

Common Law Remedy To Beat Traffic Tickets



Putting The Law On Your Side

Common Law Remedy

To Beat Traffic Tickets

Putting the Law on Your Side

Copyright © BeatTrafficTickets.org 2013

All Rights Reserved.

This report not to be taken as legal advice.
For Educational Information Only.

This book may be copied and shared with anyone. Readers may offer it from their website or share with their mailing list. Excerpts may be reprinted in an eZine or on one's personal website providing that proper credit is given: <http://www.beattraffictickets.org>

Legal Disclaimer

While all attempts have been made to verify the information provided in this publication through personal experience and research, the author does not assume any responsibility for errors, omissions or contrary interpretation of the information. He cannot and *will not* be responsible for any use anyone else might choose to make of this information; he may risk his own well-being on the strength of his personal research and understanding of the law, but he will not risk the negligence or incompetence of others.

This publication is not intended for use as a source of “legal” advice. The information contained herein may be subject to varying international, federal, state and/or local laws or regulations. The reader of this publication assumes responsibility for understanding the use of these materials and information. Adherence to all laws and regulations which apply in a specific situation is the sole responsibility of the reader.

This publication does not intend to give any “legal” advice regarding specific legal problems as the answer may depend upon the facts and circumstances surrounding the specific instance. In addition, statutory law is ever changing, and though we try to keep everything up to date, it may be necessary for you to obtain information more current than that contained in this publication. However, here is a valuable hint: if you understand the difference between “legal” advice and lawful “due process,” you should be standing on solid ground.

The author and publisher do not assume any responsibility or liability whatsoever for what a reader may choose to do with this information. Any perceived slight of specific people or organizations is purely unintended. The reader is advised to use this information at his own discretion, according to his own due diligence and understanding of the law and the various jurisdictions in which it is applied. However, one should understand that corroborating research (in the form of legal rulings and definitions of words, among other things) has been included in this presentation in order to assist readers’ broadening of their education about the law and legal matters. Yet, there is no guarantee that such corroborating research will be applicable to any particular matter within the context of how that matter may become adjudicated.

Table of Contents

Introduction

- 1 A Brief Introduction To Concepts Of Law
Know Your Choice Of Law
- 2 Your Right To Travel Free Of Government Intervention
A Natural Right Cannot Be Converted Into A Privilege
- 3 What Is A Motor Vehicle?
Know The Definition Of Legal “Words Of Art”
- 4 Your Right *Not* To Be Identified By The State
Driver License Is Not For Identification
- 5 How To Handle A Traffic Stop
Be Courteous But Firm In Your Conviction
- 6 What To Do If You Are Cited
How To Handle This Matter Administratively
- 7 How To Get Your Case Dismissed
If You Neglect To Refuse For Cause The Presentment
- 8 How To Handle Yourself In Court
During A Special Appearance
- 9 Competent Record Forming, The Power of Affidavits,
And Your Identity Affidavit Of Administrative Notice

Addendum: What Happens If I Follow This Advice And Things Go Wrong
And I Foul It Up?

Information Resources

Introduction

The subject of traffic infractions and the citations that can follow are a relatively recent development in the course of law and law making over the past several hundred years. It has only been within the past one hundred years or so (since the invention and implementation of the automobile in societies) that this phenomenon has occurred.

Statutory law jurisdictions (where law is legislated – written down – and passed into effect and affecting only a *certain* circumstance that people find themselves in) have over time been the source of the majority of these laws. In this regard, it becomes incumbent upon the individual to know the difference and significance between Public law and Private law in order to ascertain when, or even if, a law may be applicable to him personally. Most of these laws were written to protect people from unjust circumstances, and in many instances are justified in being enforced. Anyone who breaks a law that is recognized by both the statutory and common law jurisdictions should certainly expect to have to answer for their misdeeds.

However, not every infraction carries with it a cause which violates another person's rights or property. Such incidents are often referred to as "victimless incidents." Yet they are treated by the legal system that most of us are familiar with as though there were an actual victim who was violated. How can this be, when there is no *actual* cause of action to be decided? In other words, no one putting forth an *actual* claim upon which relief may be granted. And yet, these "cases" get adjudicated everyday with hardly anyone contesting them.

There is no doubt that municipalities and States are raking in large revenues based on people's ignorance of the law and how it works in matters involving traffic citations. In the case of citations for speeding, only about 3% of these tickets are actually contested. This means that 97% of people pay up! And the legal system counts on this low number of contestants since the courts are already overwhelmed.

The answer to how the legal system "gets away with" being able to charge people and prevail in cases in which there is no actual victim has to do with a little known fact. This fact is not taught in driver education courses or anywhere else in the education system, and is therefore little known by most people. And that fact is: when you sign the application form in order to obtain a driver license (and later the actual license itself), what you are agreeing to is in essence known as an "adhesion

contract,” which is in a classification of contract known as a “quasi-contract.” In other words, you agree to abide by the traffic codes and statutes put in place by the supervising authority in exchange for obtaining the license.

“Adhesion contracts” are a standardized contract form offered to consumers of (mostly government) goods and services on essentially a “take it or leave it” basis without affording the applicant/consumer a realistic opportunity to bargain. Under such conditions that person cannot obtain the desired product or services except by acquiescing in form to the contract, which, in this case, allows him to *act in commerce* with limited liability. A distinctive feature of the adhesion contract is that the weaker party has no realistic choice as to its terms.

When you allow the officer at roadside to see your license and registration, you are in essence *testifying against yourself*, providing *prima facie* (“on the face of it”) evidence that you have contracted with the State to follow its “rules of the road.” After you realize what you have done, it can almost seem hopeless to try to fight this. However, this is far from being true.

As bad as this may appear at first glance, there are ways to overcome these presumptions of law in order to bring the law onto your side. You just have to know how to *use* the law (common law) in order to *overcome* the law (statutes) and receive a fair and just outcome.

That’s what this small ebook is all about. Once you know and understand a few important principles of law and how they are used, you can effectively put an end to these baseless “nuisance infractions” that may trouble you from time to time.

At this point it should be pointed out that it will be to the reader’s benefit to read this document all the way through to the end first before attempting to arrive at any conclusions about the information being disclosed, and, in any of the sections, to seek out clarification of any words or ideas that you become unclear about before proceeding on with your reading. It is of the utmost importance that you understand the meaning and implication behind every sentence in this document, because when dealing with law, the law works to eliminate any ambiguity within an individual presentation. This is to say: if you don’t *know* what you’re saying or the *legal* implications behind what you are testifying to in court, it could work against your better interests.

Everything that a person needs to know in order to successfully apply it toward a “nuisance traffic infraction” has been painstakingly thought out and presented (based on direct personal experience) in this book. In other words, there are no quick-and-easy answers here beyond your competent understanding of the concepts presented and their application. You cannot just skim this information and expect to

understand any of it. You will need to work for your understanding by paying attention to the details. In order to satisfy any doubts that may linger in your mind, you may have to supplement what you find here from other sources. As a matter of fact, you are encouraged to look up anything that you think is doubtful or dubious in its assertion in order to prove, as much as possible, the truth of the assertion. Just understand that there may be instances where your proof may come *only* after you make a positive stand to uphold your rights in a matter.

One

A Brief Introduction To Concepts Of Law *Know Your Choice Of Law*

Not many people realize it, but when you are faced with going to court you, in many instances, have a choice of which system of law that you wish to have jurisdiction over you. You just have to know how to *insist* upon one system of law as opposed to another, and how to rebut the presumption that a contract (which would limit the choice of law) is in play. In order to retain rights recognized by the Constitution (meaning certain “unalienable rights” as described in the Declaration of Independence), you need to be able to enter a *judicial* “court of record” under the common law and stay out of a legislative administrative court (which only impersonally administers law according to contract law).

In the case of traffic violations, the system that you want to *stay out of* is the system that is bringing you into court in the first place. The legislative “statutory” system of law. This can be either a county justice court or a city municipal court which will adjudicate the Department of Transportation traffic codes in your State.

In either instance, these are not, as many people mistake them to be, *judicial* courts. Rather, they are *administrative* courts. Administrative courts *administer* the law – in other words the way they operate is cut and dried, and based on *assumpsit* or presumption of your identity and its connection to the subject matter at hand. Unless you know what you are doing and what is happening, whatever defense you put up that is based on the understanding that you are in a judicial court will be pointless and ineffective. That is, you are entering a losing battle.

Administratively, since you *consented* to identify yourself as a licensed *driver* and did not rebut that fact, the court sees you as bound by the license agreement (or constructive trust by operation of law), which is that you must follow the traffic codes to the letter or suffer the consequences of not having done so. When there is no dispute over the facts in such a case, you are presumed guilty and must suffer the penalty if you are unable to prove yourself innocent. In an administrative court, the burden of proof is switched to the defendant. This is how these courts prevail in the majority of the cases brought before them. It’s like leading the unwary lambs to the

slaughter, and generally results in instant revenue for the city or state holding court.

In order to stay out of the jurisdiction of these administrative traffic courts, you have to challenge jurisdiction (for example, through proof of a reservation of rights when you signed the traffic citation). Administrative courts deal only with fictions in law. They don't deal with natural persons (meaning flesh and blood human beings). *Legal* fictions can bring action against *only* other *legal* fictions. Therefore, you have to agree to be representing yourself as a legal fiction in order for this type of court to gain *personam* jurisdiction over your "person" or "legal person." Natural persons can bring actions against *only* other natural persons. (This is partially what is meant by the phrase "equal protection under the law.") By reserving your rights as a natural person (and not a *legal* fiction, as the entity is identified on the driver license), you effectively challenge the court's jurisdiction. But you'd better know how to explain this, or the judge will trick you into *consenting* to his jurisdiction. And in many instances, you won't even realize that this has happened!

The court needs to meet the test of jurisdiction in two ways: it needs both subject matter jurisdiction as well as *in personam* jurisdiction. That is, in order to hear the cause at action, the court must be able to hear cases on the subject matter at hand as well as have jurisdiction over the person involved. If either of these two is *not* in place, a court must recuse itself of jurisdiction and dismiss the case. When you insist on identifying yourself as a natural person and properly rebut the court's assumption with admissible evidence of such, you retain your identity as a natural person, thus forcing the court to recuse its *in personam* jurisdiction.

The officer who issued you the citation is representing a fictitious public entity (either a municipal city or a state county), and therefore is coming at you as a *legal* fiction at law. Once you successfully identify yourself as a natural person, the only way the officer can come against you is as a natural person himself. In order to do this, he must have a *corpus delecti*, that is to say, "the body of a crime" or an injured party. If he has no one to swear out an affidavit of injury, he has no case. This is because a corporation (in this case the state or a city municipality) *cannot* be the body of a crime or an injured party because it is artificial, a fiction. It doesn't exist, and so how can a crime or injury take place! No *corpus delecti*, no case. It's that simple.

For example, if the cause at action is that you were doing 50 MPH in a 35 MPH zone, yet no one was harmed or injured by that (that is, no accident took place), then there is no *corpus delecti*, no injured party. This being the case, there is no cause of action (or claim) because the state *does not have standing* as an injured party. Only in an administrative court where legal fiction is coming at legal fiction in a cause of action would the state, as a legal fiction, have standing. It would have standing

through the constructive trust obligation of the driver license wherein the “driver” agreed to play by the rules of the traffic code.

The point to take away here is one involving proper identity and proper jurisdiction. If you do not identify yourself as part of the class of people who must obey the traffic code, and if there is no injured party involved in the infraction, and you challenge jurisdiction by successfully rebutting the presumption that you are a “driver” (“driver” is a legal *word of art* used to delineate someone “operating” in commerce for compensation or pay), then the administrative court has no choice but to recuse itself and drop the matter.

By rebutting the court’s assumption that you are a “driver,” you place the burden of proof back on the state or city municipality to prove that there is a contract in play that precludes your rebuttal. They have to produce the contract which you signed and enter it into evidence, or come up with a verified complaint (in essence a *corpus delicti* proving an injured party exists). However, it is unlikely they will be able to accomplish either of these two things. Because, essentially, neither a contract with your signature on it nor a sworn complaint exists. Therefore the case must be dismissed.

Yet, beyond these technicalities of law, if you understand your natural right to travel on the roadways of the country and in what context this right is upheld, then you may never fear a traffic stop again. We will take a look at this right in more detail in the next chapter.

Two

Your Right to Travel Free Of Government Intervention A Natural Right Cannot Be Converted Into A Privilege

Nothing could be more self-evident in a country whose founding document, the Declaration of Independence, makes the statement that:

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness....”

That the intent of this document was to champion and protect the concept that certain “unalienable Rights” are inherent among natural men (and women). And that among these rights is the right of liberty, including liberty of movement over the land.

This right – the right to travel pathways and roadways freely without hindrance – has been upheld in courts in this country going back to the country’s inception. There should be no question about the existence of this right. And yet in state jurisdiction after state jurisdiction there are those who imply by their actions that this right does not exist. That it is somehow a privilege over which only they (a government official) may regulate. Regardless of how this situation came to be, you should know that it is your unalienable right to be able to travel unimpeded on any roadway in America.

No other statement has ever expressed the right to travel better than this statement taken from Volume 13 of *California Jurisprudence*, 3rd Edition, which says in Section 238:

“Although not explicitly mentioned in the federal Constitution the right to travel freely from one state to another is a basic right under the Constitution. The nature of the federal union and of constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of the United States uninhibited by statutes, rules, or regulations that... burden or restrict this movement.

The right to travel freely... is secured against interference from any source whatever, whether governmental or private... And the constitutional right to travel between states implies a correlative constitutional right to travel within a state.”

While this statement may seem to cover all applicable lawful concepts contemplated under this freedom, it is often best to obtain a second or third opinion as expressed by the court in order to clarify any ambiguous details. In the case *Chicago Motor Coach vs. Chicago* 169 NE 22, the court had this to say: “The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.” That seems rather straightforward, doesn’t it.

However, there are other case holdings which express these concepts in even more detail. In the case of *Thompson vs. Smith, Chief of Police* 154 SE 579 (1930), the court expressed the following thoughts in a bit more telling detail:

“The right of the citizen to travel upon the public highways and to transport his property thereon, either by horse drawn carriage or by automobile, is not a mere privilege which a city can prohibit or permit at will, but a common right which he has under the right to life, liberty, and the pursuit of happiness. It includes the right in so doing to use the ordinary and usual conveyances of the day; and under the existing modes of travel includes the right to drive a horse-drawn carriage or wagon thereon, or to operate an automobile thereon, for the usual and ordinary purposes of life and business. It is not a mere privilege, like the privilege of moving a house in the street, operating a business stand in the street, or transporting persons or property for hire along the street, which a city may permit or prohibit at will.”

The problem here in insisting on one’s right to travel unhindered by licensed privilege is one that has come over the years to be a common misperception among both the public and law enforcement. The misperception that one needs a license in order to be able to operate a private non-commercial conveyance on the public roadways.

The determining factor for the requirement of the issuance of a driver license is commercial usage. In other words, if a person wants to receive a benefit from the use of the public thoroughfares (such as running a for profit business) the state then

obtains a right to license and regulate such activities on the roadways. Therefore, those who use the roadways for profit or business rather than for personal reasons are exercising an “extraordinary use.” A use for which the state is within its right to limit by licensed privilege.

An advisory statement on the driver license application form explains to the applicant that: “...this information is public record and is regularly used by law enforcement agencies and insurance companies... and will be available to various authorized requesters (government agents).” What this tells the applicant is that he is waiving his right to privacy in order to obtain a DMV document (the driver license or state ID card). If one refuses to give up his right to privacy, there is no way that he may obtain such state issued documents, and that makes the obtaining of a driver license or ID card a voluntary act.

Not only does the person waive their right to privacy, but they consent (through an implied contract, the license) to abide by the traffic codes. This consent, more than anything else, is what brings a person under the jurisdiction of the Department of Transportation and hence the attendant traffic codes.

Despite what traffic regulatory literature may say about there being a “requirement” for all “drivers” to have a license, that requirement *only pertains* to people acting in commerce where such activities are regulated. If you understand the legal *words of art* and how they are being used to deceptively influence your thinking and perception of the law, then you won’t be fooled by these passages. This is because it is the *legal definitions* (not the commonly understood definitions of ordinary speech) that the court goes by in making its determinations in the application of the law.

The more you know, the less you can be deceived.

Three

What Is A Motor Vehicle?

Know The Definition Of Legal “Words Of Art”

Whenever reading government literature, whether that be codes and statutes or general descriptions pertaining to various departments of government, it's always best to have a working knowledge of the *legal* definitions (that is, definitions under statutory law) of the terms being used so that you can correctly understand the information being communicated. Without such knowledge, it would be easy to become deceived by the way certain passages are worded.

The phrases “term of art” or “legal words of art” when used in reference to words or phrases in law refers to “a word or phrase that has special meaning in a particular context.” Therefore, unless you are aware of a word's meaning in a legal sense, you may misunderstand how that word may or may not apply to a given situation or circumstance.

When it comes to the subject of traffic, the federal code as it is written in the United States Code, is generally controlling when applied to the various franchise states. In other words, it supersedes any state motor vehicle code. According to the U.S.C. Title 18, Section 31(a)(6) it states: “The term **motor vehicle** means every description of carriage or other contrivance propelled or drawn by mechanical power **and used for commercial purposes on the highways** in the transportation of passengers, passengers and property, or property or cargo.”

At section 31(a)(10) it further clarifies the phrase: “The term ‘**used for commercial purpose**’ means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.”

When involved with the law, it may be advantageous not to admit to describing your car or automobile as a “motor vehicle” as this is liable to be assumed by the court as falling under the traffic codes and thereby an admittance to operating in commerce. It is better to use some other term (like “automobile” or “conveyance”) when speaking or writing about your mechanical property (your car).

From these two entries in the federal code, it becomes fairly clear and undeniable

that the term “motor vehicle” is being used in strict connection with a “commercial endeavor.” The same is often true of the words “drive” or “driver.” The word “drive” took on a commercial meaning because the stagecoach “driver” pushed the horses that pulled the stage, that transported the passengers, who paid a fee. However, it seems to be that for the words “drive” and “driver” it depends upon the context of its use. That whenever it is associated with a commercial activity (such as a chauffeur or one who drives a vehicle for hire) it is to be construed in connection with that commercial activity, and therefore falls under the regulatory codes.

So, when you read these terms in your state’s motor vehicle literature, it becomes important to understand what is their true meaning and significance with regard to a circumstance that you may be contemplating, rather than just assuming a common definition as the word is ordinarily used in everyday language.

Four

Your Right Not To Be Identified By The State A Driver License Is Not For Identification

Most people assume, when asked for identification, that showing a state driver license or state I.D. is usually a safe thing to do. But not when it comes to identifying oneself to law enforcement in a traffic stop or under other circumstances where you want there to not be any ambiguity surrounding your identity as a natural person. Although there are ways around this if you happen to forget, it is best to know about the importance of correctly identifying oneself to government officials, since one of their primary duties (it seems) is to *assume* that everyone lies within their jurisdiction (even though they know this is not true). That is, unless that assumption is properly rebutted.

The first principle one must absolutely learn if they are to maintain their unalienable rights is quite simply: “The government (as it is currently set up) has the *legal* right to ‘absolutely control’ (e.g. disregarding the Constitution) anything that it creates.” This is because the following documents that people accept from their government are all “quasi-contracts” (driver license, social security card, voter registration card, credit cards, motor vehicle certificate of title, motor vehicle registration, summons and complaints, the registration of your real estate for taxation, etcetera) and therefore can be adjudicated outside of the Constitution. Now, isn’t that a kick in the head! (You can learn more about the development of this subject in terms of its impact on the legal world in professor Joseph Vining’s 1978 book *Legal Identity, The Coming Age of Public Law*.)

In other words, your name on all of the above-mentioned documents has been “converted” into a “legal fiction,” and forms what is known as a “fiduciary trust” in relation to the quasi-contract, which works like an adhesion contract. You might say that the driver license is similar to a waiver of rights, although the rights waived may be reclaimed *at anytime* provided that notice is given. As briefly explained in the Introduction, an “*adhesion contract* is a standardized contract form offered to consumers of (government) goods and services on essentially a ‘take it or leave it’ basis without affording the consumer a realistic opportunity to bargain” on the terms of the contract.

Regarding your name, under the common law and according to the publication *American Jurisprudence*:

Use and acquisition

“At common law, a person could adopt any name he or she wished, without resort to any court and without legal proceedings, provided it was not done for fraudulent purposes, and this rule is continued in some states by statute.”

This means you are not restricted (other than by use with fraudulent intent) with regard to any name that you wish to use *to identify* yourself. According to this common law principle, *it is up to you* to determine what your name is. In other words, it is *your* right to make this determination with regard to your identity. Not even the government can interfere with or force you to identify yourself by any name to which you would otherwise not recognize nor consent.

When dealing with the government and its agents, in order to preserve your identity and the rights that go with it, it is best to identify yourself by your True Name. What do I mean by your “True Name?” The name your parents gave you: your first and middle names. Your true name does *not* include your family name. Only the first and middle names. John Steven rather than John Steven Smith (spelled, of course, with upper and lower case letters, and not in a stylized form in all capital letters). This way your name doesn’t become confused with the legal fiction recorded by the government on their documents. It is crucial that you fully understand this principle as it is the basis for which government contacts or has any business at all to do with you. If you know when to consent (through identification) and when to withhold consent, you’ll be able to avoid a lot of problems created by government in order to create a *legal* controversy.

When government records a legal fiction name, it records that name written in ALL CAPITAL LETTERS. Have you ever noticed how your name is presented on any bill that you receive in the mail (whether from the power company, the telephone company, your bank, or a government entity like the county treasurer)? It’s always typed in ALL CAPITAL LETTERS. This is a stylized usage used by government and other corporations (fictitious entities) so that they can deal with you in the capacity of “doing business as” (or DBA) with another legal fiction.

But just because government wants to deal with you in this manner, doesn’t mean that you *have to* deal with it in this manner. If you allow government to construct a trust (such as the driver license, with all its undisclosed terms and con-

ditions) around your legal name (which, by the way, *includes* your last name) and you agree to use that legal name as your identity when dealing with government, then you've just opted into its jurisdiction and lost all your unalienable rights! It all comes down to *being aware* of what you are consenting to in any given situation.

If you find yourself in a situation where you are asked for your license and you decide to turn it over, stop before handing it over and make it perfectly clear to the officer that: "I'm showing this for competency *not* for identification." Make sure the officer understands what you have just done, because what you are saying is: "I do *not consent* to being identified by this document." There have been instances where officers have gone back to their cruiser, presumably for some onboard communications with headquarters, and then returned to hand back the DL with only a warning about whatever infraction they thought they had caught. In other words, no citation, no written warning. Because you preserved your rights just by knowing how to assert them through non-consent to be identified by government documents. If you identify yourself properly the officer will not likely proceed against a name different than that of the constructed fiduciary trust.

If asked what your name is, as was just mentioned above, use only your True Name (i.e. First Middle), so that you can avoid making a connection with the FULL or LEGAL name on the card. In order to further make this point, consider having another card made and *changing your signature* on your driver license to First Middle. It is likely the Department of Transportation won't allow you to eliminate your last name on the printed card, but you can change the way you sign the license. Then once you have your amended card, if you ever have to give it to an officer, you can announce clearly:

"Officer, I am not showing you this driver license for identification purposes. I am only showing it to you to prove my competency to operate this auto, and so you know I keep a valid insurance policy active on it. I am noting your name and hope that you will recall this conversation accurately on the witness stand at trial – how I just identified myself to you. My name is clearly spelled there on the signature line."

What happens when someone neglects to do this is that the court will *construct* a trust contract (also known as a "constructive trust" in legal terminology) from your consent to be identified by the driver license. You signed the quasi-contract (license), therefore you have implied an agreement to follow the traffic code. However, even if you happen to make this mistake, there are ways to overcome it. This exception (and what you have to do in a timely manner) will be covered in more detail in a later chapter.

There are things you can do to preserve your rights. Whenever you find yourself

in a courtroom situation or when signing *any* paper or document (or instrument, such as a traffic citation) pertaining to any government or corporate agency, you can reserve your rights by signing above your signature with one or more of the following reservations: “Without Prejudice,” or “All Rights Reserved,” or “Not Amenable,” or, if you are being coerced to sign under threat of jail, “Under Protest” or “Under Duress.” Now, this isn’t a silver bullet cure-all if you don’t know how to use it, however it does establish a reservation of rights (as well as a fatal error for the courts) for the natural person (as opposed to the legal fiction, who generally has no rights under natural law). It must be understood that a reservation of Rights, by its declaration (or documentation) alone, “vitiates” perjury and will not “sustain a promise or an appearance.”

Consider the following court holding with regard to a reservation of rights:

"It must be permitted of men to buy their peace without prejudice to them. It has been held that one may buy his peace **by compromising a claim which he knows is without right** (*Daily v. King* 70 Mich. 568, 44 N.W. 959) **but the compromise of an illegal claim will not sustain a promise.**" *Read v. Hitching*, 71 ME 590.

According to law, liability of all parties to a contract *is discharged* if any party has no right of action or recourse. If remedy is not allowed in a contract (such as the quasi-contract with the driver license) then there is *no actual contract* at law (meaning according to the common law) that can legally be enforced. That is, unless you (ignorantly) consent to its enforcement.

The court can establish *in personam* jurisdiction just based on the fact that you failed to rebut the assumption that you are of a class of people who are controlled by the traffic codes. However, once you rebut that assumption, you have shifted the burden of proof, and now it is incumbent upon your opponent to disprove the rebuttal through verified (sworn) evidence. This means that the officer or the prosecuting attorney has to come up with verified evidence (meaning under penalty of perjury) that positively refutes your rebuttal. The only problem with this is: if there was no injured party, they *never have* any such evidence. And therefore, they have no case.

Another way that you waive your right to due process is by not challenging subject matter jurisdiction. One way to challenge subject matter jurisdiction is by asking for a verified complaint. The officer or prosecuting attorney is representing a corporation, a fictitious plaintiff, and bringing a claim on the *presumption* that a contract exists between the state and the defendant, an ignorant victim. The ignorant

victim (yourself) does not know that this presumption even exists, does not know that the cause of action cannot be in the common law because a crime in law requires a *corpus delecti*, that is, the “body of the crime” or an injured party, and a corporation cannot be the body of the crime or an injured party because it is artificial, a fiction. Without a verified (sworn) complain from a real, live party to the action who has sustained an injury, there is no case.

What most ignorant victims aren’t aware of is: the state is attempting to prosecute the suit without entering evidence into the record of the contract which binds the defendant to the law. Without such contract (and without your objecting to this on the record and insisting that an actual contract be produced and entered into evidence) the trial court is wholly in want of subject matter jurisdiction and venue jurisdiction. If the court proceeds once this jurisdiction is challenged (that is, once the defendant demands to see the contract from a real party to the action), it would be proceeding without judicial immunity, therefore opening itself up to a civil law suit and a criminal offense under federal law.

This means that the judge and everyone associated with this fraud can be sued as perpetrators to a fraud; the officer for champerty, the prosecuting attorney (if there is one) for barratry and bringing a case with unclean hands, the judge for lack of jurisdiction, and all of them for conspiracy to fraudulently conceal the true nature and cause of the accusation. Such a criminal act could even be taken to the federal courts if need be. Title 18 of the federal United States Code at Chapter 13 section 241, **Conspiracy against rights**, protects the public from criminal actions by public officials.

Title 18 provides that everyone from the trainer of law officers to the judge to the dispatcher to the director of revenue to the law officer himself may be named as conspirators in any kidnaping (i.e. what they might call an “arrest” but which is, rather, a false arrest).

18 U.S.C. §241, 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 kidnaping 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.

For instance, if you were to prove the state's failure to adequately train its officers or agents (concerning rights, concerning diversity of jurisdiction etcetera) it could be tantamount to a conspiracy against rights in violation of Title 18 U.S.C. §241. If your state driver license was done with a reservation of rights, making clear that there was no intent to become a fiduciary trust for JOHN S. SMITH, that any attempt on the government actor's part to bypass the *refusal for cause* or the reservation of rights would be deemed a conspiracy against rights per Title 18 U.S.C. §241.

Five

How To Handle A Traffic Stop

Be Courteous But Firm In Your Conviction

Being pulled over to the side of the roadway by a law enforcement officer (LEO) can be an anxiety ridden event. However, if you have done nothing wrong and you know your rights and how to assert them, there's no need to become overly anxious. Relax and be courteous. Yet, recognize that you are potentially being pursued by a revenue agent for a municipal or corporate state government. And that this agent has certain limitations to the authority he wields of which he must be always mindful. Reminding him of those limitations from time to time during your encounter with him will be one of the things you will want to accomplish in order to inform him that you know your rights and that you expect them to be honored.

When a police officer stops you on the street, the law says that the stop will fall into one of three categories: consensual contact, detention, and/or arrest. In the event that you are stopped for a traffic issue, the officer will likely attempt to engage you in the first, and the encounter may never proceed beyond that point. How you handle this encounter at the very outset will determine which, if any, of these three categories your stop falls into, and depends on how clearly you understand your right to limit contact with government and its agents. It is up to you to question and to make a determination of the authority of anyone who approaches you purporting to represent a government agency.

If you can establish a courteous beginning, with respect shown by both sides, you're likely to obtain the outcome you want. But be aware that the LEO wants to build a case against you for some traffic infraction. And that he *needs* your consent in order to do that. Remember, anything you say (or documents you provide) can and will be used against you in a court of law. If the stop has nothing to do with an actual crime and you can establish that fact at the outset of the contact, you can then put the officer on "good faith" notice that you *do not voluntarily* consent to being detained and then pose to him your own questions. The reason for doing this is: if you do not personally establish by your own statement that you do not agree to be stopped, then you are said to allow a presumption to be created (under the law) that you do agree

to being detained.

One thing to be aware of is that once you are stopped, you have the right to be allowed to go on your way within a reasonable time limit. Once that time limit has been reached and the attending officer has not established reasonable cause for the stop, you are within your rights to be free to go, and there is nothing that the officer can lawfully do to stop you. That time limit is established in statutory law as 15 minutes. In other words, if you inform the officer at the outset that he has 15 minutes (starting now) to establish his reasonable cause for the stop and that if that fact has not been established, then you will be on your way without any hindrance. This immediately puts the officer on the spot, and puts a time clock on his actions. It also informs the officer that you understand your rights under the circumstances, and that you intend to assert them!

There are several ways to handle these encounters. The way you choose will likely depend on how comfortable you are proceeding down that road, and whether or not you are aware of how to defeat any citation that may be issued. Until you become more aware of your rights in these situations and can get over the intimidation factor of having to deal with what is essentially an armed thug, you may just cooperate and get the ordeal over with. If the worse that happens is that you are issued a citation, that is the least of your problems, and can be dealt with in a highly effective manner which will be explained in the next chapter of this book.

However, if you are ready to stand your ground and to test this officer's professionalism and integrity, you may consider proceeding according to the outline below. You will want to be certain to make clear, concise statements and to use closed ended questions that can be answered with a yes or no.

Remember, the first objective of the Officer in dealing with you is *to form a contract*, such as "May I see your driver's license and registration?" or "Will you please roll down your window a little further!" If you immediately comply with either of these requests without questioning it or without objecting to it, it is deemed, in law, an oral contract! In other words, you have just *consented* to the contact. (Remember the first category above? "Consensual contact.") Just be aware that you have the right to ask the officer for *his* identification also (in the form of his business card, which he is by law supposed to carry on his person at all times) in order to satisfy yourself that he isn't an impostor. Or that you can object to the contact by stating that you "do not consent to this contact" at the very outset of the encounter. Remember, under the Constitution you have a right to remain silent (Fifth Amendment) and to not interact with government actors.

If you intend to interact with the officer, then the following five questions and

statement are really all that is needed to control most police encounters. They may seem somewhat counter intuitive at first glance; until you realize that by consenting to the contact, *you waive your right to remain silent*. It is almost never a good idea to converse with law enforcement, especially when you are being stopped in a traffic issue. These questions are simple and will generally solicit a predictable and reliable response. The first four questions are designed to demonstrate knowledge of your rights to the officer that unless he has specific and articulable facts to detain you or a warrant, you should be free to leave.

1. What is the nature of your inquiry? (Let him state his cause.)

If he asks you for your driver license and registration, you should reply:

2. Is that a request or a demand? (Let him answer one way or the other. Once he has, follow up with the third question:)

3. Do I have the right to remain silent? (This lets him know that you want him to respect your rights. If he becomes belligerent about the matter, calmly follow up with questions five and six.)

Once he agrees to recognize your rights, ask the fourth question:

4. Am I free to go?

5. Can anything I say to you or any documents I give to you be used against me in any legal matter? (You and he both know that this is true.)

6. I am not refusing to cooperate. I am exercising my right to remain silent. (By making this statement, you are exercising your right to remain silent.)

If you get as far as the fourth question and the officer is still attempting to detain you, then this stop and detention becomes a Fourth Amendment issue. Unless you have committed a known crime according to common law (and common sense) that the officer has witnessed, then your Fourth Amendment rights against unwarranted search and seizure apply and you cannot be forced to produce anything.

In a second scenario, rather than ask, “What is the nature of your inquiry,” you can state right at the outset that: “Before we go any further, I do not consent to this contact, and I reserve all my rights. I accept your oath of office as binding.” Accepting their oath of office puts them on notice that they must abide by their Constitutional oath and uphold your rights. If they do not, they can be held personally liable for any injury they may cause you. You can even tell them this. After stating that you do not agree to being stopped and detained for no articulable reason, you must ask the officer

if he is detaining you. If the officer answers he is not detaining you, then you inform him that you will be on your way.

If the officer answers that he *is* detaining you, then you must ask the officer does he have a well founded probable cause (“specific and articulable facts” is the phrase that officers are taught and use to describe this) that you have committed a crime known to the people’s common law as his basis for detaining you, and that you expect a “good faith” answer from him. If the officer states he has no such well founded probable cause, then you inform him that you will be on your way. It will be helpful, at this point, for you to remind him that *when an individual is detained, without warrant and without having committed a crime (traffic infractions are not crimes), the detention is a false arrest and unlawful imprisonment*. If the officer goes silent, continue to ask, “Am I free to go”, until you receive a yes.

If the officer states that he does have a well founded probable cause, it had better be connected to your committing some felony crime against a person who has entered a complaint or a breach of the peace known to the common law of which he has personal knowledge. If his “probable cause” proves to be merely connected with the state’s traffic regulatory law scheme, which includes *any* local traffic regulatory ordinance or code, then he is violating your sovereign right to life, liberty and property; and by his detaining you he is holding you under *false arrest* and *false imprisonment* pursuant to the common law.

With regard to whatever probable cause or “probable suspicion” he may come up with, ask him if he has a license to make such a legal determination. If he answers “yes,” ask to see his license. If he has one, this means he must be some sort of attorney in addition to being a law enforcement officer. If he does not have an attorney’s license, he is not legally competent (or licensed) to make a legal determination, and therefore must allow you to be on your way.

If a demand is made, ask the question, “*Can anything I say to you or any documents I give to you be used against me in any legal matter.*” This is a dilemma for the officer. They are supposed to take an oath which binds them to the Constitution. Their oath to abide by the Constitution takes precedence over any request or demand for information they may make. They may choose to repeat their demand, and possibly become uncivil. Just keep asking the question until you receive an answer.

If you are not willing to stay the course because you feel that the officer may become violent, you can say “*since you are using color (pretense) of law, threatening me with bodily harm, and forcing me to do business with you against my will, I am happy to cooperate under duress. May I please have your business card.*” **Then give**

them what they are requesting. If you have a driver license, make certain to state that it is not for identification purposes. Remember to give your identity as True Name (First Middle) only. You do not want to create a nexus between the artificial person (the legal fiction) and your natural person.

Make a mental note of what they say to you and write out a report of the facts of the incident as soon as possible to be used in an affidavit in case you want to file a tort claim against them later. If they refuse to give you their card, memorize their badge number and/or name. In point of fact, refusing to supply you with their business card is an infraction of their duty and a cause of action in a civil suit.

Then again, if at the time you are stopped *you really are* a party subject to the administrative law or ordinance he thinks you have violated (which means that you must be employed in using the roadway for profit or gain), then his probable cause may have a legal basis. But unless you are stopped while driving a school bus or are a state employee or are engaged in commercial activity (like transporting cargo or persons for pay), the odds are slim indeed that you are subject to your state's traffic regulatory scheme. Know that there are constitutional grounds which will defeat a traffic law violation charge no matter the circumstances.

If the officer should detain you without stating any probable cause reason after your proper good faith demand for one or can only claim some administrative law violation without being able to show his probable cause grounds (or evidence, like a quasi-contractual agreement based on your having and identifying yourself with a driver license) of why he thinks you are subject to it, then he is proceeding under *color of office*.

If you haven't shown him a DL and he starts asking for one, then he is fishing for evidence, and that too is a no-no (Fourth Amendment violation). Under the Fourth Amendment, you have the right to be secure in your person, papers and property from unreasonable searches and seizures without a proper warrant being presented. He is using *color of process*. This means he is proceeding under *color of law*. At this point, it might be beneficial to warn him that tort damages and "civil rights" violation damages are in the making should he continue with this line of pursuit.

Always keep in mind that the officer will do whatever he believes he *can* do. If he becomes aware that you *know* your rights under this situation and that he can personally be held liable, that may be enough to make him pause and reconsider his course of action.

Of course it is always possible that an officer may have just cause for stopping you. For example, if you are proceeding the wrong way down a one-way street, or the like. You have a duty and an obligation to observe the customs and rules of the road.

In the case of any kind of unjustified detention, just remember the following: “It must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has ‘seized’ that person.” *Terry v. Ohio*, 392 US 1, 16 (1968)

Also be aware that: “An illegal arrest is an assault and battery.” *State v. Robinson* 145 Me. 77, 72 Atl. 2d 260, 262 (1950). So, the officer faces these possible circumstances should he proceed with an actual arrest *without* probable cause. Of course, you must understand that the officer may actually *believe* he has probable cause because he has observed *prima facie* evidence that you are within his jurisdiction and that you have violated a regulation or statute within that jurisdiction.

If after the above-mentioned events (where you are being forced to do business with the officer) you are asked to sign anything (like a citation) put the words “under duress” above your signature. This preserves your common law rights when brought out in court proceedings, *even if* you have been forced to turn over a driver license and registration. What matters in court is that you were not engaged in any regulated activity (commerce for hire) at the time of the stop.

What is important to establish from the very outset of the traffic stop event is your refusal to do business with the officer (if, indeed, you have committed no offense). Once you’ve been able to determine his reason for stopping you, you are perfectly within your rights to tell him: “I do not consent to this conversation.” Always respond to any request for information or documents with the question: “*Is that a request or a demand?*” If it is a request, ask: “*Do I have the right to remain silent?*” To which he should answer “yes.” Then you follow that by asking: “*Am I free to go?*” Your encounter can be this short if you stay focused, and no demands are made.

Asking “Am I free to leave” is important in establishing that you do *not* consent to this contact. Ask this several times to make sure the cop will have a hard time denying this and saying you didn’t mention it later on if you get to court. If it is really a consensual contact, the officer ought to let you go on your way if you ask to go. If you don’t actually verbally ask to leave, the court will presume that you consented to whatever follows.

Six

What To Do If You Are Cited

How To Handle This Matter Administratively

If the most that happens from your encounter at a traffic stop is that the officer issues you a traffic citation (or promise to appear), this can be easily taken care of as long as you are timely with your actions. It is *a myth* that you have 72 hours to handle this administratively. The 72 hour (or three business day) right of rescission is true if one is claiming sanctuary under Regulation Z of the Truth In Lending Act. This means that it refers to a legal contract (with offer and acceptance between competent parties, providing consideration, that is in writing, and where there is a meeting of minds) in reference to a loan and not to constructive commercial agreements subject to contract law which is the category that a traffic citation falls under.

Therefore, you may handle such matters administratively up to the date stated on the ticket of when performance (appearance in court) is to be accomplished. However, the sooner you take action, the better. If you are able to handle this matter within the 72 hour (three business days) time period, you are encouraged to do so in order to take advantage of the statutory abatement process. Otherwise, you may have to use a non-statutory abatement process.

What has just occurred when you are issued a traffic citation is: A revenue agent (officer) for an insolvent municipal or state corporation used intimidation tactics in an attempt to bully you, the motorist, into “voluntarily” entering – and thereby accepting financial responsibility for – a constructive commercial contract (traffic ticket) based on the stipulations of the driver license with regard to the state vehicle code.

One thing you need to become aware of is that traffic codes have not been passed into positive law. Positive law is law that is applicable to natural persons under the Constitution. These codes therefore have no effect on you as a common law citizen, unless you are regulated under the commerce clause. If you use the public roadways for gain or profit, then you fall into the category of people required to have a license for that particular *regulated* activity. The traffic codes have not been passed into positive law because they would be deemed unconstitutional. The codes are private law (usually of states and municipalities). This is how government gains

control of issues involving “traffic;” by making these codes private law it means that you have to contract with the corporate government to be regulated for the privilege of “driving” a “motor vehicle” for profit.

It is interesting to note at this point that the word “traffic” has a specific meaning in law. Most people relate to the word “traffic” as “the flow of vehicles and pedestrians along public right of ways.” This is true when the word “traffic” is used in its ordinary sense; but not true when it is used in its *legal* sense under statutory law. The word traffic used in its legal sense means an activity involving commerce – *transportation of goods and people for profit* as revealed in the following definition for the word “commerce” under U.S. Code, Title 42, 21, VI, § 2000e (g). “The term ‘commerce’ means trade, **traffic**, commerce, transportation, transmission...”

More than a century ago, America had a less tyrannical court system. In 1898 the Illinois Supreme Court ruled in a case regarding the licensing of motorized methods of private transport of people not engaged in “traffic.” It is proof of how at least one state supreme court followed the Constitution back then.

“The license is designed to operate upon those who hold themselves out as common carriers, and a license may be exacted from such as a proper exercise of police power; but no reason exists why it should be applied to the owners of private vehicles, used for their individual use exclusively, in their own business, or for their own pleasure, as a means of locomotion.” *City of Chicago v. Collins et al.*, Supreme Court of Illinois. 175 Ill. 445, 51 N.E. 907 (Oct. 24, 1898).

As discussed in a previous chapter, if you inadvertently (ignorantly) identify yourself as part of this class of people who are required to have a “license” to “drive” on the public roadways and *you fail to refute* that mistaken identity, then under contract law you are said to *consent* to the terms of the contract, which includes abiding by the traffic codes and opening yourself up to any fines or penalties that go with that code. It is this consent that you are removing by refusing (through rebutting the presumption) to be identified with this commercial class of persons.

If you have to visit the court to have the ticket dismissed, you will have to do so under what is called “special appearance.” This point is VERY important if you are to prevail in court. Under no circumstance allow yourself to “appear generally” in these traffic courts. A “general appearance” triggers the presumption that you are the legal fiction liable for the contractual claim being brought up on the citation and waives *in personam* jurisdiction. You do NOT want to waive *in personam* jurisdiction

in this instance. The information about “special appearance” will be covered in more detail later on in another chapter.

At the time that the citation is being issued and you are handed the document to sign, it will be advantageous to your cause if you inscribe the phrase “without prejudice” first to reserve your rights, just above where your signature will be. Then, as discussed earlier in this book, sign only your “True Name” (i.e. First and Middle name). This will provide *direct* evidence of your *reservation of rights* under the common law. However, be aware that this is not a “silver bullet” or a “get out of jail free” card if you go before a magistrate. Having signed the citation in this way provides you with ammunition (which can be attested to in court) that you reserved your rights in rebutting the presumption that you are the legal fiction mentioned on the citation should you have to “visit” the court.

Most people do not know what is meant by the phrase “without prejudice” in conjunction with their name when signing a contract. Generally, it means the following: “I have exercised the remedy provided me under the common law whereby I might timely, validly, sufficiently, and explicitly reserve my common law right not to be bound by, *nor be compelled to perform under* any contract, franchise, or commercial agreement *in which I did not enter intentionally, knowingly, and voluntarily*, and by such reservation of right, I have notified all administrative agencies of federal, state, and local governments *that I do not and will not accept the liability associated with the compelled benefits of any such unrevealed contract, franchise, or commercial agreement.*”

Once you have your copy of the citation, make sure you have the officer’s mailing address at the police station, highway patrol or sheriff’s office, whichever the case may be. It will often be printed on the citation itself; but check first to make sure. As soon as you are able (and *before* the deadline for your court appearance), you will need to do two things. You will be “refusing for cause” the citation and then preparing a certificate of mailing (which will be your proof of service) for when you *timely* mailed the refusal back to the officer. The court will accept a certificate of mailing as reasonable proof of service. The phrase “for cause” in legal speak means “for legitimate reason, for just reason, with cause, with justification.” The word “cause” here refers to “a ground of a legal action” or “that which in some manner is accountable for a condition that brings about an effect or that produces a cause for the resultant action.” When there is a defect in the legal process, that is *just cause* or *legitimate reason* for an objection to the process, which if it is to go forward, needs to be corrected first before the action can proceed.

To explain this very briefly, in a “refusal for cause” what you are basically telling the other party (and the court) is that the person captioned on this instrument is not liable for any unrevealed contracts! This is your “right of avoidance” of statutory law as a private citizen. In other words, this is a case of mistaken identity; I, the natural person, do not accept responsibility for the legal fiction in this matter. As far as the court is concerned, a “refusal for cause” is a non-responsive reply. This means that when you proffer it, you are not *pleading into* the jurisdiction of the court, not admitting jurisdiction over your person, the flesh and blood natural person. Therefore it is not properly construed as an “appearance” in the court’s jurisdiction. The court has no other alternative, without refuting evidence being submitted (which it NEVER is), but to dismiss the case for lack of *personam* jurisdiction.

Before we explore the nuts and bolts of the steps necessary to accomplish this, you need to be aware of some simple yet important points when you are using this process so that you don’t inadvertently (unintentionally) cross over jurisdictional lines and make yourself eligible for prosecution. Refusal for cause is a remedy based on the “right of avoidance.” If you ever have to go to court, you always go there by “special appearance” (also known as “special visitation”) to challenge jurisdiction *only*. You would announce something like the following: “I am John Steven [First Middle name] here by special appearance to prevent a fraud upon the court.”

This means you need to be careful *not to explain ANYTHING* in a “refusal for cause” process (even, and especially, if you are forced to attend traffic court). Attempting to explain anything *other than* the jurisdictional challenge will constitute a motion trying to move the court, trying to enter facts and law into that court’s record of the case at hand (i.e., consenting to that court’s jurisdiction). The only fact you want the court to acknowledge is your refusal for cause, which is non-responsive to the matter at hand. Whenever you motion a court, you are admitting to the jurisdiction *of* that court, which in this case is something that you do *not* want to do. What you are saying by your refusal for cause is that this court has no jurisdiction over my person. Most courts today (and especially traffic courts) are not a common law judicial court which deals only with natural persons. Very likely you will be in an administrative court which deals exclusively with legal fictions. This is why it is important that you maintain your identity as a natural person, not to be confused with fictions at law.

Once you have the Defendant copy of the citation in front of you, find a blank area (or any conspicuous space) in which to write your refusal. You can even write it at an angle if you wish, in order to distinguish it further. With a red pen, red flair pen, or red magic marker, write the following in large lettering using cap and lower case as shown in the example below. It can be broken up into as many lines as needed:

Refused for cause, timely, without dishonor and without recourse to Me.

You will be sending this document (the Defendant copy with your refusal for cause written on it) back to the presenter (the officer) who issued it to you. But first you will take a photocopy of this document AFTER your refusal is imprinted on it. Keep that photocopy as your original copy of the original Defendant copy with the refusal appearing on it. This is all you need to do regarding expressing your “refusal for cause.”

Next, you will want to make out a Certificate of Mailing in order to document that you have timely returned this *refusal for cause* back to the presenter. You need to use the descriptors already printed on the citation document itself in order to describe it accurately in your certificate so that there will be no mistaking what document you refused. Use whatever caption there is at the top of the form (in the example below: CALIFORNIA TRAFFIC TICKET AND COMPLAINT) along with the complaint number on the form when writing your description on the certificate of mailing. It is recommended that you print out your own Certificate of Mailing so that you can make sure that you are able to fully describe the document (the citation), the sender (yourself and your mailing address), and the recipient (the officer and his mailing address) along with the reason it is being sent: a *refusal for cause*.

The example certificate of mailing below is provided to help guide you in this process. Don’t forget to fill in the dates and to sign your True Name (First Middle name) in the areas provided on the certificate. Spell out your state’s name when writing your address, do not use the Postal Service’s two letter abbreviation and zip code which provides *prima facie* evidence a federal residence (thus allowing a presumption that the “person” is subject to the statutes and codes).

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of July, 2013, a true and correct original "Defendant Copy" of the document entitled "CALIFORNIA TRAFFIC TICKET AND COMPLAINT, Complaint # 715349" was mailed with proper postage thereon to the following party at the address listed below. This original "Defendant Copy" was marked across its face: "Refused for cause, timely, without dishonor and without recourse to Me."

From: John Steven
c/o non-domestic postal service address
2456 E. San Andreas Drive
Redwood City, California

To: REDWOOD CITY POLICE DEPARTMENT
Officer K. Conrad
1601 S. Second Avenue
Redwood City, CA 90215

DATED this 11 day of July, 2013.

John Steven

Printed name

Signature

While the U.S.P.S. has a small form that can be filled out for a certificate of mailing, you are much better off making up your own. Usually, the postal employees will allow you to use your own certificate, especially if you specify it is for legal purposes. A Certificate of Mailing cost \$1.20 (at current rates), and they will date stamp it for you. You will need to have a first class stamp on the envelope in which you are sending the refusal. So, for less than \$2 you can rid yourself of this nuisance presentment. You keep the certificate of mailing (*do not* enclose it with the citation you are returning), and make a photocopy of the certificate for your records once it has been date stamped so that you have back up evidence of the original certificate of mailing.

You now should have a photocopy of the original defendant copy of the presentment with the refusal inscribed on it along with the original certificate of mailing and a photocopy of that same certificate of mailing. You may need these documents later on, so best to keep them filed in a safe place. You will be mailing the original Defendant's copy of the citation back to the officer. It is preferable that you do this either the same day or the day after you received the citation; the sooner the better.

If you have been able to complete this process before the date of your appearance time limit, you can expect one of the following outcomes. Either this will be the last you ever hear of this matter (depending on certain circumstances occurring), and the court date will come and pass without a warrant for your arrest being issued. Or, you may have to visit the court clerk's office in order to file into the case the photocopy of your refusal for cause along with *the original* certificate of mailing.

In the former instance, your refusal was likely noted by the system and no one (meaning the legal fiction or fiduciary trust aka YOU) ever contacted the court asking about THE NAME (first and last name) on the citation, thus triggering nexus between the legal fiction and the natural person. In the latter instance, you may have called the court and provide your name (first and last) when they ask for it (thus triggering nexus between the natural person and the legal fiction) rather than insisting on them looking up the information by the citation number. In that case, all you need to do is file your photocopy of the refusal along with the original certificate of mailing into the case file at the court, and the case goes away. That's the end of it!

There may be an instance where the court clerk will not accept your paperwork except that it must be filed with the judge personally at the appointed date of the hearing. In this case, you will need to prepare yourself for making a special appearance before the court to hand over your documentation. There are certain things you

need to be aware of when entering this kind of situation in traffic court that will be covered in a separate chapter.

If you are like most people who have never attempted this process before, you may be a little anxious to know whether it works as described. If after having returned the citation to its presenter you want to check with the court from time to time to see if the citation has shown up on the docket, you can, but *never* give them the name on the ticket (first and last names). Always insist that they look it up from the citation number. If you *do* give your name by mistake, you will be creating a connection between yourself and the legal fiction name, and the game will be on. What you should experience as long as you don't give them a name is that they will say: "No, this citation hasn't shown up in our system." The moment you give them a name, though, once they go back again and check through their stack of un-entered paperwork, they will, is if my magic, find the citation, and then the game is on. All because you acknowledged the NAME on the citation as being connected with yourself.

What is supposed to happen when you return the presentment to the officer is that the officer has a *duty* to file that "refusal for cause" with the court so as not to defraud the court. But this rarely, if ever, happens. What seems to be occurring is that there are two types of paperwork that get sent to the court. Those which are without a refusal of any kind and therefore admit to the jurisdiction of the court; these are entered on the court docket right away. The second type are those which have been "refused for cause." This second type are not entered on the court docket until someone calls in and admits to the jurisdiction by identifying themselves with the fiduciary trust name (first and last name) on the citation. However, you should be aware that this procedure may vary between differing jurisdictions (states, cities, and counties), and therefore all the tickets may be entered on the docket in some jurisdictions. But this does not affect your refusal for cause in the slightest, unless you are tricked into appearing in court.

Remember, the triggering of this whole process revolves around the identity you say you are. How you identify yourself determines which jurisdiction you admit to being in. You can never admit to being JOHN STEVEN SMITH, the fiduciary trust entity (or JOHN SMITH). You are John Steven, period, the natural person. Once you admit to the connection between these two entities, as far as the legal system is concerned the game is on, and they can come at you. That is, until you prove that you are NOT that person by rebutting the presumption of the nexus by providing evidence to the court that you refused this presentment for cause. Once you rebut the presumption, they don't have anyone that they can legally go after, and they have no case.

Seven

How To Get Your Case Dismissed

If You Neglect To Refuse For Cause The Presentment

Having to go to court, even traffic court, and stand before a “judge” (although in traffic court it is usually an administrative magistrate and not a judge) in order to assert one’s unalienable rights regarding a cause of action involving mistaken identity can be stressful and anxiety ridden. However, if you know what you are doing and what to expect, this knowledge alone can remove much of the stress and anxiety from the process, while at the same time teaching you about the way our legal system works. If more people took the time to research how the legal system actually works, there would be less confusion on the part of the public and fewer people becoming victims of a legal system that uses people’s ignorance of the law in order to have its own way.

If you are forced to go to court, one way to obtain a judicial handling of your matter is to insist on being in “a court of record.” All traffic courts are “courts of no record,” which means that whatever goes on in the court by way of discussion is not always being recorded *on the record*. That record is therefore not available for you to use in an appeal situation; or rather, it is an incomplete record of the proceedings. You want them to know that you mean business. One way to insure you are in a judicial court (where your constitutional rights as a natural person are protected) is to ask the “judge” if he is an elected judicial officer. You might say: “I am here by Special Appearance, to challenge jurisdiction only. Are you, sir, a duly elected judicial officer?”

The “judge” may try to trick you into consenting to his jurisdiction by replying to your question with another question: “No. I see that you have been ticketed for speeding. How do you plead?” (Notice that the judge has answered “no” to the question you posed, meaning that he is *not* a duly elected judicial officer. This same status is also made apparent if one is in a county justice court where the “judge” is a “judge pro tem” which means that he (or she) was temporarily appointed to the position and was not “duly elected.”)

Rather than be sidetracked by his attempt at redirection, you stay on point and reply: “Excuse me, sir, **I accept Your Flag, your Oath and your Bond as affirmations, declaring that You are Under Penalty of Perjury.** According to the state constitution, and Article 6, I am allowed a duly elected judicial officer. If you are NOT one of those, then I disqualify you for cause.” (Note: You will need to invoke the notice that you ACCEPT the judge’s OATH of office – if he has taken one – or else they will presume the Constitution does not apply. Also, you will need to look up in your own state’s constitution which Article applies to the Judiciary of that state.) It is also helpful if, knowing the name of the judge beforehand, that you check the county recorder’s office to see if this judge has sworn a valid Oath of Office. A valid Oath includes a testament before God as his witness, such as “so help me God.” Without that testament, the oath is invalid. If the judge has a valid oath on file, you can obtain a certified copy from the recorder in order to use should it become necessary to enter it into evidence.

Know that you have **a right to demand a judicial hearing in a court of record** under the common law. And make that a stipulation in your demand *after* you recuse the judge: “I want a hearing in a judicial court of record under the common law.” By disqualifying the “judge” you have backed him into a corner, and he has no alternative but to grant you a hearing before an elected “judge.” Don’t let the “judge” trick you out of providing you with access to an elected judicial “judge.” Stand your ground and insist on your disqualification of the “judge” or that the case must be dismissed for lack of due process.

If the “judge” answers yes, that he is a “duly elected judicial officer,” then ask if this is a court of record. Do NOT consent to being heard *in anything less than* a court of record, especially if you have not had an opportunity to refuse the matter for cause. Do not back down on this point. If you do, you will waive your rights. Also, realize that if you are in a municipal city court, that you are NOT in a court of record; i.e. don’t let the judge obtain consent by trying to deceive you that his court keeps a record. All courts keep a record, however, not all courts *in good faith* record every word of the oral testimony in a matter before it; therefore a *bona fide* “court of record” is the only kind of court that you want to be in.

Be aware that in some states, like California, all courts are named as courts of record. That is, they may keep a record of the written submissions of documents in a matter before the court, but may not truthfully or accurately record the discussion during the actual court proceeding. In an instance like that, however, the court is not OPERATED as a court of record under the common law; hence they do not qualify as such. It takes more than a name to make a court of record. Even though a court may

be keeping a record of sorts, it is a “court of no record” if it does not conform to the four requirements below for a lawful court of record.

A lawful court of record must meet the following criteria:

1. It has the power to fine or imprison for contempt
2. It keeps a complete and truthful record of the proceedings
3. It proceeds according to the common law (not statute or codes)
4. The tribunal is independent of the magistrate (judge)

An optional fifth requirement for a traditional court of record is that it generally has a seal delineating the jurisdiction of the court that is stamped on documents such as orders of the court. Yet, as mentioned above, this last requirement can be optional depending upon the court. Sometimes the court may only have a rubber stamp that says “Seal” which becomes that court’s official seal. Just be aware that this just depends upon the part of the country (local jurisdiction) that one is within.

If you have to go to court, there are a few general psychological tips you need to be aware of in order to handle any situation that may arise. Remember, you are in court **ONLY** to challenge jurisdiction. You are not in court to answer questions *or* to testify. Do not be tricked by the “judge” if he asks you “How do you plead on this speeding ticket?” If you are aware of the following, it may help you to stay on point.

You can say anything you want in court, under the First Amendment. But the more you say, the more you risk. Better to ask questions. **And don’t testify by answering anything the judge asks.** If the judge asks a question, you stick to your original line of approach: that you are not here to testify or plead, only to challenge jurisdiction. And you want that challenge on the record.

Be aware that whenever a judge hears something from you that blatantly challenges or threatens his position as a judge, you risk the “contempt of court” charge. Always stay on point and don’t waiver. Don’t let the judge take you off point.

The judge will always try to make you believe that you only have the options that he is presenting to you. Do not trust for one second that the judge is telling the truth or quoting the real law. You know better. Or at least you *ought* to know better.

The judge and prosecutor both know that, although the hearings are taped in a court of record, only the transcribed written record is admissible as evidence in a later hearing. You can suspect they will try to get you to believe something or communicate some lie or manipulation that will not appear on the written transcript. Yes, they are just that devious.

The judge is very good at avoiding a response to questions when you put him on the spot. So you must be even better at steering the judge into a corner with your questions.

If they ask you if you understand the charges, say “No.” This is a sure-fire way to control “the matter” (don’t call it a “case” as this can insinuate acceptance of jurisdiction), and to employ the best strategy for dealing with them. If you answer YES, you are giving up your 6th Amendment liberties by consenting to the jurisdiction. So just say NO, and use this opportunity to embarrass the judge into admitting more of the truth, the law, or the judicial decisions relating to your “lack of understanding.”

Admit nothing; ask questions. Every question you answer in court can dig you deeper and deeper into the jurisdiction hole. Your answers automatically give your implied consent to the court’s jurisdiction and authority over you, entering testimony. Remember, you are not there to testify; everything you say is already being used against you. They are trained, just like the officer, to get you to admit things that supposedly indict you. So, it is in your best interest to admit nothing, and keep asking questions. This way you will control where the discussion and evidence is going.

Smile, give thanks, apologize, and ask. This is one of the most successful strategies in the initial appearances, consistent with the previous tip above. It works because the judge will form a favorable opinion about your honesty, innocence, and sincerity, and then grant your request without suspecting anything (see details to follow).

If you’re having a problem coming up with questions to ask, the following is a list of rights that you can ask about. Pay special attention to numbers twelve and thirteen. But remember one thing, if you are in a traffic court, don’t presume that these rights exist, as traffic court is not a judicial court, but rather an administrative “court of no record” which deals with legal fictions at law and not with natural people. If you want to establish facts on the record, you have to get into a legitimate court of record (or present the facts yourself in the form of an affidavit which is used to establish *your facts* on the record).

1. You have the right to be informed of the nature and cause of the crime (6th Amendment). This means you have a right to see the VERIFIED (sworn on penalty of perjury) complaint against you and to know who is making the claim. But don’t expect a traffic court “judge” to recognize this right. Remember, you are in a private administrative court in his court, not a public judicial court.)

2. You have the right to specifically reserve any or all of your rights.
3. You have the right to remain silent (to stand mute).
4. You have the right to say what you want and to be heard.
5. You have the right to present yourself “pro per.” (in *propia persona*, as a natural person, and not re-present yourself as a fiction – “*pro se*” – in law)
6. You have the right to object to any statement by the judge and/or prosecutor.
7. You have the right (**after** first making a statement of acceptance of the judge’s oath to uphold the Constitution) to Recuse (dismiss) the judge. (**Do not** let them trick you out of thinking that you don’t have this right!)
8. You have the right to face the injured party claiming damages. (Article III and the 6th Amendment; although the magistrate in traffic court will attempt to trick you, saying the state is the plaintiff; the state is a fiction and in most instances cannot be injured! But, this point has to be made in a court of record, not a court of no record.)
9. You have the right to face your accuser and any witnesses against you. (6th Amendment)
10. You have the right to put the judge on notice of your intent to preserve your rights.
11. You have the right to Protest and Object if any of your rights or demands are not being met. (Although do not be surprised if the judge disallows your objections, since you are in a private court and not a common law court.)
12. You have the right to demand that the court place in evidence, any unrevealed contract, statute, law, rule, or information being used against you. (6th Amendment)
13. You have the right to demand that the code be construed in harmony with the common law which allows you the “right of avoidance” to be compelled to perform under a contract if any party has no right of action or recourse. If remedy is not allowed in a contract (such as the presumed contract of the traffic code), THERE IS NO ACTUAL CONTRACT.

14. You have the right to require translation of any citation of law or procedure into plain English.

15. You have the right to challenge the subject matter jurisdiction of this court at any time, even right up to the time of allocution – after all matters have already (presumably) been determined – and afterwards.

Continuing on with the psychological tips:

Bait, steer, and corner. This is the main tactic to use for manipulating the judge into dismissing the case. The idea is to bait the court with questions concerning your “confusion,” and then steer the judge into providing answers which force him to make a judicial determination or ruling, which exposes his mistake or fraud. It’s like painting the judge into a corner from which there is no legal way out that allows him to continue the case against you. A classic cornering question to ask is **“OK now, just so I understand you precisely, have you Sir made a judicial determination that _____ ?”** (You fill in the blank with whatever unfairness you have observed, something which clearly incriminates the judge; examples follow.)

Don’t let them rush you through anything. If they try this, you can bet they’re up to no good.

OBJECT, Object, object. This is how you record the court’s unfairness on the court record. If the judge or prosecutor says anything to violate your case, or the truth, then OBJECT and give your reason. Regardless of how the case goes, you thus have the evidence on record that validates an appeal. If you are in a court of no record, make sure you have a friend or someone there with you who can act as a witness to the proceedings and who can swear out an affidavit of the proceedings that will become the record. You can compose the affidavit yourself, since you know what went on that was injurious to your presentation, and have the person agree to its validity and sign it with a witness notary.

Don’t let the judge or prosecutor get away with interrupting you. They are just trying to intimidate you into submission and silence. Take exception to their rude behavior. You might use the strategy above to expose their injustice, and complete what you were saying; e.g. **“Has the court made a judicial determination that I am not allowed to defend myself, or that I cannot have Freedom of Speech in this courtroom?”** Put them on the spot. If the prosecutor interrupts out of turn, motion the judge to find him in contempt.

Don't let the prosecutor or judge get away with rude or offensive behavior toward you. These are grounds to dismiss the case **for the cause of Bias and or Misconduct**. Remember, as long as you are in a court of record, everything is (supposedly) being recorded. If you let them get away with any offensive behavior, even a demeaning tone of voice, object and get it on the record as to how it adversely affects your mood and composure. Reflect the intimidation right back into their faces.

Watch out for lame excuses. You might get **"I'm sorry, you'll have to talk to the legislators about that, as I only enforce the law..."**, or **"You'll have to talk to a licensed attorney about that, because I can't give you legal advice..."**, or **"This is not the proper Forum for addressing that question..."**, or **"That issue is not relevant to this case..."** This is what you will often get when the judge knows that he cannot answer your question without incriminating himself. You must not let them get away without giving an answer or making a legal determination. Some winning comebacks you can use are:

"Sir [Your Honor], I am not contesting the law as you suggest, I am merely demanding that you interpret it in accordance with your own Oath of Office. And I am asking you to do your job as referee, and to identify the source of the law you are interpreting. Now please answer the question... "

"Sir [Your Honor], you and I both know that the legislators and you are all part of the same Legislative Branch, operating provisionally under Article I, Section 8, Clause 17; and there are no legislators here to identify the law and arbitrate a fair case; this is your job, and I am simply asking you to do your job. Now please answer the question... "

"Sir [Your Honor], I am not asking you for legal advice. I have my legal counselors for that. I am simply asking you to kindly identify yourself, the court's legal jurisdiction, and the nature and cause of the accusation. I am asking you to identify the code of written law which supports your ruling. I am asking you to do your job. Now please answer the question... "

"Sir [Your Honor], if this is not the Forum for addressing this issue, then how can you now legally apply the issue for the first time to this case? If this is not the proper Forum, then [I motion the court] we need to provide the Forum required to resolve this issue, before we can proceed."

Always ask “why?”, when you don’t understand something. You may not always get an answer (or one that you can accept), but you deserve one, especially if your motion is denied or overruled. And your asking will notify the judge that all the “linen is likely to be aired out” in your case. The judge may risk exposing some embarrassing truth, and choose to dismiss your case.

Catch them in the act. This is the most important reason for taking your time, and thinking things through, with a clear head. Every violation of your rights, every abuse of power, every incidence of misconduct, every disparaging remark, every subtle threat to your well-being, is an opportunity to record evidence in your favor. Catching them at it, as it happens, can easily get your case thrown out, because they have been getting away with all this fraud for so long, that they will be surprised when they are suddenly challenged on it. Here are a few more tips to keep in mind.

The Judge is NOT the Prosecutor. If he acts like one, **this is misconduct and grounds for dismissal.**

Police powers (law enforcement officers, sheriffs) are NOT intended to be used as an instrument for sources of government revenue. They are properly provided by government for the protection of the citizens and their property, period.

When a judge prevents the accused from introducing evidence tending to establish a defense (e.g. exculpatory evidence), the judge is making a mixed determination of fact (i.e. what happened) and law (i.e. is it legal?). This, also, is unfair.

Your purpose in being in court is to challenge jurisdiction. This can be done in more than one way. In order for a judicial court to establish subject matter jurisdiction, it must have a **charging instrument**. No charging instrument, no case. The same is true of an administrative court, such as traffic court; yet most people are not aware of this. A traffic citation *without* a verified complaint attached to it *is not* a charging instrument. As stated above, you have the right to know the nature and cause of the accusation (6th Amendment), and this right provides your greatest advantage for having the case dismissed.

A charging instrument can be a verified complaint sworn under oath with two signatures and is needed for most “offenses” before court proceedings can begin. If there is no formal charging instrument and you do not object or ask to see it and have it introduced into evidence, then it is assumed that since you didn’t object to this that you consent to the case moving forward without this vital piece of evidence. Yet most of the time there is no such “complaint” because the plaintiff would have to swear under oath that there was an injured party. On rare occasions such a complaint is issued by crime victims. But neither the prosecuting attorney nor the enforcement officer are empowered to issue such a complaint because they are part of the

government “fiction” which by definition of law cannot be injured. Not only that, but if they were not *in fact* personally injured by your alleged actions, then they are not a party to the action being taken against you, and cannot therefore testify to such.

When you are asked if you understand the charges against you, you will say: “NO!” You will be standing on your 6th Amendment right to be informed of the “nature and cause of the accusation.” Then you will steer the judge through a careful series of questions about the nature, cause, and jurisdiction of the case. You are guiding the judge to expose the court’s fraud in order to proceed with the case against you. **In the end, the judge will have to dismiss the case.** There is simply no other way for them to deal with this strategy, provided you stand your ground. And you are going to be real polite and courteous.

The setup. **They have to ask you if you understand the charges.** There is no way around it. They cannot legally proceed against you until you acknowledge the charges (explicitly) and their jurisdiction (implicitly). The 6th Amendment says that you have a right to know, and the authority to require the court to explain, and the court has the duty to explain. So, by your declaring that YOU DO NOT UNDERSTAND THE CHARGES you will steer the judge (court) into a legal position where he must answer all of your questions. Then you will hang the judge up on the questions, using the court’s own rules of procedure.

Steering with questions: Now that the judge has agreed to answer your questions, **he must answer all of them**, until you are satisfied that you are fully informed of the “nature and cause.” If he tries to back out of this decision, then you must point out that the agreement has already been made and you intend to keep it. Start out with a simple and indirect question about the nature and type of the case. You will lead the judge into a corner.

“Is this going to be a CIVIL action or a CRIMINAL action?” If the judge answers that it is a CIVIL action (not likely), then you must immediately object, and then move for dismissal. The reason here is that you are now IN THE WRONG COURT; the state cannot bring a case against you and judge its own case, it cannot be both party to, and judge of, their own action. On the other hand, if the Judge answers that it is a CRIMINAL action (most likely), then you can make the following announcement on the record.

“Thank you Your Honor, LET THE RECORD OF THIS COURT THEN SHOW that this action against John Steven Smith [you] is a CRIMINAL ACTION. Now I have another question: ...”

Your next question: “Your Honor, the Constitution grants this court two different criminal jurisdictions: One is a criminal jurisdiction under a Common Law,

and the other is a criminal action that constitutes a condition of contract under the criminal aspects of a colorable Admiralty jurisdiction. Under which of these two jurisdictions does the court intend to try this criminal action?”

Not wanting to answer this, the judge might just dismiss the case now, but most will still try to go ahead with it. The only choices now are to admit to which jurisdiction applies, or to avoid answering. **Get an answer.** If the common law criminal jurisdiction were to be declared, then you win by default of no sworn complaint by an injured party, and no injured party present. There is no evidence at all of your interfering with anyone’s life, liberty, or property. The case must be dropped. If instead, the Admiralty criminal jurisdiction were to be declared (foolishly), then you must be prepared to follow ALTERNATE PLAN B (below). **Therefore, most likely, here is where the judge will probably start squirming and just try to avoid answering, by advising you to get a licensed attorney for such ‘legal advice’.** So here is where you would make a stand by saying:

“Thank you Sir, but I don’t think that you’d be violating your Oath of Office if you did your duty under the Constitution. **You see I am not seeking legal advice; what I want to know is your legal intent;** and I have the right to represent myself ‘in my own person’ without a licensed attorney. In order to intelligently defend myself, I have to know the jurisdiction that this court is operating under; because the Rules of Criminal Procedure under a common law jurisdiction are very different from the Rules under an Admiralty jurisdiction. I need to know which jurisdiction you intend to try this case under, in order for me to proceed with this case. Now the 6th Amendment grants me the right to know the jurisdiction being applied, and it grants you the duty to inform me; and I don’t think you’d be violating your Oath of Office for doing so. So please answer the question.”

The judge might dismiss the case here, but will probably continue stalling. He is most likely to reprimand or threaten you for not getting a licensed attorney. **The judge will imply that only licensed attorneys have this information, that you have to go see a licensed attorney in order to get the question answered.** When this happens, say:

“Thank you Sir, LET THE RECORD OF THIS COURT THEN SHOW that I John Steven [you] the accused in this criminal action against me, have asked this court to divulge the nature and cause of the accusation, upon the authority of the 6th Amendment, and that this court HAS FAILED in its duty to inform me of the nature and cause of the action. Furthermore, LET THE RECORD ALSO SHOW that this court intends to bring this criminal action against me UNDER A SECRET JURISDICTION, THAT IS KNOWN ONLY TO LICENSED ATTORNEYS.”

Oops! Here is where a lot of judges will dismiss the case for whatever phony excuse they can come up with. But there are still some diehards asking for more embarrassment. If the judge is still onto the case here, he will have to come up with an answer for your second question. He will probably make something huffy up like: **“This will be a statutory jurisdiction and I hope you’re satisfied!”** So now, you reply :

“Thank you Sir, LET THE RECORD OF THIS COURT THEN SHOW that it intends to conduct a criminal action against me, John Steven, under STATUTORY JURISDICTION. But the problem is that I have never heard of such a thing as a criminal action under statutory jurisdiction. I would be happy to accept this, your Honor, if you could please tell me where I can find the published Rules of Criminal Procedure under Statutory jurisdiction.” This is one way of OBJECTING to a judge’s attempt at fraud.

You can also use the missing plaintiff argument (lack of a sworn complaint) to further expose the court’s error. If the Prosecutor attempts to bluff his way through by shooting down your written evidence with lame verbal excuses, simply ask the judge “Do you have the charging instrument?” And remind him **that the prosecutor still has not proven anything**. If need be, you can ask, demand, or motion the judge order the prosecutor to show cause, to prove jurisdiction with hard evidence sworn under oath, or drop the charges against you. Get the case dismissed (i.e. Motion for Dismissal) because jurisdiction has not been proven.

Eight

How To Handle Yourself In Traffic Court During A Special Appearance

Depending on the location (the town or city and state) in which you have promised to show up in traffic court, you may be faced with any number of approaches in which the court attempts to gain jurisdiction over your “person.” Because greater numbers of people are becoming more aware and educating themselves about the “fraud” attending this issue of traffic citations, municipal courts are resorting to more inventive ways to entice people into consenting to jurisdiction. Just be aware that anything you sign or attest to can be used as *prima facie* (meaning, “on the face of it”) evidence of consent, opening the door to the court’s pursuit of jurisdiction. Read everything that is handed to you very carefully, and know how to *not consent* by objecting or asking questions.

For example, court officials may hand out, prior to the arraignment, a document entitled “Notice of Charges, Etc., And Preliminary Entry of Plea” for you to look over and sign. This is a sneaky way to get you to admit to jurisdiction and to plea BEFORE you are even standing before a magistrate or “judge.” Do not fall for this trick! If the form is being truthful in informing you of your rights, it will have a kind of disclaimer at the bottom in the form of a sentence which reads: “If You Have Any Questions, Do Not Sign This Form.” Whether or not the form has this sentence (or something like it) on it, *you should never sign* such a form. If they want to know why you are not signing, tell them you have questions for the judge.

If they try to coerce you to sign anything, always put the words “under duress,” “under protest” or “without prejudice” above your signature (which should always be First Middle name only, your true name) to indicate that you were being *forced* to sign, that this was against your free will. In a judicial court of record (under the common law) on appeal, this can be used to disqualify the document.

Remember, you are attending this private court setting ONLY in order to set the record straight and to challenge jurisdiction, not to testify, to swear oaths, or to plead to any unsubstantiated charge. All that the “judge” is supposed to be doing is finding facts. So establish all the facts around your *refusal for cause*, and don’t allow yourself

to become distracted from that objective. Stay focused, and stay on point. Once you have presented the judge with your refusal for cause, stand mute and say nothing more! If the judge asks a question, you can reply: "I have nothing to say. It's all in my filed papers, Sir."

Fundamentally, the arraignment is used as a clever way to obtain your consent. At an arraignment, the judge will assume jurisdiction UNLESS you OBJECT. One way he assumes jurisdiction is by offering you three options of pleading: not guilty, guilty, or *nolo contendere* (or "I do not contend" the charge without admitting guilt). They never tell you that you do not have to choose any of those options, because as soon as you enter a plea, you've opted into their jurisdiction, and they can come at you. If they are persistent that you enter a plea, tell them, "If there is no charge, no plea can be entered. What is being charge? And where is the charging instrument?"

No one can be forced to accept an offer. "Service" of paper from a government corporate entity is an "offer to contract." It is a distinct and separate "offer" than the one contained in a Summons or Complaint. You must "volunteer" to receive the papers, a consenting act. By returning the papers to the court, and by obtaining (witnessing) the date stamp on your Certificate of Mailing, you are "refusing for cause" the documents. When you "rebut" the unverified complaint filed into the case, you are filing into the case while remaining "outside" of the case by appearing specially (special appearance) to challenge jurisdiction.

When a name sounding like your name (i.e. "Case of JOHN STEVEN SMITH verses the STATE") is called, answer: **"No sir. I am John Steven [first middle name] here by Special Appearance only, to make sure the plaintiff is not defrauding the court. I would like to tender a copy of this refused for cause presentment to the bench please . . . to prevent fraud upon this court."** Hand over your documents (the photocopy of the citation with the "refusal for cause" written on it and your original certificate of mailing back to the presenter) proving you have refused this action for cause, and then stand mute!

(Actually, you can walk out of court at this point and be perfectly within your rights to do so without being interfered with. However, if you do not completely understand this procedure, and the tricks that "judges" will use to compromise your position, you could possibly end up granting consent to jurisdiction by accidentally responding to a judge's order or direction. Therefore, if you aren't aware of *exactly* and *precisely* how to avoid contracting back into the jurisdiction, this can be a risky move.)

(If, after you have handed over your documentation to the bench, you acknowledge ANYTHING at all that is said to you by the judge or any other court officer,

such acknowledgment would be deemed evidence of acknowledgment of jurisdiction by the court, and you will be stopped and held over. On the other hand, if you are able to ignore whatever threats or entreaties that are shouted at you to “Stop” or “Come back here,” you will be allowed to leave. If a bailiff stands in your path on the way out, ask him to arrest the judge for treason – abrogation of his oath of office – and move on. Do not hesitate! Any hesitation or sign that can be taken as acknowledgment of the court will be used by the court as a sign that you have given consent to the court’s jurisdiction, and you will be held over. Not many people have the emotional presence of mind to undergo such an ordeal. This is why it can be such a risky move!)

The above statement about “special appearance” is the FIRST THING that must come out of your mouth, NO MATTER WHAT ELSE HAPPENS, and no matter what the “judge” says, does, or asks you. Be aware that “special appearance” does NOT give jurisdiction to the “court.” But that “general appearance” *does*. Unless you *specifically state* that you are there by “special appearance,” then the court will PRESUME that you give it jurisdiction by “appearing” generally.

The reason you have to do it this way is because traffic courts are a form of what is known as a “*nisi prius*” court. “*Prius*” means “first” and “*nisi*” means “unless.” What this refers to is a rule of procedure in courts which essentially means that **unless** a party **first** objects to something that they know is untrue, then it is assumed that the party agrees to it and therefore the matter can go forward. The agreement to proceed is obtained from the parties first to indicate that the adjudication spoken of is one which is to stand as valid and operative unless the party affected by it shall appear and show cause against it, or take some other appropriate step to avoid it or procure its revocation.

By entering your *refusal for cause* into the written record of the action, you have now switched the burden of proof to the plaintiff (officer) and need say nothing more. Do not allow the judge to trick you into testifying by arguing any of the merits of their so-called “case” or answering any question he may pose pertaining to the citation. For example, if he asks: “I see that you have violated section #5321 of the traffic code. How do you plead?” You answer: “I have nothing to say. It’s all in my filed papers, Sir.” Then stand mute.

If the judge asks anything NOT having to do with the *refusal for cause*, then you can remind him that you are here by Special Appearance only, to challenge jurisdiction, and to please stay on point! Then stand mute again. By entering your written *refusal for cause* on the written record, you have placed into evidence a rebuttal of the presumption that you, the flesh and blood natural person, are liable for a “color of law” quasi-contract that is unreasonably favorable to the other party and which

provides you with no remedy at law. This speaks to your right of avoidance, or your right to avoid an unconscionable contract or agreement.

The likelihood that the officer (if he's still in the room) can prove jurisdiction is zero! Especially if you have signed the citation with a reservation of rights, "without prejudice," above your signature (which fact can be pointed out in court if necessary). Yet, even without such a reservation of rights, if the officer cannot produce an original written contract that you signed attesting that you (or your legal fiction) would obey the traffic codes, he has no standing in the action, and the action must be dismissed! Stand your ground no matter how long it takes, and the action will eventually be dismissed.

Another thing to be aware of is to always refer to the state's "case" as "this matter." Never call it a "case," or else you will infer jurisdiction by presumption. They will PRESUME that they have jurisdiction if you ADMIT that they have a "case" against you. Take your time and think things through when facing any kind of questioning. The slightest hint of consent can hand your opponent jurisdiction. So STOP and THINK before you open your mouth. Hold their feet to the fire of your "refusal for cause" (keep returning to that fact that they have not recognized or addressed yet) and box them in around this 2000 pound elephant in the room (your *refusal for cause*) that they cannot get around.

Also know that there are federal codes in place that are meant to deter government officials and employees from bypassing your right of refusal and your rights in general. They can be criminally charged (as well as suffer civil litigation) at Title 18 United States Code (U.S.C.) §241 Conspiracy against rights and §242 Deprivation of rights under color of law.

Nine

Competent Record Forming, The Power Of Affidavits, And Your Identity Affidavit Of Administrative Notice

When having to deal with an administrative court system and legal entanglements, while at the same time endeavoring to maintain your unalienable rights, the most effective strategy you can employ is to keep and maintain your own documented records about the truth of your life. Because without that record, the truth will become lost in the shuffle of the statutory system. In other words, it won't be heard or recognized, and your chances of prevailing in the matter will be diminished if not outright nullified. If you find yourself in an administrative court (like traffic court) and you reasonably expect to be able to prevail in your position, you had better be able to document your truth, *otherwise* your opponent (the government) will document it for you within its jurisdiction.

Thus far we have not touched upon the documentation that you can prepare ahead of time to help you establish your position in a variety of legal matters that may confront you as up against government itself. Ideally, you will apprise yourself of these matters long before ever needing to use them. However, in many instances, for one reason or another, we don't realize the importance of educating ourselves about these issues until the very last minute, that is, until *after* we have been confronted with having to defend ourselves in a matter at law. And then, it is often too late for us to expect anything less than being railroaded through the system.

But take heart. There are things that you can do – even while in the very clutches of the beast about to devour you – which can turn the tables around so that those in the government system now tremble in fear of YOU!

Everything that proceeds from this moment on in this exposition depends upon your having grasped an essential point involved in the concept of liberty, including – and most specifically – liberty from compelled performance by governments. That point being: If you want your truth to be told, ONLY YOU can tell it. This necessarily implies taking personal RESPONSIBILITY for documenting that truth in a way that it cannot be denied by *de facto* government agents or officials. In other words, in a

way that will discourage any officer or agent from thinking about – much less attempting – the rebuttal of your truth.

In regard to competent record forming, let's look at an example of how to get on the record your reasonable expectation of being adjudicated in a court where the judge is obligated to uphold your rights under the U.S. Constitution. One of the first things you will want to look into entails whether or not the judge has taken a *valid* oath of office (on the public record) to uphold the Constitution. Be aware that some municipal “judges” have taken an oath in support of several jurisdictions, for instance upholding “support of the Constitution of the United States, the Constitution and laws of the State of [whatever state], and the Charter, Ordinances and Laws of the City of [whatever city]. . .” The oath, to be valid, should be sworn before a witness that the oath maker considers sacred (usually God) as a witness to bind his actions in the performance of the duty of his office. Anything less than this is not a valid oath of office. (See example images of a valid and an invalid oath in the links below. The Dan May oath is an example of an invalid oath, while John Suthers' oath is a valid oath.)

<http://img84.imageshack.us/img84/2011/danmaydaoathsmall.jpg>

<http://img834.imageshack.us/img834/6332/formofoath.jpg>

<http://img855.imageshack.us/img855/6152/suthersfungiblefidelity.jpg>

You will want to verify this oath of office by obtaining a *certified* copy of his notarized oath of office. This can generally be found by contacting your local county clerk and recorder (and, if not found there, sometimes the city clerk may have filed the oath) to check if the judge's oath is on file. Obtain a certified copy of the oath in order to enter it into the record (filed into the court case) along with an affidavit from you accepting the judge's oath and thereby holding him in contract to its implementation. If the judge has no such oath on record or file, then he is impersonating a judge, and you can have him disqualified and arrested for such violation. All judges, by law, are obligated to maintain a publicly available oath of office, swearing “a promise or a statement of fact calling upon something or someone that the oath maker considers sacred, usually God, as a witness to the binding nature of the promise or the truth of the statement of fact.”

When getting your truth on the record, it is often best to get it in writing (documented) so that later no one can deny that they were made aware of the facts being brought out in the matter. This keeps the judge and the prosecutor from

colluding together to keep your exculpatory evidence out of the proceeding. When you have it in writing and have made it a part of the proceedings by entering it onto the record, it can be used later in an appeal to a higher court of record (if such becomes necessary).

The Power of Affidavits

Just what is an affidavit and why are they so important in legal matters? And especially in legal matters involving commerce (or commercial law) which is more often than not the case in the majority of today's court proceedings. *Black's Law Dictionary*, Fifth Edition, defines a sworn affidavit statement as follows:

Affidavit. A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.

To understand the importance that an affidavit can have in any legal matter you first must understand that in today's world, nearly every matter that comes before a government court in America is presumed to have a basis in commercial law. And that commercial law is based on the maxims of commerce which are eternally just, valid, moral precepts and truths that are recognized universally in virtually every civilized country in the world.

The basis of commercial law is the law of Exodus (i.e. The 10 Commandments) of the Old Testament and Judaic (Mosaic) Orthodox Hebrew commercial law. The laws of commerce have remained unchanged for at least six thousand years, and form the basis of western civilization, if not all nations. Real commercial law is non-judicial and is prior and superior to the basis of – and cannot be set aside or overruled by – the statutes of any government, legislature, governmental or quasi-governmental agencies, courts, judges, or law enforcement agencies, which are under an inherent obligation to uphold said commercial law.

In case you missed it the first time, let me repeat the significant passage embedded in the previous paragraph: “Real commercial law is *non-judicial* and is *prior and superior* to the basis of – and cannot be set aside or overruled by – the statutes of any government, legislature, governmental or quasi-governmental agencies, courts, judges, and law enforcement agencies. . .” Now, let the significance

of that passage sink into your mind for a moment. . . . Are you beginning to see what is meant by “the power of affidavits?”

“Non-judicial” means that commercial law precedes any judicial setting (or jurisdiction such as a government administrative or judicial court setting), meaning that, when the correct circumstances are invoked, it supersedes any judicial settings and cannot be overruled by the courts or the statutes of any government, PERIOD!

Combine that with the fact that government officials and agents are considered “actors” under the law (in other words “fictions”) and are therefore effectively foreclosed from swearing out an affidavit in rebuttal of a non-fictional sovereign’s affidavit. Only like entities in standing may come at one another according to the law. The reason for this is simple: because government (its agents and office holders) is not found in nature (is not a natural phenomenon like a duck or a human being) and is a creation of the mind of man, it therefore is considered by law as a fictional entity that in reality has no substance and therefore does not exist to sustain injury. This means that government can never wield any authority over those who created it, unless the latter, *by their consent*, waive their right of avoidance and enter the government’s fictional jurisdictional realm.

Commercial law is a “War of Truth” expressed in the form of an intellectual weapon called an affidavit. An affidavit is merely a written list of facts or personal truths signed under penalty of perjury and usually notarized. The person composing and signing an affidavit is called the “affiant.” It is “survival of the fittest” where the last *unrebutted* affidavit stands as truth in law, and thus as final judgment. In other words, in the case of an unrebutted affidavit no judge is needed to rule; the law (regarding whatever issue that is at question) becomes self-evident and self-executing!

This has its basis in the fact that since each individual experiences whatever he does from his own particular perspective in time and space, and through his unique nature and machinery of consciousness, all truth is subjective.¹ Truth, like beauty, is in the eye of the beholder. And it is the right of the sovereign to express his truth in the form of an affidavit.

The laws of commerce are expressed in ten maxims, which are the eternal and unchanging principles of the law:

¹ If someone expresses his subjective truth and others verify the same truth in their own subjective terms, said “truth” is labeled as “objective fact,” i.e. the abstract map is acknowledged by others as accurately representing the territory.

1. *A workman is worthy of his hire.* Authorities: Exodus 20:15; Lev. 19:13; Matt. 10:10; Luke 10:7; II Tim. 2:6. Legal maxim: “It is against equity for freemen not to have the free disposal of their own property.”
2. *All are equal under the law* (God’s Law-Moral and Natural Law). Authorities: Exodus 21:23-25; Lev. 24:17-21; Deut. 1:17, 19:21; Matt. 22:36-40; Luke 10:17; Col. 3:25. Legal maxims: “No one is above the law.” and, “Commerce, by the law of nations, ought to be common, and not to be converted into a monopoly for the private gain of a few.”
3. *In commerce, truth is sovereign.* See Exodus 20:16; Psalms 117:2; John 8:32; II Cor. 13:8. Legal maxim: “To lie is to go against the mind.” Oriental proverb: “Of all that is good, sublimity is supreme.”
4. *Truth is expressed in the form of an Affidavit.* See Lev. 5:4-5; Lev. 6:3-5; Lev. 19:11-13; Num. 30:2; Matt. 5:33; James 5:12. Legal maxim: none.
5. *A matter must be expressed to be resolved.* See Heb. 4:16; Phil. 4:5; Eph. 6:19-21. Legal maxim: “He who fails to assert his rights has none.”
6. *An unrebutted affidavit stands as truth in commerce.* See 1 Pet. 1:25; Heb. 6:13-15. Legal maxim: “He who does not deny, admits.”
7. *An unrebutted affidavit becomes a judgment in commerce.* See Heb. 6:16-17. Any proceeding in court, tribunal, or arbitration forum consists of a contest, or “duel,” of commercial affidavits wherein the points remaining unrebutted in the end stand as the truth and the matters to which the judgment of the law is applied.
8. *He who leaves the field of battle first (does not respond to Affidavit) loses by default.* See Book of Job; Matt 10:22. Legal maxim: “He who does not repel a wrong when he can occasions it.”
9. *Sacrifice is the measure of credibility.* One who is not damaged, put at risk, or willing to swear an oath on his commercial liability for the truth of his statements and legitimacy of his actions **has no basis to assert claims or charges and forfeits all credibility and right to claim authority.** See Acts 7, life/death of Stephen. Legal maxim: “He who bears the burden ought also to derive the benefit.”

10. *A lien or claim, under commercial law, can only be satisfied by one of the following actions.* See Gen. 2-3; Matt 4; Revelation. Legal maxim: “If the plaintiff does not prove his case, the defendant is absolved.”

10.1. A rebuttal Affidavit of Truth, supported by evidence, point-by-point.

10.2. Payment.

10.3. Agreement.

10.4. Resolution by a jury according to the rules of common law.

Because truth is sovereign in commerce and everyone is responsible for propagating the truth in all speaking, writing, and actions, all commercial processes function via affidavit certified and sworn on each affiant’s commercial liability as “true, correct, and complete,” attesting under oath regarding the validity, relevance, and veracity of all matters stated, and likewise demanded.

Resolving disputes (law) requires a universally accepted means for someone to assert his subjective truth in a manner that all understand is intended to be uttered without equivocation, concealment, deception, or insincerity. An affidavit, especially an affidavit “sworn true, correct, and complete,” has evolved over time to be the foundation upon which all statutory law is written and the accepted process by which someone expresses his truth in the most solemn, absolute, and ceremonial means possible, past which nothing else exists. An affidavit, as a solemn and sworn statement of truth and fact, automatically renders the affiant the subject of charges of perjury if any portion of his affidavit is proved to be false.

Affidavit of Notice and Your Identity

If the legal maxim “Equality under the law is paramount” has any meaning to it at all, then whatever one sovereign can do, all sovereigns can do, due to the fact that all are regarded as being equal under the law (having equal access to all processes of law). Pragmatically speaking, this means that if government (a *political* incorporated sovereign entity as opposed to a *natural* sovereign entity, i.e. a man or woman) can give a Notice to its *presumed* constituents concerning its intents and purposes toward its constituency, then the sovereign individual (being the creator of all existing government and, in a republic, ruling only over himself and no other sovereign

individual, becoming in essence a “sovereign without subjects”) can equally serve Notice on a *political* government regarding his intents and purposes toward some aspect of that government’s operation.

In order to better understand this concept of individual sovereignty being inherent in the people of America, it helps to revisit an early Supreme Court decision which speaks unequivocally to the recognition of the concept directly. As much as government would like to sweep the recollection of this decision under the rug, the fact remains that it is in the record and that its implication *still stands*. In *Chisholm v. Georgia* (1793) Alexander Chisholm, the executor of the estate of Robert Farquhar, attempted to sue the state of Georgia in the Supreme Court over payments due to him for goods that Farquhar had supplied Georgia during the Revolutionary War with Great Britain. Georgia, for its part, refused to appear in court, taking the position that as a “sovereign” state, it could not be sued without granting its consent to the suit. In a 4 to 1 decision, the Court ruled in favor of the plaintiff, Mr. Chisholm.

What is important about the case is the key principle expressed in the written opinions from the majority side. The opinions concluded that, to the extent the term “sovereignty” is even suitably applied to the newly-adopted Constitution, it rests with the people, rather than with state governments. This thought was expressed by Chief Justice John Jay when he wrote, “[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...with none to govern but themselves; the citizens of America are equal as fellow citizens and as joint tenants in the sovereignty.”

Less well known, yet equally if not more striking, are excerpts from the opinion of Justice James Wilson, the man who, just a few years prior, had introduced the original jurisdiction clause at the Constitutional convention in Philadelphia. Justice Wilson characteristically struck right at the heart of the matter when he stated that he knew “the Government of that State [Georgia] to be republican; and my short definition of such a Government is, one constructed on this principle, that the Supreme Power resides in the body of the people.” Furthermore, he rejected the feudal notion of state sovereignty on the ground “that another principle, very different in its nature and operations, forms the basis of sound and genuine jurisprudence; laws derived from the pure source of equality and justice must be founded on the CONSENT of those, whose obedience they require. The sovereign, when traced to his source, must be found in the man.”

In years past, the actors holding office in American government were much more aware of their tenuous positions as servants of the people under the structure of a republican *de jure* (or “according to law”) government, and therefore needed only the

slightest reminder of such to correct their actions whenever they sought to go outside of the bounds of their delegated authority. But ever since the War Between the States (often referred to in history books as the “Civil War”) when Congress (on March 28, 1861) adjourned *sine die* (or “without date to reconvene,” even though the Constitution fixed dates for their regular sessions), the country has been run *de facto* (“in fact” and not “according to law” as originally intended) through the unconstitutional use of the “law of necessity” under declaration of a “national emergency” (which is essentially *de facto* martial law rule), and Congress has never yet been reconvened under law. If you doubt this, documented historical fact does not lie, and you can look up the following Senate Report issued by this same *de facto* government and read it for yourself:

The Introduction to Senate Report 93-549 (93rd Congress, 1st Session, 1973) summarizes the situation as best as possible:

“Since March 9, 1933, the United States has been in a state of declared national emergency. . . . A majority of the people of the United States have lived all of their lives under emergency rule. . . And, in the United States, actions taken by the Government in times of great crises have – from, at least, the Civil War – in important ways, shaped the present phenomenon of a permanent state of national emergency.”

And ever since the passage and ratification of the 14th Amendment to the Constitution (in 1868) and the subsequent Congressional formation of a corporation (for commercial agency and government for the “District of Columbia” in 1871, at Chapter 62, 16 Stat. 419; which later was reorganized in 1878, at Chapter 180, 20 Stat. 102, and renamed “United States Government” and having privately trademarked the names: “United States,” “U.S.,” “United States of America,” “U.S.A.,” and “America”), the *de facto* federal government has operated under a doctrine of *assumpsit* or presumption, assuming all people identifying themselves as a “citizen of the United States” as being “*subject to the jurisdiction thereof*” (14th Amendment, meaning the “United States Government” incorporated in the District of Columbia) thus “legally” transforming (at least *prima facie*) everyone into subservience to the “government.” The only problem with this is: it will not stand under the light of day! And *only* stands by one’s failure to withdraw their consent.

In order to rebut this presumption that you are “subject to the jurisdiction thereof,” it is advisable that you be able to document this fact so as not to cause the

government actors (agents and officers) confusion over this issue. This can be neatly done with an affidavit giving Notice of your Identity, notifying any government official who presumes to know your political venue, of your stated-on-the-record political status, thus removing the onus of *presumption*.

This is why the concept of being able to self-identify yourself with your own documentation when confronted by public officials is so important. Without it, you are presumed to be “subject to the jurisdiction” of the state, county, city or federal territory in which you happen to find yourself. In other words, if you don’t state your truth and your law in the form of a declaratory affidavit, in effect providing notice to government officials, then the *de facto* government will, lacking any evidence on the record to the contrary, assume you to be under its jurisdiction and governance. And it will proceed against you on that basis.

When composing your affidavit, there are a few things of which you need to be aware in order to insure that your affidavit meets the criteria of what the law views as being a valid affidavit. Affidavits are testimony that set out facts. They cannot state conclusions of law and they cannot be argumentative. If an instrument does either of these, it does not qualify as testimony. Regardless of what it is called, it does not qualify as testimony by affidavit in a court of law. The following list of characteristics and properties comprise those which should be fundamental to any affidavit that you compose:

1. An affidavit should only state facts (“truth”) on the basis of firsthand, personal knowledge, not conjecture, theory, or hearsay. The facts stated must express the direct knowledge of the affiant (not “information and belief,” which is hearsay).
2. The affidavit should not be argumentative, that is, they should not make legal arguments. You only want to lay out the facts in an unequivocal manner such that your adversary (or a judge) will have no trouble understanding anything that you are asserting as being your truth.
3. The affidavit must not draw conclusions of law. If written properly, the conclusions you want drawn from the presentation of your affidavit should be apparent and self-evident. When composing an affidavit, make either short, positive statements of fact and/or negative averments. Place the burden of proof on your opponent.

An averment is a formal statement or declaration asserting some fact or truth. A negative averment is an assertion in which a negative is asserted. For example, if your opponent (and/or the court) assumes a fact about you which is untrue and which has

not been entered into evidence, a negative assertion will force your opponent to provide the evidence *on the record*, or be *estopped* from making the positive assertion. Rather than stating an opinion as a negative: “I did not run a red light.” Instead state, “I am not in receipt of a verified complaint naming an injured party as a result of any of my actions.” (The implication being: the *action* of running a red light.) If there is no verified complaint from an injured party, there is no case. In other words, there is no claim upon which relief may be granted.

4. The affidavit must be certified (witnessed) by an officer of the state authorized to administer oaths, usually a notary public. Or a signed witnessing by two or three people who personally *know* the affiant firsthand to be the person he (or she) is claiming to be is sufficient under the common law for a sworn verification. If it is not so sworn, it will not be considered to be a verified affidavit. In addition, each page must be signed (usually at the bottom right hand side) by the deponent (the person making the affidavit).

5. The affidavit should have all paragraphs numbered, for the purpose of identifying particular points or passages for future reference should a rebuttal by the opposing party be attempted.

6. Your affidavit should contain as many points of fact as possible to state your truth, each of which must be rebutted under oath by your adversary; the more points, the more formidable.

7. An affidavit constitutes one of three kinds of testimony, the other two being a deposition and direct oral examination. Additionally, it stands as uncontroverted evidence (or truth) in the matter if not timely rebutted point-for-point by a proper counter affidavit executed by the adverse party.

8. The affidavit must be executed with the following verbiage as being sworn “true, correct, and complete,” that is, under oath, defining the degree and nature of the commercial liability being claimed by the affiant for the veracity, accuracy, relevance, and verifiability of everything stated in the document.

9. An affidavit can be invalidated or nullified *only* by being rebutted point-for-point by a counter affidavit sworn “true, correct, and complete.” Your affidavit will stand

as the truth concerning each point that is not rebutted by counter affidavit as above; the entire affidavit stands as the truth in the matter if it is not answered at all.

10. Your affidavit will stand in full as the judgment (application) of the law (under common law) if your adversary fails to rebutted any or all of the facts so stated by counter affidavit as above; this invokes *execution of the law* concerning the points in the affidavit that are not expressly rebutted in a counter affidavit.

11. To be valid, your affidavit needs to contain an express certification of the facts contained therein by the affiant. An exhaustive swearing used as the closing statement in a commercial process would be:

“I, the undersigned Affiant, swear on my own commercial liability, that I have read the foregoing instrument and know the content thereof and that, to the best of my knowledge and understanding, it is true, correct, complete, and not misleading, the truth, the whole truth, and nothing but the truth.”

A less exhaustive, but still very binding closing statement is: *“I certify that the foregoing is true, correct, complete, and not misleading.”* It’s interesting to note that use of the phrase “true and correct” is not the same as “true, correct, and complete.” “True and correct” is perjury by omission as to every material matter; whereas the addition of the word “complete” alludes to the aspect of the material matter of the statement.

Finally, always place a reservation of rights before (above) your signature: “Subscribed and sworn with all rights reserved, without prejudice, no value assured,” or something similar.

By making your choice of law known through your affidavit, you are challenging the jurisdiction and venue of the setting, be it in a court of administrative law or the court held out on the street by the attending officer, who presumes you to be within his jurisdiction. When you properly rebut the presumption, the fictitious charges (if they indeed are such) miraculously disappear!

Addendum

What Happens If I Follow This Advice And Things Go Wrong And I Foul It Up?

If you've never been to court and actually had to defend yourself in front of a "judge" (actually an administrative magistrate if in traffic court, otherwise known as an "attorney in black robe"), it is likely that you can and will be tricked into believing what the "judge" says when he rules against you, denying your attempt to enter exculpatory evidence into the case or overruling any objections you may make. If you allow yourself to slip up for even one second and you fail to deny, object, or rebut what the "judge" is asserting and you accept (go along with) anything that he is saying, you may put yourself in danger of consenting to his jurisdiction.

Despite what appears to be happening in the court, the only way that things can go wrong is if you *don't* stick to your guns and maintain your position, and you become bamboozled by the sophistry and lies of the government actors by believing what they are telling you is true. They will make it seem as though you are being railroaded by the system, that you have no rights, no recourse, and that the Constitution (should you, in your misguided state of mind, happen to bring it up) has no place in his courtroom (which is true, because his administrative court is based on contract law, and thus outside of Constitutional parameters). If anything like this ever happens to you and you are in an administrative "court of no record," you can safely disregard anything that is happening on the stage of this court as long as you don't show any sign of consent to the proceedings.

The correct attitude you should take, if you want to prevail, is one of a belligerent claimant. Occasionally, judges have provided rulings that hint at the proper stance that one should take in the instance that no crime or damaging infraction has occurred. Such is the case of federal Judge James Alger Fee. In *U.S. v. Johnson* (76 Fed. Supp. 538), Federal District Court Judge James Fee ruled that:

"The privilege against self-incrimination is neither accorded to the passive resistant, not to the person who is ignorant of his rights, nor to one who is indifferent thereto. It is a *fighting* clause. It's benefits can be

retained only by sustained *combat*. It cannot be claimed by an attorney or solicitor. It is valid only when insisted upon by a *belligerent* claimant in person.”

In this ruling the judge has just instructed you how to proceed. He has said that rights are not accorded the *passive resistant*. Rights are not available to the individual who is ignorant of his rights. Nor are rights available to a person who is indifferent, or in other words, a person who simply does not care. And further, Judge Fee has clearly informed you that an attorney cannot claim your rights for you, which is another way of saying that an attorney cannot truly represent you. He then tells you that rights are only available to a *belligerent claimant in person*. He further states that to claim your rights in a court of this country, you must be willing to engage in *sustained combat*.

Well, that’s one perspective. And a fairly sobering and straightforward one at that, should one wish to fight a traffic matter out in court. But. . . what if you could avoid having to go to court altogether?

What if. . .?

The following are a few hypothetical scenarios for you to test yourself on to see how well you have understood the concepts presented in this book. Those who might harbor some doubt about the validity of the concepts discussed here may wish to pursue additional resources as well as anecdotal evidence from others who have themselves successfully navigated through confrontations with the legal system. We say anecdotal evidence because you will not find many (if any at all) case histories where sovereign individual’s have prevailed over against fictional government actors, as their cases, for the most part, have become dismissed! And therefore these cases have never been entered into the case histories (meaning you cannot look them up in order to learn from them).

Would you know how to handle the following five scenarios? (Hint: The answer to each of these legal questions has already been provided in the material above, *if* you have been paying attention.)

1. After having been stopped for a victimless traffic violation and consenting to showing your license and registration, you are handed a citation, which you signed *without* reserving your rights, which asks that you present yourself in an appearance

before a municipal court. Do you know how to handle this situation without having to go to court?

2. After having been stopped for a victimless traffic violation and conditionally shown your license and registration (conditionally, meaning that you have stated that the license is not for identification purposes, but only for operational competence), you are handed a citation, which you signed *with* a reservation of your rights, which asks that you present yourself in an appearance before a municipal court. In this situation, you were not aware that you could “refuse for cause” the citation and return it to its presenter, and therefore did not perform that action. Do you know how to handle this situation without having to go to court?

3. You are stopped for an expired license plate tag and are handed a citation which you signed *without* reserving your rights which asks that you present yourself in an appearance before a municipal court. Instead of “refusing for cause” the citation and properly serving it back to its presenter (the officer), you end up having to enter the court and defend yourself. In the intervening weeks before you are scheduled for court, you obtain the proper license plate tags, thinking that you can use that as a defense. You enter the court and do not plead to the offense, but show that you now have valid license tags. The “judge” disregards your testimony (the fact of which – i.e., consenting to testify – admits you into his jurisdiction), enters a plea of “guilty” for you, and issues you a fine in the form of an order of the court! Would you know how to handle this situation in such a way that you left the courtroom (and the situation itself) without having owed or paid any fine?

4. You are stopped for a victimless traffic violation and conditionally show your license, registration, and proof of insurance. In addition to the victimless traffic violation, the officer notices that your insurance has expired. He issues you a citation for the violation and the expired insurance proof. You sign the citation *with* a reservation of your rights. Do you know how to handle this situation without having to go to court at the appointed date?

5. You are stopped for an expired license plate tag and in the ensuing meeting the officer learns that your driver license is also expired and so is your proof of insurance. He issues you a citation for each of the three violations. You sign the citation *with* a reservation of your rights. Later that same day, you take a photocopy of your “refusal

for cause” of the citation along with obtaining a certificate of mailing, and return the refused citation to its presenter, having obtained his official mailing address.

The first week goes by and you are anxious about whether or not the citation has been entered onto the court’s docket, so you call the court to enquire about the citation, giving only the citation number to identify it. The clerk puts you on hold to check to see if the ticket has shown up on the docket, but it hasn’t. The clerk returns asking for more information that she can use to identify the citation. In the course of your conversation, you forget about the injunction against mentioning your name (First and Last) when asked by the court clerk, and you let your last name slip. Suddenly, the clerk spots the citation and mentions that she is entering it onto the docket as you speak. You mention to the clerk that the citation has been “refused for cause,” but she doesn’t acknowledge what that signifies. So you say you will be down to file some papers into the case and hang up.

The next day, you travel to the courthouse to give the clerk your photocopy of the “refusal for cause” along with the original certificate of mailing. But the clerk refuses to accept the papers to file into the case, saying that you need to present these to the judge in person on the scheduled day for your appearance. (At this point, there *is* something that you can do which will put an end to this; but let’s say, for the sake of a learning experience, that you don’t figure that out and do nothing, thinking that you will present the papers at the court hearing.)

At the court hearing, a name is called that is similar to yours and you answer by stating that you are your First and Middle name only, and that you are here to take care of this matter. The judge is unfazed and motions for you to step forward into the bar. You realize that by doing so, you can be seen to be entering into his jurisdiction, so you hesitate, stating that you do not consent to entering his jurisdiction. The judge motions to the court officer to escort you to the bar, and reluctantly (under protest), you allow him to do so. You are doing everything you can think of not to consent to the jurisdiction. But you are unsure about what you are doing and what effect it is having.

At one point you make a statement that you are only here to challenge jurisdiction. And since the information you read about this tells you to stand mute after having made your statement, that is exactly what you do. In a key moment of the hearing, the judge makes a statement about his court’s having jurisdiction over such cases, and you neglect to object, not really sure how to handle this situation, having been instructed to remain silent after having handed over your *refusal for cause*. At this point, it is very easy to become caught in the net of the judge’s snare if you are

not familiar with court procedure and what you can and cannot do to get your position on the record.

The judge proceeds to issue three orders of the court to handle your seeming incompetence before him: a DETERMINATION OF RELEASE CONDITIONS AND RELEASE ORDER ordering a trial date, bypassing the preliminary hearing and pretrial stages; an ORDER REGARDING COUNSEL appointing you an attorney to handle this case “in the interest of justice”; and a NOTICE TO DEFENDANT stating that defendant must not contact the court appointed attorney before a certain date, and giving the name and address of the attorney being appointed. On this last document, it states: “You have an obligation to remain in contact with the court (as to your address and telephone number) and your attorney during the pendency of this case. If you fail to appear for any scheduled court appearance, a complaint and warrant may be issued.”

All this sounds awfully scary and final, doesn’t it. If you didn’t know what you were doing, you might accidentally make a mistake and venture into the court’s jurisdiction. But since you’ve read this book, you should know, for the most part, how to handle this scenario in order to prevail. So, what would you do?

If you are having trouble answering any of these questions, perhaps you didn’t read the material closely enough. Would you like to find out:

- How to handle scenario 1 above by disqualifying the citation without having reserved your rights on the citation?
- How to handle scenario 2 above, and avoid going to court, by disqualifying the citation that you signed *with* a reservation of rights but did not follow up with returning the citation to its presenter “refused for cause”?
- How to handle scenario number 3 above in such a way as to not become obligated for a fine?
- How to handle scenario number 4 above in such a way that allows you to avoid going to court altogether?
- How to handle scenario number 5 above, and learn how to disqualify the court orders (including the order for a trial) in order to avoid having to go to court altogether and make it stick? This one can be a little tricky, but it *can* be done if you understand your rights and how to assert them and stick by them.

- What you can do and/or say in court to extricate yourself from a situation where your identity is being stolen and assassinated by the system.

Go to BeatTrafficTickets.org and learn how to apply the concepts you have learned here as they relate to a real-life scenario. If you don't know what you are up against when faced with taking decisions in real time, you might slip up and inadvertently enter the statutory jurisdiction. And then everything you thought you learned would have been for naught. Don't take that chance. For instance, after having read this book would you know:

- How to disqualify orders of a court of no record?
- How to disqualify a court order setting trial date?
- How to disqualify a court order appointing counsel?
- How to avoid having to go to court altogether?

If you're not sure how to effectively respond to these scenarios, you need to obtain our follow-up ebook [*How To Handle The Five Scenarios: An Explanation of The Concepts Behind The "Refused For Cause" Process.*](#) You can find this ebook at BeatTrafficTickets.org.

If you need help in creating identification documentation and/or in declaring your truth and serving lawful notice on authorities of your Identity – including a discussion of key concepts that ought to be included in your affidavit and why, in addition to an example affidavit that you can use, as well as how to compose and record your [Declaration of Truth Notice and Affidavit of Identity](#), click on the link to find out more.

Information Resources

Here are some further reference resources (in PDF format) which you can download and read to help corroborate and expand on the information given in this book. These pieces will be well worth your time to read, *especially* the documents on “Consent” and “Presumption.” Even if you don’t read any of the others, make sure you read those two. You must understand these two concepts thoroughly if you want to have the shadow of a chance of prevailing.

Requirement for Consent

<http://sedm.org/forms/05-MemLaw/Consent.pdf>

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction

<http://sedm.org/forms/05-MemLaw/Presumption.pdf>

Legal Identity, The Coming of Age of Public Law

by Joseph Vining

USA the Republic Is The House That No One Lives In

by Lee Brobst

<http://freedom-school.com/history/usa.html>

[http://www.beattraffictickets.org/USA the Republic.pdf](http://www.beattraffictickets.org/USA%20the%20Republic.pdf)

Government Instituted Servitude Using Franchises

<http://sedm.org/forms/05-MemLaw/Franchises.pdf>

Requirement for Equal Protection and Equal Treatment

<http://sedm.org/forms/05-MemLaw/EqualProtection.pdf>

Why Statutory Civil Law is Law for Government and Not Private Persons

<http://sedm.org/forms/05-MemLaw/StatLawGovt.pdf>

The Little Word “Due” [as in “due process of law”]

<http://law.bepress.com/cgi/viewcontent.cgi?article=4529&context=expresso>