UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

• 445 Broadway; Albany, NY 12207-2936 •

John Vidurek, Gerard Aprea, et al Plaintiffs - Against - Governor A. Cuomo, New York State Senate and New York State Assembly Defendants	Jurisdiction: Court of Record, under the rules of Common Law[1] Magistrate: Christian F. Hummel Case NO: 1:18-cv-392 **SHOW CAUSE[2] CONCERNING MOTIONS IN ERROR[3]**

NEW YORK STATE)
):SS.
DUTCHESS COUNTY)

This Show Cause is directed to both Magistrate Christian F. Hummel and Judge Mae A. D'Agostino whereas both are to respond as to by what authority you made rulings using statutes to overrule the Constitution on the following unconstitutional orders.

UNALIENABLE RIGHT TO PROCEED WITHOUT COST

Magistrate Christian F. Hummel's unconstitutional order dated April 26, 2018 clearly provides proof for the plaintiffs case by calling the fee for a court of justice a statutory

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

[2] **SHOW CAUSE:** Against a rule nisi, an order, decree, execution, etc., is to appear as directed, and present to the court such reasons and considerations as one has to offer why it should not be confirmed, take effect, be executed, or as the case may be.

[3] **MOTION IN ERROR:** A motion in error stands on the same footing as a writ of error; the only difference is that, on a motion in error, no service is required to be made on the opposite party, because, being before the court when the motion is filed, he is bound to take notice of it at his peril. Treadway v. Coe, 21 Conn. 283.

fee[4] and congealed the fact by quoting 28 U.S.C. §1914(a). Wherein, the statute itself establishes the fee as an administrative filing fee for civil cases that are governed by statutes, as opposed to the common law or equity which is the jurisdiction that the plaintiffs opened. The court is to proceed according to the common law.

People are to have free access to Courts and public offices. Filing fees impede access to justice and services. "*Living as we do under a common government, charged with the great concerns of the whole Union, every citizen of the United States from the most remote states or territories, is entitled to free access not only to the principal departments established at Washington, but also to its judicial tribunals and public offices in every state in the Union*." - Crandell v. Nevada, 6 Wall 35. "*Plaintiff(s) should not be charged fees, or costs for the lawful and constitutional right to petition this court in this matter in which he is entitled to relief, as it appears that the filing fee rule was originally implemented for fictions and subjects of the State and should not be applied to the Plaintiff who is a natural individual and entitled to relief.*" - Hale v. Henkel 201 U.S. 43.

> **American Jurisprudence Constitutional Law §326:** "*Free Justice and Open Courts; Remedy for All Injuries - In most of the state Constitutions there are provisions, varying slightly in terms, which stipulate that justice shall be administered to all without delay or denial, without sale or prejudice, and that the courts shall always be open to all alike. These provisions are based largely upon the Magna Charta, chap. 40, which provides; "We will sell to no man. We will not deny to any man either justice or right." The chief purpose of the Magna Charta provision was to prohibit the King from selling justice by imposing fees on litigants through his courts and to deal a death blow to the attendant venal and disgraceful practices of a corrupt judiciary in demanding oppressive gratuities for giving or withholding decisions in pending causes. It has been appropriately said that in a free government the doors of litigation are already*

[4] STATUTORY: (Blacks 4th) That which is introduced or governed by statute law, as opposed to the common law or equity. Thus, a court is said to have statutory jurisdiction when jurisdiction is given to it in certain matters by act of the legislature.

wide open and must constantly remain so. The extent of the constitutional provision has been regarded as broader than the original confines of Magna Charta, and such constitutional provision has been held to prohibit the selling of justice not merely by magistrates but by the State itself."

MANDATORY NOTICE OF CLAIMANT'S RIGHT TO COURT WITHOUT "FEES" As found in: New York ex rel. Bank of Commerce v. Commissioner of Taxes for City and County of New York, 2 Black 620 (1863). - "*Please take mandatory notice (Federal Rules of Evidence 201(d)) that Plaintiff has a lawful right to proceed without cost, based upon the following law.*" The U.S. Supreme Court has ruled that "*a natural individual entitled to relief is entitled to free access to its judicial tribunals and public offices in every State in the Union*." - 2 Black 620, see also Crandall v. Nevada, 6 Wall 35).

Access to a Court of Justice is an unalienable right, called due process, which is protected under the 5th Amendment and cannot be charged for[5]. Magistrate Christian F. Hummel states that the filing fee is authorized by Congress under 20 USC §1914(a). The United States is a Republican form of government[6] which means we are a Nation of Law governed by a Constitution, not statutes! Our Constitution was written by We the People, not Congress! Congress cannot legislate beyond what We the People vested or the Common Law would permit, and, since neither the People nor the Law can permit, 20 USC §1914 is null and void in its entirety along with any other statute or act that constructs upon it. Magistrates in courts of record are expected to know the law and

[5] **American Jurisprudence (Constitutional Law) §326;** Free Justice and Open Courts; Remedy for All Injuries.- In most of the state Constitutions there are provisions, varying slightly in terms, which stipulate that justice shall be administered to all without delay or denial, without sale or prejudice, and that the courts shall always be open to all alike. These provisions are based largely upon the Magna Charta, chap. 40, which provides; "We will sell to no man. We will not deny to any man either justice or right." The chief purpose of the Magna Charta provision was to prohibit the King from selling justice by imposing fees on litigants through his courts and to deal a death blow to the attendant venal and disgraceful practices of a corrupt judiciary in demanding oppressive gratuities for giving or withholding decisions in pending causes. It has been appropriately said that in a free government the doors of litigation are already wide open and must constantly remain so. The extent of the constitutional provision has been regarded as broader than the original confines of Magna Charta, and such constitutional provision has been held to prohibit the selling of justice not merely by magistrates but by the State itself. Therefor a denial of access into the Peoples courts' of justice for refusing to pay a fee would be a violation of plaintiff's unalienable right of due process protected under V Amendment.

[6] **Article IV Section 4:** The United States shall guarantee to every state in this union a republican form of government.

their proper role. Ignorance of the law, which everyone is bound to know, excuses no man.[7] Gross negligence is equivalent to fraud and the failure to exercise ordinary care finds a person culpable.

When a magistrate or a judge forces jurisdictions upon the People foreign to the Constitution, it is nothing less than lawless violence.[8] These federal district courts are to be "Courts' of Justice" constitutionally described as "Article III Courts",[9] which are Courts of Record any legislation or rule to the contrary notwithstanding.

There is a lawful statute written for elected, appointed and employed government servants[10] preventing said servants form changing jurisdiction that states: 28 U.S. Code § 132 - *Creation and composition of district courts (a) There shall be in each judicial district a district court which shall be a court of record[11] known as the United States District Court for the district. Courts of record proceed under the jurisdiction of common law*.

JURISDICTION

Magistrate Christian F. Hummel unconstitutional order dated April 26, 2018 stated, "*In order to commence an action in federal district court, a party must file a complaint. The Federal Rules of Civil Procedure specifically indicate that the only permitted pleading*

---

[7] **IGNORANTIA JURIS QUOD QUISQUE TENETUR SCIRE, NEMINE1YI EXCUSAT.** Ignorance of the [or a] law, which everyone is bound to know, excuses no man. A mistake in point of law is, in criminal cases, no sort of defense. 4 Bl. Comm. 27; 4 Steph.Comm. 81; Broom, Max. 253; 7 Car. & P. 456.; Hale, P.C. 42; Broom, Max. 267.; 1 Coke, 177; Broom, Max. 253.

[8] "No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence." -- Ableman v. Booth, 21 Howard 506 (1859).

[9] Article III Section 1: THE JUDICIAL POWER OF THE UNITED STATES, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior.

[10] "All codes, rules, and regulations are for government authorities only, not human/Creators in accordance with God's laws. All codes, rules, and regulations are unconstitutional and lacking due process…" Rodriques v. Ray Donavan (U.S. Department of Labor) 769 F. 2d 1344, 1348 (1985).

[11] COURT OF RECORD: "A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it 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.

is a complaint. FED. R. CIV. P. Rule 7(a) provides: Pleadings: Only these pleadings are allowed: (1) a complaint; (2) an answer to a complaint; (3) an answer to a counterclaim."

85 The Federal Rules Civil Procedure Page V. Authority for Promulgation of Rules Title 28 USC §2042 Power to prescribe: The federal rules Title by the use of the word "civil"[12] unconstitutionally creates a statutory court under civil law being repugnant to the common law, thereby null and void as per common law and the lawful statute §2042.

90 Title 28 USC §2042 (a)[13] gave the Supreme Court power to prescribe **general rules** of practice and procedure and **rules of evidence** for cases in the United States district courts. It did not give the judiciary authority, nor could it, to change our Common Law to statutory law.

Title 28 USC §2042 (b)[14] states that such rules shall not abridge, enlarge or modify any
95 substantive right. Clearly the rules are in conflict with the Law of the Land and therefore have no force or effect. Plaintiffs accept only rules that are LAWFUL and demand that this court do the same.

COMPLAINT V ACTION: A complaint is a prayer in a civil court operating under statutes where civil rights might be afforded. Whereas, "*An Action is a formal demand*
100 *of one's right from another person or party made and insisted on in a court of justice*." - Smith-Webster Co. v. John, C.C.A.Pa., 259 F. 549, 551; Dinsmore v. Barker, 61 Utah,

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

[13] Title 28 USC §2042 (a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.

[14] Title 28 USC §2042 (b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

332, 212 P. 1109". And, At Law proceeds according to Common Law. No Officer of the court has power or authority to deny Common Law.

The system of federal rules began with the Rules Enabling Act of 1934 whereas Congress gave the Supreme Court the "*power to prescribe general rules of practice and procedure and rules of evidence*" under 28, USC § 2072[15]. Congress did not give, nor can they give, power to create courts foreign to our Constitution, write law under the color of law, or abrogate Common Law that proceeds according to the rules of the common law and secured by the 7th Amendment.[16] The jurisdiction for the federal rules of civil procedure is found in its title "civil". Civil law[17], a/k/a Roman law, is NOT the Law of Nature, a/k/a Common Law, as prescribed in the Declaration of Independence[18] and secured by the Constitution.[19] Therefore, the said rules are for civil cases and not Common Law cases. Therefore, any rule that would violate plaintiffs "unalienable rights" is "null and void".

> "*All laws, rules and practices which are repugnant to the Constitution are null and void.*" - Marbury v. Madison, 5th US (2 Cranch) 137, 174, 176,(1803).

---

[15] **AUTHORITY FOR PROMULGATION OF RULES TITLE 28, USC § 2072:** Rules of procedure and evidence; power to prescribe (a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals. (b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. (c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title. (Added Pub. L. 100–702, title IV, § 401(a), Nov. 19, 1988, 102 Stat. 4648, eff. Dec. 1, 1988; amended Pub. L. 101–650, title III, §§ 315, 321, Dec. 1, 1990, 104 Stat. 5115, 5117.)

[16] **Amendment VII:** In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

[17] **CIVIL LAW:** "Civil Law," "Roman Law" and "Roman Civil Law" are convertible phrases, meaning the same system of jurisprudence. That rule of action which every particular nation, commonwealth, or city has established peculiarly for itself; more properly called "municipal" law, to distinguish it from the "law of nature," and from international law. See Bowyer, Mod. Civil Law, 19; Sevier v. Riley, 189. Cal. 170, 244 P. 323, 325.; The word "civil," as applied to the laws in force in Louisiana, before the adoption of the Civil Code, is not used in contradistinction to the word "criminal," but must be restricted to the Roman law. It is used in contradistinction to the laws of England and those of the respective states. Jennison v. Warmack, 5 La. 493.

[18] **Declaration of Independence:** When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

[19] **Article III Section 2:** The judicial power shall extend to all cases, in law and equity.

Congress was clear when it said under 28, USC § 2072(b), "*Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect*." Therefore, "*…where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.*" Miranda v. Arizona, 384 U.S. 436, 491.

Magistrate Christian F. Hummel, Judge Mae A. D'Agostino and any other Judge or Magistrate cannot deny the plaintiff's unalienable right of due process in an Article III Court.[20] The Supreme Court did not have the authority to legislate civil and criminal courts via rules.

> "*Due course of law, this phrase is synonymous with "due process of law" or "law of the land" and means law in its regular course of administration through courts of justice*." - Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.
>
> "*Law in its regular course of administration through courts of justice is due process*." - Leeper vs. Texas, 139, U.S. 462, II SUP CT. 577, 35 L ED 225.

The rules were only intended to provide for (1) general rules of practice and (2) procedure and rules of evidence as long as they did not abridge, enlarge or modify any substantive right, see Title 28 USC § 2072.

Whereas, the Supreme Court unlawfully created Roman civil administrative courts called courts of equity[21] via said rules which buried all access to We the Peoples Courts of Justice. The unconstitutional rules deny access to our Courts of Justice by requiring the filing of a "Civil Cover Sheet" that provides for only a civil court. The Judiciary

---

[20] **Article III Section 1:** THE JUDICIAL POWER OF THE UNITED STATES, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior.

[21] **COURT OF EQUITY:** A court which has jurisdiction in equity, which administers justice and decides controversies in accordance with the rules, principles, and precedents of equity, and which follows the forms and procedure of chancery; as distinguished from a court having the jurisdiction, rules, principles, and practice of the common law. Thomas v. Phillips, 4 Smedes & M., Miss., 423.

denies access to our Courts of Justice by filling out the plaintiffs' "Summons for a Civil Action" thereby, giving plaintiffs no recourse for access to our Courts of Justice.

RIGHT TO PRACTICE LAW

Magistrate Christian F. Hummel's unconstitutional order dated April 26, 2018 denying all the plaintiffs from speaking in one voice somehow claiming authority under 28 U.S. Code §1654 which states:

> "*Appearance personally or by counsel In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the* [Lawful] *rules of such courts, respectively, are permitted to manage and conduct causes therein*."

The aforesaid code §1654 does not say one cannot speak for a group but does say the parties [natural] may plead and conduct their own cases. Whereas, party is defined as being composed of one or more natural persons as we read from Blacks Law:

> "*Party is a technical word, and has a precise meaning in legal parlance. By it is understood he or they by or against whom a suit is brought, whether in law or equity; the party plaintiff or defendant, whether composed of one or more individuals, and whether natural or legal persons, (they are parties in the writ, and parties on the record;) and all others who may be affected by the suit, indirectly or consequentially, are persons interested, but not parties*." - Merchants' Bank v. Cook, 4 Pick. 405.

Furthermore, the case Berrios v New York City Housing Authority is an administrative court and not a Court of Record[22] and their interpretation of law is not law, having no place in a court of justice. It's an opinion that does not add to Jurisprudence but in fact is repugnant because, as shown above, their opinion is incorrect.

[22] **ARTICLE VI Section 1(b):** The court of appeals, the supreme court including the appellate divisions thereof, the court of claims, the county court, the surrogate's court, the family court, the courts or court of civil and criminal jurisdiction of the city of New York, and such other courts as the legislature may determine shall be courts of record.

Whereas, the United States Supreme Court, which does add to jurisprudence, providing it is not repugnant to the Constitution, supports the proper interpretation of 28 U.S. Code §1654 as we read:

"*The term [liberty] ... denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, to establish a home and bring up children, to worship God according to the dictates of this own conscience... The established doctrine is that this liberty may not be interfered with, under the guise of protecting public interest, by legislative action*." - Meyer v. Nebraska, 262 U.S. 390, 399, 400.

"*A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process Clause of the Fourteenth Amendment.*" - Schware v. Board of Bar Examiners, 353 U.S. 232 (1957).

"*There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights*." - Sherar v. Cullen, 481 F. 2d 946 (1973).

"*The practice of law cannot be licensed by any state/State*." - Schware v. Board of Examiners, United State Reports 353 U.S. pages 238, 239.

"*The practice of law is an occupation of common right*." - Sims v. Aherns, 271 SW 720 (1925).

"*The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice*." - Davis v. Wechler, 263 U.S. 22, 24; Stromberb v. California, 283 U.S. 359; NAACP v. Alabama, 375 U.S. 449.

"*... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws*." - Elmore v. McCammon [(1986) 640 F. Supp. 905.

"*Litigants can be assisted by unlicensed laymen during judicial proceedings*." - Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar, 377 U.S. 1; v. Wainwright, 372 U.S. 335; Argersinger v. Hamlin, Sheriff 407 U.S. 425.

"*A next friend is a person who represents someone who is unable to tend to his or her own interest*." - Federal Rules of Civil Procedures, Rule 17, 28 USCA "Next Friend."

"*Members of groups who are competent non-lawyers can assist other members of the group achieve the goals of the group in court without being charged with "unauthorized practice of law*." - NAACP v. Button, 371 U.S. 415); United Mineworkers of America v. Gibbs, 383 U.S. 715; and Johnson v. Avery, 89 S. Ct. 747 (1969).

The U.S. Constitution does not give anyone the right to a lawyer or the right to counsel, or the right to any other "hearsay substitute". The 6th Amendment[23] is very specific, that the accused only has the "*right to the assistance of counsel*" and this assistance of counsel can be anyone the plaintiff or defendant chooses without limitations. The BAR is not to have a monopoly on our courts. Therefore, we have a right to counsel each other and different individuals may take the lead according to our expertise. Additionally, all plaintiffs have "sworn affidavits" that bear their signature and, "*Indeed, no more than affidavits is necessary to make the prima facie case*." - United States v. Kis, 658 F.2d 526, 536 (7th Cir. 1981); Cert. Denied, 50 U.S. L. W. 2169; S. Ct. March 22, 1982.

RULE 17 The United States Supreme Court has confirmed that a next friend can represent others under rule 17, 28 USCA and members of a group who are competent non-lawyers can assist other members of the group achieve the goals.

LETTER MOTION TO DISMISS

Defendants are cherry picking parts of the safe act that may or may not have some validity nevertheless the substance of the Safe Act violates the Unalienable Right to

[23] **Amendment VI:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

bear arms protected by the 2nd Amendment whereas 16th American Jurisprudence, Second Edition, Section 177 states: "*The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the supreme law of the land, and any statute, to be valid, must be in agreement. It is impossible for both the Constitution and a law violating it to be valid; one must prevail. This is succinctly stated as follows: The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. As unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted. "Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it. A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, in so far as a statute runs counter to the fundamental law of the land, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it*." Therefore, plaintiffs have an unalienable right to be heard and have an unalienable right to petition the government for redress, whereas the defendants being elected individuals have a duty to answer.

> "*Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading*."[24]

Plaintiffs are not and have not claimed to be "sovereign citizens". Plaintiffs do not believe that governments lack constitutional legitimacy but, the contrary, plaintiffs

[24] U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.

believe in a Republican form of government as ordained by the Constitution. Defendants are free to state their opposition to plaintiffs' position with their answer as is the process of law and plaintiffs will respond and we expect that the court will obey the Law and not status quo.

On April 17, 2018, defendants requested 45 days to file a motion to dismiss via letter on the premise that the plaintiffs' claimed to be sovereign citizens which is code for "cop killer". This was dangerous, destructive, unprofessional, and uncalled for. On April 18, 2018, U.S. District Judge Mae A. D'Agostino should not have granted defendants' fictional pre-motion letter which sought leave under Rule 12 to file a motion to dismiss under a fabricated pretense. Anyone who reads the plaintiffs Action would see that the plaintiffs are Law abiding People and believe strongly in the Republican form of government upon which the United States of America was founded. Therefore, plaintiffs deny such repugnant allegations and object to Judge Mae A. D'Agostino's decision giving defendants' unwarranted leave to file a responsive pleading. Furthermore, an Action should not be dismissed unless it appears "beyond doubt" that the plaintiffs can prove no set of facts in support of the claim,[25] which clearly is not the case.

THE COURT IS AGAIN DIRECTED TO TAKE JUDICIAL NOTICE[26]

"*Due course of law, this phrase is synonymous with "due process of law" or "law of the land"*[27] *and means law in its regular course of administration through courts of*

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

[26] JUDICIAL COGNIZANCE: Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence. Jurisdiction is the authority by which courts and judicial officers take cognizance of and decide cases. Board of Trustees of Firemen's Relief and Pension Fund of City of Marietta v. Brooks, 179 Okl. 600, 67 P.2d 4, 6; Morrow v. Corbin, 122 Tex. 553, 62 S.W.2d 641; State v. Barnett, 110 Vt. 221, 3 A.2d 521, 526.

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

justice."[28] "*By the law of the land is more clearly intended the general law, a law which hears before it condemns; which proceeds upon inquiry and renders judgment only after trial*."[29]

The Law of the Land consists of the Declaration of Independence, US Constitution, Bill of Rights, Granted legislative powers,[30] Common Law,[31] and the "*rules of the common law*",[32] "*…anything in the Constitution or laws of any State to the contrary notwithstanding.*"[33] "*Law in its regular course of administration through courts of justice*[34] *a/k/a courts of common law is due process*."[35] In Brown v. Levese Com'rs, 50 MIS 479, "*it is said that these constitutional provisions do not mean the general body of the law as it was at the time the Constitution took effect; but they refer to certain fundamental rights which the system of jurisprudence of which ours is derivative has always been recognized; if any of these are disregarded in the proceedings by which the system of jurisprudence of which ours is derivative has always been recognized; if any of these are disregarded in the proceedings by which a person is condemned to the loss of liberty, etc., then the deprivation has not been by due process of law, and it has been held that the state cannot deprive a person of his property without due process of law through an act of legislature.*"

[28] Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.
[29] Dartmouth College Case, 4 Wheat, U.S. 518, 4 ED 629.
[30] Article 1 Section 8.
[31] Article III Section 2. "in law".
[32] Article VII.
[33] Article VI clause 2.
[34] JUSTICE: [Bouvier's Law, 1856 Edition] In the most extensive sense of the word, it differs little from virtue, for it includes within itself the whole circle of virtues. Justice being in itself a part of virtue, is confined to things simply good or evil, and consists in a man's taking such a proportion of them as he ought.; Luke 6:19 And the whole multitude sought to touch him: for there went virtue out of him, and healed them all.
[35] Leeper vs. Texas, 139, U.S. 462, II SUP CT. 577, 35 L ED 225.

The Miranda Decision: Ernesto A. Miranda v. State of Arizona, United States Supreme Court, decided June 13, 1966. "*Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them*." The United States Supreme Court stated further that all rights and safe guards contained in the first eight amendments to the federal constitution are equally applicable in every State "*…because a denial of them would be a denial of due process of law*"[36].

"*As to the construction, with reference to Common Law, an important cannon of construction is that constitutions must be construed to reference to the Common Law." The Common Law, so permitted destruction of the abatement of nuisances by summary proceedings and it was never supposed that a constitutional provision was intended to interfere with this established principle. Although there is no common law of the United States in a sense of a national customary law as distinguished from the common law of England, adopted in the several states. In interpreting the Federal Constitution, recourse may still be had to the aid of the Common Law of England. It has been said that without reference to the common law, the language of the Federal Constitution could not be understood*." - 16Am Jur 2d., Sec. 114:

Wherefore, Magistrate Christian F. Hummel's "ORDERS" place the Constitution sub-servient to statutes, an act of war against the Constitution. Magistrate Christian F. Hummel is in error and is directed to rescind all ORDERS dated 4-26-2018 or show cause within five (5) days of receipt of this Show Cause by "What Constitutional Authority" you act. No judge or magistrate has the authority to deny plaintiffs' their unalienable right of due process in an Article III Court of Justice a/k/a Court of Record

[36] William Malloy vs. Patrick J. Jogan,378 U.S. 1, 84 S. Ct. 1489, argued Mar 5, 1964, decided June 15, 1964.

that proceeds according to the rules of Common Law. Magistrate Christian F. Hummel, must be obedient to the Supreme Law of the Land[37] or recuse himself. Judge Mae A. D'Agostino must rescind her decision giving defendants leave because of false statements.[38]

SEAL

John Vidurek, et al

NOTARY

In New York State, Dutchess County, on May 21st, 2018 before me, ~~John~~ Alaina N. Watson, the undersigned Notary Public, personally appeared John Vidurek, to me known to be the living man described herein, who executed the forgoing instrument, and has sworn before me that he/she executed the same as his/her free-will act and deed.

Notary

(Notary seal)
ALAINA N WATSON
Notary Public - State of New York
NO. 01WA6347478
Qualified in Dutchess County
My Commission Expires Sep 6, 2020

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

[38] USC Chapter 47, FRAUD AND FALSE STATEMENTS 18 U.S.C. §1001: Statements or entries generally (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully - (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years;