and that it was important to her for the scheduled hearing the next day.
222. Defendant Martinez communicated a number of purported reasons to avoid accepting the Document in hand – all of which had been satisfied by attempt or by fact on my part.
223. Defendant Martinez directed me to place the Document on a chair in the lobby and to leave.
224. I told Defendant Martinez that I was calling law enforcement for assistance and proceeded with the call.
225. According to the video recording: while I was on the phone with the Sheriff, Defendant Martinez directed the person to press the EMERGENCY SIGNAL.
226. The person complied.
227. While I was on the phone, 6 armed law enforcement officers entered the reception area.
228. Five Police vehicles and one Sheriff vehicle were involved in the response to the EMERGENCY SIGNAL.
229. Given the sensitive times of our society and unaware that the person had pressed the EMERGENCY SIGNAL, I feared for the safety of myself, my daughter-in-law, and my son.
230. Defendant Martinez put the lives of the people in jeopardy by directing the use of the EMERGENCY SIGNAL.
231. This EMERGENCY SIGNAL communicates an implied, dire<sup>12</sup> and unqualified emergency demanding immediate attention by all available law enforcement resources.

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<sup>12</sup> **DIRE.** Urgent; desperate.

232. The safety of the public was affected when a considerable number of law enforcement resources were taken away from their normal duties to respond to a fictitious emergency initiated under the direction of Defendant Martinez.
233. Lieutenant Strom offered to personally serve Defendant Martinez, and I accepted.
234. Initiating emergency communication and reporting a fictitious emergency is a public crime under Minn. Stat. § 608.78, subd 2, (6) and is a **Gross Misdemeanor** with a maximum value of **\$3,000**
235. Permitting a condition that unreasonably endangers the safety of any considerable number of members of the public is a **misdemeanor** with maximum value of **\$1,000**.
236. A public officer who in the capacity of a public officer directs another person to initiate an emergency communication on a fictitious emergency forbidden by law is a **misdemeanor** with a maximum value of **\$3,000**. See Minn. Stat. 609.43(2).

#### **DEMAND FOR REDRESS**

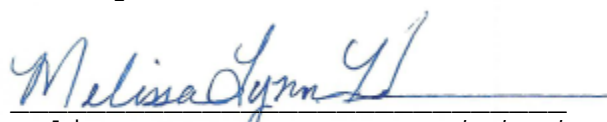
**WHEREFORE:** Because of the truthfulness of the foregoing cause of action and the facts in support thereof, I make **DEMAND** for MONEY DAMAGES against **Defendant Martinez** in her full capacity as a woman for the act of wrongdoing as according to the following demands:

- D. **Compensatory Damages** in the amount of **\$7,000** for infliction of mental anguish, emotional distress and for an act putting me and my family in harm's way.

**VERIFICATION**

I declare under penalty of perjury under the laws of Minnesota that I have read the foregoing document and to the best of my knowledge and belief the factual statements and declarations made therein are true and correct and made in good faith and will testify to the same in open court upon any dispute of fact established by sworn testimony of the Defendant having personal knowledge of the facts if called to do so; excepting as to those matters therein stated upon information and belief and as to those matters, I verily believe the same to be true.

Executed on this 15<sup>th</sup> day of February, 2021:

  
Melissa Lynn Hanson, *sui juris*  
82299 200<sup>th</sup> Street  
Hayward, Minnesota 56043  
Telephone (507) 383-3747

# Exhibit 1

**LAW and DEFINITIONS DECREED FOR THE CASE**

The Law and Definitions of the Case decreed as follows:

**I. DEFINITIONS:**

1. ACTION. An ordinary proceeding in a court of justice by which a party prosecutes another party for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense.
2. AT LAW. This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity. [Bouvier's Law, 1856 Edition].
3. BY OPERATION OF LAW. A legal term that indicates that a right or liability has been created for a party, irrespective of the intent of that party, because it is dictated by existing legal principles.
4. CAUSE OF ACTION. The ground on which an action may be sustained and includes the fact or combination of facts which gives rise to and sustains a right of action.
5. COMMON LAW. Grounded in general customs of the realm; and includes in it, the Law of Nature, the Law of God, and the Principles and Maxims of Law: it is founded upon reason; and it is said to be the perfection of reason acquired by long study, observation, and experience and refined by Learned Men in all Ages. And it is the common birthright that the subject has for the safe guard and defense, not only of Goods, Lands, and Revenues; but of his wife and children, body, fame, and Life also.

The common law includes those principles, usages, and rules of action, applicable to the government and security of person and property, which do not rest for their authority upon any express or positive declaration of the will of the legislature.



6. COURT. Signifies the King's Palace or mansion; and more specifically the place where justice is administered. Every Court of Record is the King's Court though his subjects have the benefit of it and **the free use of all Courts of Record is to be granted to the People**. A Court of Record is that court which has the power to hold plea according to the course of the Common Law of real, personal, and mixed actions. A New Law Dictionary Containing Interpretation and Definition of Words<sup>1</sup>, Jacob, Giles 1750 ed.
7. COURT. The person and suit of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be. [Black's Law Dictionary, 5th Edition, page 318.]
8. COURT. An agency of the sovereign created by it directly or indirectly under its authority, consisting of one or more officers, established and maintained for the purpose of hearing and determining issues of law and fact regarding legal rights and alleged violations thereof, and of applying the sanctions of the law, authorized to exercise its powers in the course of law at times and places previously determined by lawful authority. [Isbill v. Stovall, Tex.Civ.App., 92 S.W.2d 1067, 1070; Black's Law Dictionary, 4th Edition, page 425]
9. COURT OF RECORD. To be a court of record a court must have four characteristics, and may have a fifth. They are:
  - A. **A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it** [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689] [Black's Law Dictionary, 4th Ed., 425, 426]
  - B. **Proceeding according to the course of common law** [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689] [Black's Law Dictionary, 4th Ed., 425, 426]
  - C. **Its acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony.** [3 Bl.

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<sup>1</sup> "the most widely used English law dictionary" and could be found in the libraries of many colonial lawyers, including the most prominent" Rudolph, Julia. "That "Blunderbuss of Law": Giles Jacob, Abridgment, and Print Culture." *Studies in Eighteenth-Century Culture*, vol. 37, 2008, pp. 197-215. Project MUSE.

Comm. 24; 3 Steph. Comm. 383; *The Thomas Fletcher*, C.C.Ga., 24 F. 481; *Ex parte Thistleton*, 52 Cal 225; *Erwin v. U.S.*, D.C.Ga., 37 F. 488, 2 L.R.A. 229; *Heininger v. Davis*, 96 Ohio St. 205, 117 N.E. 229, 231]

D. Has power to fine or imprison for contempt. [3 Bl. Comm. 24; 3 Steph. Comm. 383; *The Thomas Fletcher*, C.C.Ga., 24 F. 481; *Ex parte Thistleton*, 52 Cal 225; *Erwin v. U.S.*, D.C.Ga., 37 F. 488, 2 L.R.A. 229; *Heininger v. Davis*, 96 Ohio St. 205, 117 N.E. 229, 231.] [Black's Law Dictionary, 4th Ed., 425, 426]

E. Generally possesses a seal. [3 Bl. Comm. 24; 3 Steph. Comm. 383; *The Thomas Fletcher*, C.C.Ga., 24 F. 481; *Ex parte Thistleton*, 52 Cal 225; *Erwin v. U.S.*, D.C.Ga., 37 F. 488, 2 L.R.A. 229; *Heininger v. Davis*, 96 Ohio St. 205, 117 N.E. 229, 231.] [Black's Law Dictionary, 4th Ed., 425, 426]

10. SUIT - A generic term, of comprehensive signification, and applies to any proceeding by one person or persons against another or others in a court of justice in which the plaintiff pursues, in such court, the remedy which the law affords him for the redress of an injury or the enforcement of a right, whether at law or in equity. *Kohl v. U.S.*, 91 U.S. 375, 23 L.Ed. 449; *Weston v. Charleston*, 2 Pet. 464, 7 L.Ed. 481; *Syracuse Plaster Co. v. Agostini Bros. Bldg. Corporation*, 169 Misc.564 7 N.Y.S.2d 897. [Black's Law Dictionary, 4th Ed.,]
11. NONSUIT. Is the letting of a suit or action fall; renunciation of it by the Plaintiff or Demandant, most commonly upon discovery of some error or defect, when the matter is so far proceeded in, as the Jury is ready at bar to deliver their verdict.
12. NOTICE. Is the making of something known, that a man was or might be ignorant of before. And it produces diverse effects; for by this means, the Party to whom the Notice was given is made subject to some action or charge, that otherwise he had not been liable to; and his estate in danger of prejudice.

"Knowledge of facts which would naturally lead an honest and prudent person to make inquiry constitutes 'notice' of everything which such inquiry pursued in good faith would disclose. *Twitchell v. Nelson*, 131 Minn. 375, 155 N.W. 621, 624; *German-American Nat. Bank of Lincoln v. Martin*, 277 Ill. 629, 115 N.E. 721, 729." *Black's Law Dictionary*, 4th Ed., p. 1210.

## **II. COMMON LAW PRESUMPTIONS:**

13. Mailbox Rule – presumption of receipt: The “mailbox rule” provides that depositing a properly addressed letter with prepaid postage with the post office raises a presumption that the letter reached its destination by due course of mail i.e. that a properly mailed letter to the last known address of the addressee which is not returned undelivered by the postal authorities was timely received by the addressee.
14. “The rule is well settled that proof that a letter properly directed was placed in a post office, creates a presumption that it reached its destination in usual time and was actually received by the person to whom it was addressed. *Rosenthal v. Walker*, 111 U.S. 185, 193.” *Hagner v. United States*, 285 US 427, 430 (1932).

## **III. DECLARATION OF LAW:**

15. This court shall be known as the Hanson Court and is instituted by Melissa Lynn Hanson in her full and direct capacity as one of the People proceeding against named defendants for judgment of liability to money damages demanded.
16. Issues of fact in dispute shall be put before a jury by trial for judicial determination.
17. The Minnesota Rules of Civil Procedure (“Code”) are adopted to the extent of conformance to proceedings according to the course of the common law for an action at law; notwithstanding are Code rules relating to procedure in equity; notwithstanding are Code rules repugnant to the law decreed for the Case.

18. The officer of the this court assigned to administer these proceedings is limited to ministerial acts relating only to administration of these proceedings and to resolving questions of law decreed for the case, joined, and at issue under common law.
19. The Magna Carta (1215), Confirmatio Cartarum (October 10, 1297), the English Common Law, the Northwest Ordinance, the Constitution for the United States of America, and the Minnesota Constitution are the organic laws of this Case.
20. [T]he prerogative of issuing proclamations is vested in the king [sovereign] alone. These proclamations have then a binding force when they are grounded upon and enforce the laws of the realm. For, though the making of laws is entirely the work of a distinct part, the legislative branch, of the sovereign power, yet the manner, time, and circumstances of putting those laws in execution must frequently be left to the discretion of the executive magistrate. And therefore, his constitutions or edicts concerning these points, which we call proclamations, are binding upon the subject, where they do not contradict old laws or tend to establish new ones; but only enforce the execution of laws as are already in being, in such a manner as the king shall judge necessary. [1 Blackstone's Commentaries, 270, Chapter 7, Section 379].
21. The party who brings a suit is master to decide what law he will rely upon. See *The Fair v. Kohler Die & Specialty Co.*, 228 US 22, 25 (1913).
22. "That notion of the plaintiff, and not of the defendant, as "the master" of the choice of law upon which to sue is reinforced by the "powerful doctrine" (*Franchise Tax Bd. v. Construction Laborers Vacation Trust*, 463 U.S. 1, 9, 103 S.Ct. 2841, 2846, 77 L.Ed.2d 420 (1983)) of the "well-pleaded complaint" rule that originated in such cases as *Louisville & N.R. Co. v. Mottley*, 211 U.S. 149, 152, 29 S.Ct. 42, 43, 53 L.Ed. 126 (1908) and that was discussed at length in *Franchise Tax Bd. itself.*" *Shaw v. Dow Brands, Inc.*, 994 F. 2d 364, 372 (7th Cir. 1993).

23. ...our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgement in all their points, that is to wit, the Great Charter as the common law.... [Confirmatio Cartarum, November 5, 1297, *Sources of Our Liberties* Edited by Richard L. Perry, American Bar Foundation]
24. If any claim, statement, fact, or portion in this action is held inapplicable or not valid; such decision does not affect the validity of any other portion of this action.
25. The King [sovereign] cannot be nonsuited.
26. The King [sovereign] cannot be nonsuited in any action wherein himself is the sole plaintiff.

#### IV. IMMUNITY:

27. Doctrine of Trespass *Ab Initio* is a principle that the actor must show that he has strictly complied with the authority given by the law; [*Piedmont Hotel Co. v Henderson*, 9 Ga. App. 672, 72 S.E. 51 (1911)] or a frank statement of public policy in the prevention of abuse of authority and in the proper administration of law. [*Boston & Maine Ry. v. Small*, 85 Me. 462, 27 Atl. 349 (1893). See also *Phillips v. Fadden*, supra note 7, at 201; *Tubbs v. Tukcy*, supra note 7, at 441 where the court said: "The principle is essential to the safety of the citizen, and to prevent the processes of the law and the action of its officers from being employed for purposes of oppression"; and *Esty v. Wilmont*, 15 Gray 168 (Mass. 1860)].
28. An act is illegal *ab initio* when some positive act is incompatible with the exercise of the legal right to perform the act. [*Averill v. Smith*, 84 U.S. 82, 91 (1872)].
29. Trespass *ab initio* is a trespass from the beginning. It is a trespass by retrospective operation. Trespass *ab initio* occurs when an entry, authority, or license is conferred by law under which conduct otherwise constituting a trespass may be justified, an abuse of such authority will destroy the privilege and render the act done in excess of authority, a trespass from the beginning, that is, from the time of the entry.

30. Conditions constituting trespass *ab initio* are:

(1) the authority abused must be an authority granted by law and not by an individual (*Sheftall v. Zipperer*, 133 Ga. 488 (Ga. 1909);

(2) there must be some positive act of misconduct, and not a mere omission or neglect of duty. *Louisville & N. R. Co. v. Barte*, 204 Ala. 539 (Ala. 1920)

A person authorized by law will be held liable for the tortuous act, if s/he has misused the privilege to enter another person's legally protected property. *Brite v. Pfeil*, 334 S.W.2d 596 (Tex. Civ. App. San Antonio 1960). Trespass *ab initio* occurs when any unnecessary or unreasonable act which is caused deliberately to harm another person's interest. Also it occurs when the authorized person fails to take reasonable care to prevent an unreasonable harm to the legally protected interest of another. *Brite v. Pfeil*, 334 S.W.2d 596 (Tex. Civ. App. San Antonio 1960).

In some cases, a person can delegate his/her privilege to a third party to enter another person's land. In such case, the person delegating the privilege will be held liable for any abuse of power by the third party[v]. Trespass *ab initio* also extends to harmful acts caused to chattels. However a person who holds the privilege will not be held liable for harmful acts caused accidentally. *Tubbs v. Tukey*, 57 Mass. 438 (Mass. 1849).

**Currently, a person who is found guilty of trespass *ab initio* is liable for punitive damages.** This rule came in effect after the tort law started recognizing punitive damage. *Gibson v. Holmes*, 78 Vt. 110 (Vt. 1905).

In *McGuire v. United States*, 273 U.S. 95 (U.S. 1927), a search warrant was issued to revenue agent officers to enter and search the premises possessed by McGuire. The officers acting under the warrant searched the premises discovering several gallons of intoxicating liquor which they seized. They destroyed the liquor without the court order or other legal authority except one quart of whisky, which they retained as evidence. The court held that the officers by destroying the seized liquor became trespassers *ab initio*. Thus, they lost the protection and authority conferred upon them by the search warrant. However, the court ruled that the sample of liquor can be used as evidence.

31. "Since an unconstitutional act, even if authorized by statute, was viewed as not authorized in contemplation of law, there could be no immunity defense." [Butz v. Economou, 438 U.S. 478, 491].
32. "[An] official would not be excused from liability if he failed to observe obvious statutory or constitutional limitations on his powers or if his conduct was a manifestly erroneous application of the statute." [Butz v. Economou, 438 U.S. 478, 494].
33. "The public employee is liable for damages resulting from the negligent performance of a purely ministerial duty." [Ibrahim v Samore, 118 Wis. 2d 720, 728 (1984)].
34. "The officer or employee has no immunity for conduct that is malicious, willful and intentional." [Ibrahim v Samore, 118 Wis. 2d 720, 728 (1984)].
35. "Official immunity ... does not protect the officer who commits a willful violation of a known right." Rico v. State, 472 NW 2d 100, 107 (Minn. 1991)
36. "Every state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Art. VI, cl. 3, "to support this Constitution. No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." [Cooper v. Aaron, 358 U.S. 1,19(1958)]
37. "There is a general rule that a ministerial officer, who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign. There is also a general rule that if any officer – ministerial or otherwise – acts outside the scope of his jurisdiction and without authorization of law, he is liable in an action for damages for injuries suffered by a citizen as a result thereof." [Cooper v. O'Conner, 99 F.2d 135, 137-138 (1938)]

38. "...a public officer or employee is not shielded from liability for the negligent performance of a purely ministerial duty. The test for determining whether a duty is discretionary (and therefore within the scope of immunity) or ministerial (and not so protected) is that the latter is found "only when [the duty] is absolute, certain and imperative, involving merely the performance of a specific task when the law imposes, prescribes and defines the time, mode and occasion for its performance with such certainty that nothing remains for judgment or discretion. [*Kimps v. Hill*, 200 Wis.2d 1, 10 , 546 N.W.2d 151 (1996)]
39. A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts. [*Davis v. Burris*, 51 Ariz. 220, 75 P.2d 689 (1938)]
40. When an officer acts in both a judicial and ministerial capacity, he may be compelled to perform ministerial acts in a particular way; but when he acts in a judicial capacity, he can only be required to proceed; the manner of doing so is left entirely to his judgment. See 2 Fairf. 377; Bac. Ab. Justices of the Peace, E; 1 Conn. 295; 3 Conn. 107; 9 Conn. 275; 12 Conn. 464; also Judicial; Mandamus; Sheriff. [A Law Dictionary, Adapted to the Constitution and Laws of the United States. By John Bouvier. Published 1856.]
41. "The courts are not bound by an officer's interpretation of the law under which he presumes to act." [*Hoffsomer v. Hayes*, 92 Okla 32, 227 F. 417]
42. "Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction." [*Piper v. Pearson*, 2 Gray 120, cited in *Bradley v. Fisher*, 13 Wall. 335, 20 L.Ed. 646 (1872)]
43. "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. ... It is the only supreme power in our system of government, and every man who, by accepting office participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives." [*U.S. v. Lee*, 106 U.S. 196, 220 (1882)]



44. "Shall it be said... that the courts cannot give remedy when the citizen has been deprived of his property by force, his estate seized and converted to the use of the government without any lawful authority, without any process of law, and without any compensation, because the president has ordered it and his officers are in possession? If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights." [*U.S. v. Lee*, 106 U.S. 196, 220-221 (1882)].

#### V. SUPREMACY OF THE COMMON LAW

45. When laws conflict in actual cases, court must decide which is the superior law and which must yield; since according to our principles every officer remains answerable for what he officially does, a citizen, believing that the law he enforces is incompatible with the superior law, the Constitution, simply sues the officer before the proper court as having unlawfully aggrieved him in the particular case. The court, bound to do justice to everyone, is bound also to decide this case as a simple case of conflicting laws. The court does not decide directly upon the doings of the legislature. It simply decides, for the case in hand, whether there actually are conflicting laws, and, if so, which is the higher law that demands obedience when both may not be obeyed at the same time. As, however, this decision becomes the leading decision for all future cases of the same import, until, indeed, proper and legitimate authority shall reverse it, the question of constitutionality is virtually decided, and it is decided in a natural, easy, legitimate, and safe manner, according to the principle of the supremacy of the law and the independence of justice. It is one of the most interesting and important evolutions of the government of law, and one of the greatest protections of the citizen. It may well be called a very jewel of Anglican liberty, one of the best fruits of our political civilization. [*Ellingham v. Dye*, 178 Ind. 336, 99 N.E. 1 (1912); 16 Am Jur 2nd sec. 155]

46. "The only principles of law, then, that can be regarded, are those common to all the States. I know of none such, which can affect this case, but those that are derived from what is properly termed "the common law," a law which I presume is the ground-work of the laws in every State in the Union, and which I consider, so far as it is applicable to the peculiar circumstances of the country, and where no special act of Legislation controuls it, to be in force in each State, as it existed in England, (unaltered by any statute) at the time of the first settlement of the country." [Chisholm v. Georgia, 2 US 419, 435 (1793)]
47. "The maxim of construction is familiar, that a statute to abrogate or change any rule or principle of common law, must be clearly expressed so as to leave no doubt as to the intention of the legislature" [Wisconsin Bankers Ass'n. v. Mut. Savings & Loan, 96 Wis. 2d 438, 453, 291 N.W.2d 869 (1980)].
48. "It is hereby ordained and declared by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states and the people and the states in the said territory, and forever remain unalterable, unless by common consent to wit:

## Article 2

The inhabitants of said territory shall always be entitled to the benefits of the writ of habeas corpus, and trial by jury; . . . . **and of judicial proceedings, according to the course of the common law. No man shall be deprived of his liberty or property, but by judgment of his peers or the [common] law<sup>2</sup> of the land. 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 or affect private contracts or engagements, bona fide, and without fraud previously formed.**" An Ordinance for the Government of the Territory of the United States.

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<sup>2</sup> "By 'law of the land' was intended a due course of proceeding according to the established rules and practice of the courts of common law, . . . ." Hurtado v. California, 110 US 516, 522 (1884)

49. "There is no common law of the United States in the sense of a national customary law distinct from the common law of England as adopted by the several States, each for itself, applied as its local law, and subject to such alteration as may be provided by its own statutes. *Wheaton v. Peters*, 8 Pet. 591. A determination in a given case of what that law is may be different in a court of the United States from that which prevails in the judicial tribunals of a particular State. This arises from the circumstance that courts of the United States, in cases within their jurisdiction where they are called upon to administer the law of the State in which they sit, or by which the transaction is governed, exercise an independent, though concurrent, jurisdiction, and are required to ascertain and declare the law according to their own judgment. *Western Union Tel. Co. v. Call Publishing Co.*, 181 U. S. 92, 101 (1901).
50. What is common law? 1) The common law includes those principles, usages, and rules of action applicable to the government and security of persons and property, which do not rest for their authority upon any express and positive declaration of the will of the legislature. 2) Whence it is that in our law the goodness of a custom depends upon its having been used time out of mind; or, in the solemnity of our legal phrase, time whereof the memory of man runneth not to the contrary. This it is that gives it its weight and authority; and of this nature are the maxims and customs which compose the common law, or *lex non scripta*, of this kingdom. This unwritten, or common, law, is properly distinguishable into three kinds: 1. General customs; which are the universal rule of the whole kingdom, and form the common law, in its stricter and more usual signification. In *Black's Law Dictionary*, page 232, it is thus defined: "As distinguished from law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming and enforcing such usages and customs; and, in this sense, particularly the ancient unwritten law of England". *Western Union Tel. Co. v. Call Publishing Co.*, 181 U. S. 92, 101-102 (1901); *Kansas v. Colorado*, 206 U.S. 46.

**VI. SOVEREIGNTY:**

51. "that States and Governments were made for man; and , at the same time, how true it is, that his creatures and servants have first deceived, next vilified, and at last, oppressed their master and maker.

MAN, fearfully and wonderfully made, is the workmanship of his all perfect CREATOR: A State; useful and valuable as the contrivance is, is the inferior contrivance of man; and from his native dignity derives all its acquired importance. When I speak of a State as an inferior contrivance, I mean that it is a contrivance inferior only to that, which is divine: Of all human contrivances, it is certainly most transcendently excellent. It is concerning this contrivance that Cicero says so sublimely, "Nothing, which is exhibited upon our globe, is more acceptable to that divinity, which governs the whole universe, than those communities and assemblages of men, which, lawfully associated, are denominated STATES".

Let a State be considered as subordinate to the PEOPLE: But let everything else be subordinate to the State. The latter part of this position is equally necessary with the former. For in the practice, and even at length, in the science of politics there has very frequently been a strong current against the natural order of things, and an inconsiderate or an interested disposition to sacrifice the end to the means." [*Chisholm v. Georgia*, 2 US 419, 455-456 (1793)].

52. "[A]t the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects (unless the African slaves among us may be so called) and have none to govern but themselves; the citizens of America are equal as fellow citizens, and as joint tenants in the sovereignty. [*Chisholm v. Georgia*, 2 US 419, 472 (1793)].
53. "Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power." [*Yick Wo v. Hopkins*, 118 US 356, 370 (1886)]

54. The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. *Lansing v. Smith*, 4 Wend. 9 (N .Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.
55. "A consequence of this [king's or sovereign's] prerogative is the legal *ubiquity* of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice. **His judges are the mirror by which the king's image is reflected.** It is the regal office, and not the royal persons, that is always present in the court, always ready to undertake prosecutions, or pronounce judgment, for the benefit or protection of the subject. **And from this ubiquity it follows that the king can never be nonsuit; for a nonsuit is the desertion of the suit or action by the non-appearance of the Plaintiff in court.** For the same reason also, informs of legal proceedings, **the king is not said to appear by his attorney as other men do; for in contemplation of the law he is always present in the court.**"  
1 Blackstone's Commentaries, 270, Chapter 7, Section 379.
56. The very meaning of 'sovereignty' is that the decree of the sovereign makes law. [*American Banana Co. v. United Fruit Co.*, 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.]
57. "It is a familiar principle that the King [sovereign] is not bound by any act of Parliament [legislature] unless he be named therein by special and particular words. The most general words that can be devised (for example, any person or persons, bodies politic or corporate) affect not him in the least, if they may tend to restrain or diminish any of his rights and interests. He may even take the benefit of any particular act, though not named." [*United States v. Chamberlin*, 219 US 250, 261 (1911)]

## VII. RIGHTS:

58. If a man has a right, he must, as has been observed in a celebrated case, have a means to vindicate and maintain it, and a remedy, if he is injured in the exercise and enjoyment of it; and, indeed, it is a vain thing to imagine a right without a remedy, for want of right and want of remedy are reciprocal. *Ashby v. White*, 2 Lord Raym. 953 ; *Westmore v. Greenbank*, Willes, 577, cited in *Broom's Maxims*, 147.

To deny the remedy is, therefore, in substance, to deny the right; and it makes no difference whether the right exists at common law or by statute.

59. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. [Declaration of Independence (1776)]
60. Any One of the People have the common law right to presume nonauthority of a person and to require a showing of what authority exists for exercise by said person of some right, power, or franchise claimed to be held in avoidance of the liability for tort in the trespass upon natural, common law, or statutory rights. [Declaration of Independence, Quo Warranto]
61. Henceforth the writ which is called Praecipe shall not be served on any one for any holding so as to cause a free man to lose his court. [Magna Carta, Article 34].
62. "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." [Hale v. Henkel, 201 U.S. 43, 74 (1906)]
63. Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform government whenever required by the public good. Minnesota Constitution, Article 1, section 1.

64. "Rights of property which have been created by the common law cannot be taken away without due process; but the law itself, as a rule of conduct, may be changed at the will or even at the whim of the legislature, unless prevented by constitutional limitations. Indeed, the great office of statutes is to remedy defects in the common law as they are developed, and to adapt it to the changes of time and circumstances." [*Hurtado v. People of the State of California*, 110 US 516.532-533(1884)]
65. If anyone has been dispossessed without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseized or removed by our government we will immediately grant full justice therein. [Magna Carta (circa 1215), § 52].
66. The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice. [*Davis v. Wechsler*, 263 US 22, 24 (1923)]
67. Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them. [*Miranda v. Arizona*, 384 US 436, 491.]
68. "...for it is a settled and invariable principle in the laws of England, that every right when withheld must have a remedy, and every injury its proper redress." [*Marbury v. Madison*, 5 US 137, 163 (1803)]
69. There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights. [*Sherar v. Cullen*, 481 F 945, 947(1973 CA 9)]
70. Republican government. One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. [In *re Duncan*, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; *Minor v. Happersett*, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627." [Black's Law Dictionary, Fifth Edition, p. 626.]

71. "But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws and not of men." 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." [*Yick Wo v. Hopkins*, 118 US 356, 370 (1886)]
72. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. [Constitution for the United States of America, Article VI, Clause 2.]
73. The third absolute right is that of property: which consists in the free use, enjoyment, and disposal of all his acquisitions, without any control or diminution, save only by the laws of the land. Upon this principle the great charter [Magna Carta] has declared that no freeman shall be disseised, or divested, of his freehold, or of his liberties, or free customs, but by the judgment of his peers, or by the law of the land.<sup>3</sup>

#### VIII. REMEDY AND REDRESS OF INJURY

74. "[A]s with civil liability under § 1983 or Bivens, all that can usefully be said about criminal liability under [18 U.S.C.] § 242 is that it may be imposed for deprivation of a constitutional right if, but only if, 'in the light of preexisting law the unlawfulness [under the Constitution is] apparent.'" [*United States v. Lanier*, 117 S. Ct. 1219, 1228 (1997) (quoting *Anderson v. Creighton*, 483 U.S. 635, 640 (1987))]

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<sup>3</sup> William Blackstone, *Commentaries on the Laws of England* (The Legal Classics Library, 1765) vol I, Bk I, Ch 1, 138.



75. If a statute gives a remedy in the affirmative, without a negative express or implied, for a matter which was actionable at the common law, the party may sue at the common law as well as upon the statute.
76. Redress for deprivation of constitutional rights under federal civil rights laws is not limited by state any statutory recovery ceiling. [*Thomson v. Village of Hales Corners*, 115 Wis. 2d 289, 298 (1983)]
77. But *if* he [the thief] be found, he shall restore sevenfold; he shall give all the substance of his house. [Proverbs 6:31]
78. Civil action for deprivation of rights: **Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.** [42 USC 1983]

79. Conspiracy to interfere with civil rights: Depriving persons of rights or privileges: **If two or more persons in any State or Territory conspire** or go in disguise on the highway or on the premises of another, **for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws;** or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; **in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.** [42 USC 1985(3)]

80. Action for neglect to prevent: Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued. [42 USC 1986]

#### IX. PUNITIVE DAMAGES

81. A person found guilty of Trespass *Ab Initio* is liable for punitive damages.

82. Conspiracy against rights: If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured - They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death. [18 USC § 241]

83. Deprivation of rights under color of law: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death. [18, USC 242]

#### **X. VALUE OF PUNITIVE DAMAGES**

84. A defendant who has been found guilty of an offense may be sentenced to pay a fine as an individual for a felony<sup>4</sup>, not more than \$250,000. 18 U.S.C. § 3571(b)(3).

85. A defendant who has been found guilty of an offense may be sentenced to pay a fine as an individual for a Class A misdemeanor that does not result in death<sup>5</sup>, not more than \$100,000. 18 U.S.C. § 3571(b)(5).

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<sup>4</sup> 18 USC § 3156(a)(3) the term "felony" means an offense punishable by a maximum term of imprisonment of more than one year

<sup>5</sup> 18 USC § 3156(a)(6) the term "Class A misdemeanor" means an offense punishable by a maximum term of imprisonment of one year or less.

**XI. PROCEEDINGS IN VINDICATION OF RIGHTS**

86. The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. [42 U.S. Code § 1988(a)]

**XII. PROCEEDINGS IN THE COURSE OF THE COMMON LAW**

87. In actions of trespass on the case, plaintiffs were permitted to state the facts and demand the relief to which they were entitled. [McKelvey, John. *Principles of Common-Law Pleading*. New York: Baker, Voorhis & Company, 1917 2<sup>nd</sup> Ed. Rev., §7]
88. All documents filed in the court must be served on the opposing party concurrently.

## **PLEADINGS**

### **Verification**

89. Generally, when any pleading is verified, every subsequent pleading, except demurrer, must be verified also.
90. The verification must be to the effect that the pleading is true to the knowledge of the person making it, except as to those matters stated on information and belief and as to those matters that he believes it to be true, and must be made by affidavit of the party. When the pleading is verified by any other person or party, he shall set forth in the affidavit his knowledge or the grounds of his belief on the subject and the reason why it is not made by the party, and if made on knowledge shall state that the pleading is true to his knowledge, and if on his belief, that he believes it to be true.

### **Pleadings and Timing**

- a) The declaration of the Accuser.
  - b) Within 21 days of service of the above, the demurrer or plea of each Wrongdoer.
  - c) Within 20 days of service of the above, the demurrer or replication of the Accuser.
  - d) Within 20 days of service of the above, the demurrer or rejoinder of each of the Wrongdoer.
  - e) Within 20 days of service of the above, the demurrer or surrejoinder of the Accuser.
  - f) Within 20 days of service of the above, the demurrer or rebutter of the each of Wrongdoer.
  - g) Within 20 days of service of the above, the demurrer or surrebutter of the Accuser.
91. Alternating pleadings continue until traverse or Tender of Issue of disputed fact for trial by jury or judgment is rendered as a matter of law upon the undisputed facts.

92. Pleading allegations of authority must be strictly proved as laid.
93. Pleadings must not be ambiguous or doubtful in meaning, and when two different meanings present themselves, that construction will be adopted which is most unfavorable to the party pleading.
94. A pleading must allege every substantive fact which is essential to the cause of action or defense in the particular action.
95. General Rule: The pleadings must not be double.
96. Respective pleadings subsequent to the declaration must not contain several distinct answers to the opposing pleading. But-
- a) Several facts may be pleaded if necessary to constitute a single complete answer.
  - b) A defendant in the same plea may plead separately to different matters of the claim or count of the declaration.
  - c) Two or more distinct defenses may be pleaded by the Defendant in separate pleas to the same claim.
    - 1) Does not apply to replication or subsequent pleadings.
    - 2) Does not apply to dilatory pleas.
    - 3) Where several pleas are thus presented, each is to be considered as independent, and to operate as if pleaded alone.
  - d) Several defendants may plead separately.
97. A pleading will be double which contains several answers to the same matter, whatever their class or quality.
98. Duplicity, or double pleading, consists of alleging two or more distinct grounds of the complaint or defense for a single object, when only one would be sufficient.
99. It is not permissible to both plead and demur to the same matter; only where there are separate counts in the same action may the party plead to one and demur to another.

100. Where a defendant justifies under a writ, warrant, precept, or other authority, it must be particularly set forth in his pleading; and in such case he should also set forth the facts to establish that such authority has been substantially pursued.
101. At common law the judgment given upon the demurrer was final, i.e., it disposed of the action. If the demurrer was sustained and the pleading demurred be held insufficient, there was no opportunity for the defeated party to amend and go on with the action. If, on the contrary, the pleading was held good and the demurrer overruled, the party demurring was deemed to have had his chance in court, and as he had chosen to rely upon some defect in the other party's pleading instead of answering the facts set forth, final judgment was given against him. It is customary everywhere at the present time for the courts to allow an amendment in case a pleading is held to be bad on demurrer. [Mckelvey, John Hay, *Principles of Common-Law Pleading*. Baker, Voorhis & Company: 1917, §102]

#### MOTIONS

102. Motions and rules are instruments or means of facilitating the progress in the administration of justice, by correcting clerical slips, or amending errors not fatal; by accommodating the case to changes of circumstances since its commencement; by meeting exigencies unforeseen or unprovided for; by removing difficulties in the development of the case which stop progress; or by advancing the case in any way towards its final and proper disposition.
103. All motions must be pressed upon the record in writing.
104. All orders or rules that do not require an *allocatur*<sup>6</sup> (those that by their nature are peremptory or absolute) are made by motion and must state facts upon which invocation of a court rule is based and must be limited to only those facts that have been verified and pressed upon the record or made upon oath in open court and in the record.

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<sup>6</sup> Allocatur. Lat. It is allowed. A word used to denote that a writ or order was allowed.



- a) These peremptory or absolute rules are invoked by motion and do not come before the court. They are established upon entry in the court record. If the rules are not obeyed, they are enforced according to their nature by a second order as to enter nonsuit for want of a statement, or judgment for want of a plea; or by a subsequent rule or proceeding founded upon the first, as a rule for an attachment for not returning a writ, etc.
- b) Peremptory or absolute rules are predicated upon any duty made imperative on the other party, rules of the court, or the settled course of the common law.

**105.** An order or Rule requiring an allocatur must be made by petition setting forth the facts upon which the relief is sought, and must be sustained by affidavit of the petitioner of the truth of the facts alleged.

- a) The petition for the allowance of the rule should be a concise statement of the facts upon which the application is based, avoiding argument.
- b) If any part of the pleadings is involved a copy of the particular instrument should be appended.
- c) The decree as desired by the petition should be added to the petition that the court may be saved the trouble of drawing it, and if a stay of proceedings is desired this should be incorporated in the rule.
- d) The petition may be heard ex parte but only upon prior service of the petition upon the opposing party and upon a 5 day notice in advance of hearing.

**106.** The order made by a court on any motion, when drawn into form and pressed upon the record, is called a rule.

**107.** The court may grant or enforce any rule against a party in court within either actually as a party, witness, or juror or spectator or constructively as an officer of the court including attorneys, inferior magistrates, etc.

**108. Doctrine of Common law Estoppel by Acquiescence.** The common law doctrine of **estoppel by acquiescence** is applied when one party gives legal notice to a second party of a fact or claim, and the second party fails to challenge or refute that claim within a reasonable time. The second party is said to have acquiesced to the claim, and is estopped from later challenging it, or making a counterclaim.

**109. Acquiescence.** Passive compliance or satisfaction; distinguished from avowed consent on the one hand, and, on the other, from opposition or open discontent. *Paul v. Western Distributing Co.*, 142 Kan. 816, 52 P.2d 379, 387. Acquiescence from which assent: may be reasonably inferred. *Frank v. Wilson & Co.*, 24 Del.Ch. 237, 9 A.2d 82, 86. Equivalent to assent inferred from silence with knowledge or from encouragement and presupposes knowledge and assent. *Andrew v. Rivers*, 207 Iowa 343, 223 N.W. 102, 105. Imports tacit consent, concurrence, acceptance or assent. *Natural Soda Products Co. v. City of Los Angeles*, Cal.App., 132 P.2d 553, 563. A silent appearance of consent. *Worcester, Diet. Darnell v. Bidwell*, 115 Me. 227, 98 A. 743, 745, 5 A.L.R. 1320. Failure to make any objections. *Scott v. Jackson*, 89 Cal. 258, 26 P. 898. Submission to an act of which one had knowledge. See *Pence v. Langdon*, 99 U.S. 578, 25 L.Ed. 420. It imports full knowledge. *Rabe v. Dunlap*, 51 N.J.Eq. 40, 25 A. 959. Knowledge without objection. *Indiana Harbor Belt R. Co. v. Jones*, 220 Ind. 139, 41 N.E.2d 361, 363.

It arises where a person who knows that he is entitled to impeach a transaction or enforce a right neglects to do so for such a length of time that, under the circumstances of the case, the other party may fairly infer that he has waived or abandoned his right. *Norfolk & W. R. Co. v. Perdue*, 40 W.Va. 442, 21 S.E. 755. Black's Law Dictionary, (4<sup>th</sup> ed., 1968)

### **XIII. MAXIMS OF COMMON LAW**

**110.** No one is believed in court but upon his oath.

**111.** In law none is credited unless he is sworn. All the facts must, when established by witnesses, be under oath or affirmation.

**112.** The practice of a court is the law of the court.

**113.** Mistakes, neglect, or misconducts are not to be regarded as accidents.

114. He who does not deny, admits.
115. He who is silent appears to consent.
116. Extortion is a crime, when by color of office, any person extorts that which is not due, or above due, or before the time when it is due.
117. To commit and not prohibit, when in your power, is the same thing; and he who does not, when he can prohibit, is in fault.
118. A good judge does nothing from his own judgment or from a dictate of private will; but he will pronounce according to law and justice.
119. From the words of the law there is not any departure.
120. All things are presumed against a wrongdoer.
121. The reason of law ceasing, the law itself ceases.
122. He who does anything by another, does it by himself.
123. The King [sovereign] is not bound by any statute if he be not expressly named therein.
124. Where there is a right, there is a remedy.
125. Ignorance of law excuses no one.

**XIV. CONSTRUCTION/INTERPRETATION OF STATUTES UNDER COMMON LAW**

**126.** The lawmaking body's own construction of its language, by means of definitions of the term employed, should be followed in the interpretation of the act or section to which it relates and is intended to apply.<sup>7</sup> By the same token, the courts should not enlarge statutory definitions so as to include a situation or a condition which it might be assumed the legislature would have covered by an enlarged definition if its existence had been contemplated.<sup>8</sup> A statutory definition supersedes the common-law,<sup>9</sup> colloquial,<sup>10</sup> commonly accepted, dictionary or judicial definition.<sup>11</sup> In this regard, where statute itself contains a definition of a word used therein, the definition controls, however contrary to the ordinary meaning of the word it may be,<sup>12</sup> and the term may not be given the meaning in which it is employed in another statute, although the two may be in pari material.<sup>13</sup> Where the legislature has defined words which are employed in a statute, its definitions are binding on the courts since the legislature has the right to give such signification as it deems proper to any word or phrase used by the statute, irrespective of the relationship of the definition to other terms.<sup>14</sup> Furthermore, where a word that already has a definite, fixed, and unambiguous meaning is redefined in a statute, the definition must be taken literally by the courts.<sup>15</sup> **73 Am Jur 2d § 146 Operation of legislative definitions, generally.**

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<sup>7</sup> *Curle v. Superior Court*, 24 Cal. 4th 1057, 103 Cal. Rptr. 2d 751, 16 P.3d 166 (2001); *State v. Olsen*, 618 N.W.2d 346 (Iowa 2000); *Ohio Civil Rights Commission v. Parklawn Manner, Inc.*, 41 Ohio St. 2d 47, 70 Ohio Op. 2d 148, 322 N.E.2d 642 (1975); *Devers v. Scranton City*, 308 Pa. 13, 161 A. 540, 85 A.L.R. 692 (1932).

<sup>8</sup> *Lenox Realty Co. v. Hackett*, 122 Conn. 143, 187 A. 895, 107 A.L.R. 1306 (1936); *Robertson v. Western Baptist Hosp.*, 267 S.W.2d 395 (Ky. 1954).

<sup>9</sup> *Rayonier, Inc. v. Polson*, 400 F.2d 909 (9th cir. 1968); *1137 18th Street Associates, Ltd. Partnership v. District of Columbia*, 769 A.2d 155 (D.C. 2001).

<sup>10</sup> *Western Union Telegraph Co. v. Lenroot*, 323 U.S. 490, 65 S. Ct. 335, 89 L. Ed. 414 (1945).

<sup>11</sup> *Stenberg v. Carhart*, 530 U.S. 914, 120 S. Ct. 2597, 147 L. Ed. 2d 743 (2000); *Driscoll v. General Nutrition Corp.*, 252 Conn. 215, 752 A.2d 1p069 (2000); *Erlandson v. Genesee County Employees' Retirement Com'n*, 337 Mich. 195, 59 N.W.2d 389 (1953); *Appeal of Clayton-Marcus Co., Inc.*, 286 N.C. 215, 210 S.E.2d 199 (1974); *Minnix v. State*, 1955 OK CR 37, 282 P.2d 772 (Okla. Crim. App. 1955).

127. An affirmative statute without any negative express does not take from the common law.
128. As every act of legislature made against any injury, mischief or grievance, does impliedly give a remedy, the party injured may have an action grounded upon that act, although no remedy is expressly given.
129. Wherever a statute commands or prohibits a thing for the advantage of any person, that person shall have an action upon such statute to recover satisfaction for any injury done him contrary thereto; for it would be strange if a person could in such case have no remedy but in equity.
130. If a conviction be upon a statute, which gives forfeiture, each defendant must pay the forfeiture; for the penalty in this case is not in the nature of a satisfaction to the party injured, but a punishment of the offender; and although debts are joint, the crimes are several.
131. In order to construe a statute truly, four things are necessary to be understood and considered: 1. What the common law was before. 2. What the defect or mischief was, for which the common law had not provided: 3. The remedy that is by the act provided for this mischief. 4. The true reason of this remedy.
132. All obscure statutes ought to be construed according to the rules of the common law.

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<sup>12</sup> *Appeal of Clayton-Marcus Co., Inc.*, 286 N.C. 215, 210 S.E.2d 199 (1974). The general Assembly's own construction of its language as provided by definitions, controls in the application of a statute, and such definition will be given great weight against any claim that application of the statutory definition defeats the general purpose of the statute. *Ohio Civil Rights Commission v. Parklawn Manner, Inc.*, 41 Ohio St. 2d 47, 70 Ohio Op. 2d 148, 322 N.E.2d 642 (1975).

<sup>13</sup> *Davison v. F. W. Woolworth Co.*, 186 Ga. 663, 198 S.E. 738, 118 A.L.R. 1363 (1938).

<sup>14</sup> *People v. Dugan*, 91 Misc. 2d 239, 397 N.Y.S.2d 878 (County Ct. 1977).

<sup>15</sup> *Young v. O'Keefe*, 246 Iowa 1182, 69 N.W.2d 534 (1955); *State v. Standard Oil Co.*, 61 Or. 438, 123 P. 40 (1912).

133. But although an affirmative statute does not take away the common law, it is nevertheless binding; and a party may make his election, to proceed upon such statute, or at the common law.
134. Where any statute is against common right and reason, or repugnant or impossible to be performed, the common law shall control it, and adjudge it to be void.
135. General words in a statute may be restrained by subsequent sentences or clauses in the same statute.
136. Where a thing is given or limited by particular words in a statute, this shall not be taken away or altered by any subsequent general words.
137. The expressing of those things which are implied operates nothing.
138. What is expressed makes what is silent to cease.
139. The express mention of one person or thing is the exclusion of another.

#### **XV. COMMON LAW OF AGENCY**

140. One, who has a bare power or authority from another to do an act, must execute it himself, and cannot delegate his authority to another; for this being a trust or confidence reposed in him personally, it cannot be assigned to a stranger, whose ability and integrity might not be known to the principal, or, if known, might not be selected by him for such a purpose... The reason is plain; for, in each of these cases, there is an exclusive personal trust and confidence reposed in the particular party.

And hence is derived the maxim of the common law; *Delegata potestas non potest delegari*. And the like rule prevailed, to some extent, in the civil law; *Procuratorem alium procuratorem facere non poss*.

In general, therefore, when it is intended, that an agent shall have a power to delegate his authority, it should be given to him by express terms of substitution. But there are cases, in which the authority may be implied; as where it is indispensable by the laws, in order to accomplish the end; or it is the ordinary custom of trade; or it is understood by the parties to be the mode, in which the particular business

would or might be done ... In short, the true doctrine, which is to be deduced from the decisions, is, (and it is entirely coincident with the dictates of natural justice,) that the authority is exclusively personal, unless, from the express language used, or from the fair presumptions, growing out of the particular transaction, or of the usage of trade, a broader power was intended to be conferred on the agent.

**141.** Where a power is given, by a statute introducing some new law to a certain person, by the designation of that one person, although it is an affirmative statute, all others are excluded from the exercise thereof.

**142.** When any power is given by statute, all incidents, necessary to the making it effectual, are also given.

#### **XVI. CONSTITUTION FOR THE UNITED STATES OF AMERICA**

**143.** This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. Article 6, Section 2.

**144.** No State shall pass any law impairing the obligation of contracts. **Article 1, Section 10**

**145.** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. **Amendment IV.**

**146.** No person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. **Amendment V.**

**147.** Nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. **Amendment 14.**

148. The 7th Article of Amendment preserves and secures to the People the substantive right to bring an action at common law conducted according to rules of common law. See Constitution, 7th Article of Amendment.

## **XVII. DUE PROCESS**

149. "A fundamental requirement of due process is "the opportunity to be heard." *Grannis v. Ordean*, 234 U.S. 385, 394. It is an opportunity which must be granted at a meaningful time and in a meaningful manner." *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).

150. A judgment or order is void if there has been a violation of due process that deprives a party of the opportunity to be heard. See *United Student Aid Funds, Inc. v. Espinosa*, 559 US 260, 130 S.Ct. 1367, 1377 (2010).

151. "The judgment [or order] if void when rendered, will always remain void[.]" *Pennoyer v. Neff*, 95 US 714, 728 (1878).

152. "A void judgment [or order] for purposes of Rule 60(b)(4) is generally defined as a judgment entered by a court without jurisdiction or in contravention of due process of law. See *Margoles v. Johns*, 660 F.2d 291, 295 (7th Cir.1981), cert. den. 455 U.S. 909, 102 S.Ct. 1256, 71 L.Ed.2d 447 (1982)." *Wesco Products Co. v. Alloy Automotive Co.*, 880 F. 2d 981, 984 ( 7th Cir. 1989).