

APPENDIX TABLE OF CONTENTS

OPINIONS AND ORDERS

Opinion of the United States Court of Appeals for the Sixth Circuit (January 27, 2022)	1a
Order of the United States Court of Appeals for the Sixth Circuit (May 12, 2021)	6a
Order of the United States District Court for the Eastern District of Michigan Northern Division (April 16, 2021)	8a
Order Overruling Amended Complaint and Sanctions Motion (December 28, 2020)	10a
Magistrate Judge's Report and Recommendation (November 19, 2020)	25a

REHEARING ORDER

Order of the United States Court of Appeals for the Sixth Circuit Denying Petition for Rehearing En Banc (March 15, 2022)	37a
---	-----

OTHER DOCUMENTS

Plaintiff Request for Entry of Default (October 29, 2020)	39a
Amended Complaint (September 18, 2020)	42a

**OPINION OF THE UNITED STATES COURT
OF APPEALS FOR THE SIXTH CIRCUIT
(JANUARY 27, 2022)**

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Not Recommended for Publication

THOMAS EARL DUNN,

Plaintiff-Appellant,

v.

ELIZABETH POST, MAGISTRATE, ET AL.,

Defendants-Appellees.

No. 21-1412

**On Appeal from the United States District Court
for the Eastern District of Michigan**

**Before: GILMAN, KETHLEDGE, and
MURPHY, Circuit Judges.**

Thomas Earl Dunn, a Michigan resident proceeding pro se, appeals the district court's dismissal of his civil rights action against state of Michigan Magistrate Elizabeth Post, in her individual and official capacities, and eleven other individuals and state entities, filed under 42 U.S.C. § 1983 and other provisions of federal and state law. This case has been referred to a panel of the court that, upon examination, unanimously agrees

App.2a

that oral argument is not needed. *See Fed. R. App. P. 34(a).*

Dunn, a self-described “sovereign citizen,” initiated the underlying action pro se against Post and the other defendants in 2020. After he applied for and was granted permission to proceed in forma pauperis (“IFP”), Dunn paid the filing fee and—purportedly through counsel—then filed an amended complaint, which the federal magistrate judge characterized as “a 66-page rambling and incoherent diatribe with 32 attached pages, all stemming from a traffic stop.” In short, Dunn argued that he was not subject to Michigan’s driver’s license and proof-of-insurance requirements, and that in enforcing those requirements against him, the defendants deprived him of his “constitutionally protected property interest in free movement absent a pre-termination hearing, under color of law, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.” He sought, among other remedies, damages from the defendants “in excess of \$250,000.00 for abuse of power, violation of their Oath of Office, conspiracy and due process.”

Upon motions to dismiss by several defendants, a magistrate judge concluded that Dunn’s complaint both failed to satisfy the basic pleading requirements set forth in Federal Rule of Civil Procedure 8(a) and failed to state a claim upon which relief could be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). Ultimately, though, the magistrate judge recommended that Dunn’s amended complaint be dismissed as frivolous. The magistrate judge also recommended that Dunn’s outstanding motions for sanctions and for default judgment be denied, that an outstanding motion to strike Dunn’s amended pleading be denied as moot,

App.3a

and that Dunn's counsel be sanctioned and ordered to pay reasonable costs and attorney's fees.

The district court overruled Dunn's various objections and adopted the report and recommendation in part, dismissing the amended complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and denying all pending motions, including the motions to dismiss, as moot. The district court also ordered supplemental briefing on the issue of costs and attorney's fees and directed Dunn's counsel to show cause as to why he should not be sanctioned under Federal Rule of Civil Procedure 11.

Prior to the show-cause hearing, Dunn moved for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b), asserting that the district court "contemptuously mocked the Supreme Law of the Land" and displayed "[p]rejudicial intent to favor at all cost the constitutional wrongs of Michigan State Public Actors, whose unconstitutional Acts directed toward this Complainant violated the Constitution of the United State America [sic], the Michigan State Constitution of 1963, and the respective laws enacted thereunder." After receiving supplemental briefing and holding a show-cause hearing, the district court issued an opinion that reiterated the frivolous nature of Dunn's filings, denied his motion for relief from judgment, and imposed sanctions against his counsel under Rule 11. At the hearing, the attorney stated that he had not actually drafted Dunn's pleadings, but had given Dunn access to his ECF account and had allowed Dunn to file pleadings under his name.

Dunn now appeals pro se, arguing that the district court erred in dismissing his complaint as frivolous pursuant to § 1915(e)(2)(B). Dunn also alleges a litany

App.4a

of constitutional and statutory violations perpetrated by the district court.

We review de novo a district court's dismissal of an action as frivolous pursuant to 28 U.S.C. § 1915 (e)(2)(B). *See Hill v. Lappin*, 630 F.3d 468, 470 (6th Cir. 2010). Under that statute, district courts must screen and dismiss an IFP complaint that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e) (2)(B). A complaint is frivolous "if the plaintiff fails to present a claim with 'an arguable basis either in law or in fact.'" *Brand v. Motley*, 526 F.3d 921, 923 (6th Cir. 2008) (quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)). A claim lacks an arguable basis in law "when 'indisputably meritless' legal theories underlie the complaint." *Id.* (quoting *Neitzke*, 490 U.S. at 327). To survive scrutiny, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Hill*, 630 F.3d at 471 (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678.

Dunn's appellate filings do not directly address the district court's dismissal of his action as frivolous; instead, Dunn puts forth sweeping and largely incomprehensible arguments without any factual or legal basis. He does appear to specifically challenge the district court's dismissal of his action under § 1915(e)(2)(B), arguing that he eventually paid the filing fee and no longer held IFP status at the time of the district court's ruling. But we "can affirm a decision of the district court

App.5a

on any grounds supported by the record, even if different from those relied on by the district court,” *Wallace v. Oakwood Healthcare, Inc.*, 954 F.3d 879, 886 (6th Cir. 2020) (citation omitted), and the magistrate judge correctly concluded that Dunn failed to state a claim under Rule 12(b)(6).

Ultimately, Dunn has identified no constitutional right that would allow him to operate a motor vehicle in Michigan without a valid driver’s license, registration, or proof of insurance, nor has he shown that any part of his underlying action states a plausible claim for relief. Moreover, Dunn’s allegations of fraud and bias on the part of the district court are entirely conclusory—they are stated at length, but repetitiously so—and they are also insufficient under the applicable standard. *See Liteky v. United States*, 510 U.S. 540, 554-55 (1994). The district court, therefore, did not err in dismissing Dunn’s action. *See, e.g., Brand*, 526 F.3d at 923.

Accordingly, we AFFIRM the district court’s judgment.

Entered by Order of the Court

/s/ Deborah S. Hunt

Clerk

**ORDER OF THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT
(MAY 12, 2021)**

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

THOMAS EARL DUNN,

Plaintiff-Appellant,

v.

ELIZABETH POST, Magistrate; DR. KAREN L. MOORE, Court Administrator; 80th District Court; ZACH PALMREUTER, Former City of Gladwin, MI Chief of Police; JOCELYN BENSON, Secretary of State; MICHAEL SHEA, Gladwin County, MI Sheriff; COURT BAILIFFS OFFICERS, Deputy Sheriffs; in their individual and official capacities; CHARLES P. JONES, Former City of Gladwin, MI Chief of Police; DARLENE JUNGMAN; LINDA K. HAWKINS, Court Reporter; 80th DISTRICT COURT CLERK; GLADWIN COUNTY, MI; CITY OF GLADWIN, MI,

Defendants-Appellees.

Case No. 21-1476

This appeal being duplicative of Case No. 21-1412, it is hereby DISMISSED.

App.7a

ENTERED PURSUANT TO RULE
45(A), RULES OF THE SIXTH CIRCUIT

/s/ Deborah S. Hunt
Clerk

Issued: May 12, 2021

**ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF
MICHIGAN NORTHERN DIVISION
(APRIL 16, 2021)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

THOMAS EARL DUNN,

Plaintiff,

v.

ELIZABETH POST, ET AL.,

Defendants.

Case No. 20-CV-11329

Before: Hon. Thomas L. LUDINGTON, District Judge,
Patricia T. MORRIS, Magistrate Judge.

In accordance with the Order entered December 28, 2020 (ECF No. 50) and the Opinion and Order entered this day;

It is ORDERED that Plaintiff's Objections to the Report and Recommendation, ECF No. 43, are OVERRULLED.

It is further ORDERED that the Magistrate Judge's Report and Recommendation, ECF No. 42, is

App.9a

ADOPTED IN PART. The pending motions to dismiss will be denied as moot rather than granted.

It is further ORDERED that the Amended Complaint, ECF No. 24, is DISMISSED.

It is further ORDERED that Attorney David J. Gilbert (P56956) is DIRECTED to pay the sum of \$6,505.00 as a sanction for violating Federal Rule of Civil Procedure 11. This amount shall be made payable to counsel for Defendants as follows: \$400 to Defendant Jocelyn Benson; \$3,052.50 to the Gladwin County Defendants; and \$3,052.50 to the Gladwin City Defendants.

It is further ORDERED that Defendant's Motion for Relief from the Judgment, ECF No. 57, is DENIED.

It is further ORDERED that all pending motions, ECF Nos. 15, 20, 30, 31, 34, 41, are DENIED AS MOOT.

/s/ Thomas L. Ludington

United States District Judge

Dated: April 16, 2021

**ORDER OVERRULING AMENDED
COMPLAINT AND SANCTIONS MOTION
(DECEMBER 28, 2020)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

THOMAS EARL DUNN,

Plaintiff,

v.

ELIZABETH POST, ET AL.,

Defendants.

Case No. 20-CV-11329

Before: Hon. Thomas L. LUDINGTON, District Judge,
Patricia T. MORRIS, Magistrate Judge.

**ORDER OVERRULING PLAINTIFF'S
OBJECTIONS, ADOPTING IN PART REPORT AND
RECOMMENDATION, DISMISSING AMENDED
COMPLAINT, DENYING ALL PENDING MOTIONS
AS MOOT, DIRECTING DEFENDANTS TO SUBMIT
SUPPLEMENTAL BRIEFING, DIRECTING ATTORNEY
GILBERT TO SHOW CAUSE, AND SCHEDULING
HEARING ON SANCTIONS**

On May 4, 2020, Plaintiff Thomas Earl Dunn filed a *pro se* Complaint against 80th District Court Magis-

trate Elizabeth M. Post, individually and in her official capacity, among several other state and local officials. ECF No. 1. All pretrial matters were referred to Magistrate Judge Patricia T. Morris. ECF No. 4. On September 18, 2020, the Amended Complaint was filed by attorney David J. Gilbert. ECF No. 24. On November 19, 2020, Magistrate Judge Morris issued her Report and Recommendation, recommending, *inter alia*, that the Amended Complaint be dismissed. ECF No. 42. On December 2, 2020, Plaintiff filed his objections to the Report and Recommendation. ECF No. 43. For the reasons set forth below, Plaintiff's objections will be overruled, the Report and Recommendation will be adopted in part, the Amended Complaint will be dismissed, all pending motions will be denied as moot, Defendants will be directed to submit supplemental briefing, Mr. Gilbert will be directed to show cause why he should not be sanctioned, and a hearing on the issue of sanctions will be scheduled.

I.

A.

This case matter concerns a series of frivolous pleadings and papers presented by a self-proclaimed "sovereign citizen" and his attorney David J. Gilbert. Magistrate Judge Morris recounted the procedural history of the case in her Report and Recommendation:

Plaintiff filed his original *pro se* complaint on May 5, 2020. (ECF No. 1.) Plaintiff's application to proceed in forma pauperis (IFP) was granted on June 1, 2020. (ECF No. 5.) Summons were issued, attorney appearances and Answers to the Complaint were filed on

behalf of city and county defendants (ECF Nos. 9, 10, 12, 13, 14), and a motion to dismiss was filed by Defendant Benson in lieu of filing an answer. (ECF No. 15.) Plaintiff then sought a clerk's entry of default against Defendant City of Gladwin, Jones, Jungman, and Palmreuter. (ECF No. 18.) This request was denied because an Answer was filed by these Defendants. (ECF No. Defendants Gladwin County, Hawkins, Moore, Post and Shea ("Gladwin County Defendants") filed a motion to dismiss on September 14, 2020. (ECF No. Plaintiff responded (ECF No. 28) and Defendants replied. (ECF No. 29.) On September 18, 2020, attorney David Gilbert filed a notice of appearance on behalf of Plaintiff. (ECF No. 22.) An Amended Complaint was also filed on September 18, 2020. (ECF No. 24.) Defendants City of Gladwin, Jones, Jungman and Palmreuter filed an Answer to the Amended Complaint. (ECF No. 27.) On October 5, 2020, [t]he Gladwin County Defendants filed a motion to strike the Amended Complaint. (ECF No. 24.) On October 12, 2020, Plaintiff filed a motion for sanctions based on the motion to strike and the Gladwin County Defendants responded. (ECF Nos. 31, 33.) The Gladwin County Defendants then appear to have abandoned their motion to strike and filed a motion to dismiss the Amended Complaint on October 14, 2020. (ECF No. 34,) Plaintiff responded (ECF No. 38) and Defendants replied. (ECF No. 39.)

In the meantime, Plaintiff filed a request for

clerk's entry of default against Defendant Benson for the "Sum Certain" of \$32,100, 000.01 (ECF No. 36) which was denied because it was not a sum certain and the filing of the amended complaint had not been approved. (ECF No. 36.) On November 10, 2020, another request for clerk's entry of default as to Benson was filed (ECF No. 37) and was denied because the amended complaint has not yet been approved to be filed. (ECF No. 40.) Plaintiff then filed the instant motion for default judgment against Defendant Benson. (ECF No. 41.)

ECF No. 42 at PageID. 863–65. Plaintiff's underlying contentions, as explained by Magistrate Judge Morris, are patently frivolous:

Plaintiff's Amended Complaint, filed by attorney Gilbert, as "Co-counsel for Plaintiff" is a 66-page rambling and incoherent diatribe with 32 attached pages, all stemming from a traffic stop occurring on June 15, 2019, when Defendant Officer Palmreuter pulled Plaintiff over for failing to have a sticker on his license plate, and ticketing Plaintiff for that failure and the fact that his driver's license was expired, and that he had no proof of insurance coverage for his vehicle. (ECF No. 24, PageID.449.) Plaintiff was not arrested but was issued a citation for a civil infraction (no proof of insurance) and misdemeanor (driving without a valid driver's license), requiring him to appear in the 80th District Court within 14 days. (ECF No. 24, PageID. 503.) Plaintiff was arraigned on the misdemeanor charge before Defendant Magistrate

App.14a

Post on July 10, 2019. (ECF No. 24, Page-ID.449-450, 504.)

Plaintiff's Amended Complaint is brought under 42 U.S.C. § 1983 and it sets forth "sovereign citizen" arguments, contending that he is not subject to Michigan's driver's license and proof of insurance requirements and that these requirements deprive him of his "constitutionally protected interest in free movement absent a predetermination hearing, under color of law, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution." (ECF No. 24, Page-ID.438.) Plaintiff contends he has a "Substantive Right to move unfettered by Michigan State's Motor Vehicle Regulatory codes in his Private Non Passenger Automobile on the taxpayer funded thoroughfares within the Exterior Boundaries of Michigan and all points beyond." (ECF No. 24, PageID.445-46.) Plaintiff also complains that Magistrate Post lacked jurisdiction over him and falsely entered a not guilty plea on the record even though he did not make any plea and that all the Defendants conspired to deprive him of his right to free movement and attempted to extract property from him in the form of license and registration fees. (ECF No. 24, PageID.450, 460-479, 513-519.) In addition to the § 1983 claims, including conspiracy which is more properly plead under § 1985, he also cites to violations of oath of offices, exaction (based on "their corrupted design to constructively Exact my God Given Unalien-

able Rights”), fraudulent misrepresentation, “allegations of law,” and “questions regarding issues presented” such as whether the State has “constitutional standing to inversely condemn a Substantive Right to Property by a colorful usurpation of law to compel a discretionary benefit?” and a “summary” including observations that “a ‘Person’ is not a Man or a Woman, God made men and women, and to believe that any statute may judge a creation of God, (that being a man or woman) would be blaspheme.” (ECF No. 24, PageID.481, 487) (emphasis in original.)

ECF No. 42 at PageID.865–66. Based on the foregoing, Magistrate Judge Morris recommended that Defendants’ pending Motions to Dismiss be granted and that the Amended Complaint be dismissed under FRCP 8(a) for failing to set forth a “short and plain statement of the claim” and under FRCP 12(b)(6) for failing to state a claim upon which relief can be granted. *Id.* 869–70. She also recommended that Mr. Gilbert be required to pay Defendants’ attorney fees and costs as a sanction for violating Rule 11, stating, “Even though Plaintiff may sincerely believe he is a sovereign citizen who is not subject to state laws . . . , counsel knows better and his filing of this entirely frivolous Amended Complaint is beyond reckless.”¹ *Id.*

Plaintiff filed timely objections to the Report and Recommendation on December 2, 2020. ECF No. 43. Shortly thereafter, Defendant Jocelyn Benson and

¹ The Amended Complaint was not Mr. Gilbert’s only filing. Since Mr. Gilbert’s appearance in the case, all of Plaintiff’s papers have been electronically filed with Mr. Gilbert’s credentials.

Defendants Gladwin County, Elizabeth Post, Michael Shea, Karen Moore, and Linda K. Hawkins filed separate response briefs to Plaintiff's objections. ECF Nos. 45, 47.

II.

Pursuant to Federal Rule of Civil Procedure 72, a party may object to and seek review of a magistrate judge's report and recommendation. *See Fed. R. Civ. P. 72(b)(2)*. Objections must be stated with specificity. *Thomas v. Arn*, 474 U.S. 140, 151 (1985) (citation omitted). If objections are made, “[t]he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to.” *Fed. R. Civ. P. 72(b)(3)*. De novo review requires at least a review of the evidence before the magistrate judge; the Court may not act solely on the basis of a magistrate judge's report and recommendation. *See Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). After reviewing the evidence, the Court is free to accept, reject, or modify the findings or recommendations of the magistrate judge. *See Lardie v. Birkett*, 221 F.Supp.2d 806, 807 (E.D. Mich. 2002).

Only those objections that are specific are entitled to a de novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986). “The parties have the duty to pinpoint those portions of the magistrate's report that the district court must specially consider.” *Id.* (internal quotation marks and citation omitted). A general objection, or one that merely restates the arguments previously presented, does not sufficiently identify alleged errors on the part of the magistrate judge. *See YanDiver v. Martin*, 304 F.Supp.2d 934, 937 (E.D. Mich. 2004). An “objection” that does nothing

more than disagree with a magistrate judge's determination, "without explaining the source of the error," is not considered a valid objection. *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991). Without specific objections, "[t]he functions of the district court are effectively duplicated as both the magistrate and the district court perform identical tasks. This duplication of time and effort wastes judicial resources rather than saving them, and runs contrary to the purposes of the Magistrate's Act." *Id.*

III.

A.

Plaintiff states 13 objections² over the course of 38 pages. Because the objections vary in intelligibility, each objection will be considered in turn below.

Objection 1 states that the Amended Complaint is not frivolous because it was filed "in accordance with [FRCP 15]." ECF No. 43 at PageID.883. Rule 15 governs the amendment of pleadings and has nothing to do with whether a pleading is frivolous. *See Fed. R. Civ. P. 15.* Objection 1 will be overruled.

Objection 2 takes issue with Magistrate Judge Morris' denial of Plaintiff's Motion for Default Judgment against Defendant Jocelyn Benson. Plaintiff argues that Defendant Benson's Motion to Dismiss was mooted by the Amended Complaint. ECF No. 43 at PageID.883. Therefore, Plaintiff reasons, the lack of a subsequent responsive pleading means that Defendant Benson

² Plaintiff lists 12 objections but two are titled "Objection No. 5." *See ECF No. 43 at PageID.884–85.*

has defaulted. *Id.* However, an amended complaint does not always moot a previous motion to dismiss.

Defendants should not be required to file a new motion to dismiss simply because an amended pleading was introduced while their motion was pending. If some of the defects raised in the original motion remain in the new pleading, the court simply may consider the motion as being addressed to the amended pleading. To hold otherwise would be to exalt form over substance.

Yates v. Applied Performance Techs., Inc., 205 F.R.D. 497, 499 (S.D. Ohio 2002) (quoting 6 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1476 (2d ed.)). Defendant Benson's Motion to Dismiss correctly noted that the Complaint failed to state a claim upon which relief could be granted. *See* ECF No. 15. The Amended Complaint, as described above, failed to cure this defect. *See Hill v. Lappin*, 630 F.3d 468, 470 (6th Cir. 2010) (“Any complaint that is legally frivolous would *ipso facto* fail to state a claim upon which relief can be granted.”). Accordingly, Objection 2 will be overruled.

Objection 3 simply agrees with the recommendation that Defendants' Motion to Strike the Amended Complaint be denied as moot. ECF No. 43 at Page-ID.884. Objection 3 will be overruled.

Objection 4 claims that the recommendation to sanction Mr. Gilbert was erroneous because (1) he was merely “co-counsel,” (2) was retained to allow Plaintiff access to electronic filing, and (3) “Plaintiff[‘s] electronic signature was always ahead of Mr. Gilbert[‘s].” *Id.* at PageID.884. Rule 11 states that by signing and “pre-

senting to the court a pleading . . . [,] an attorney or unrepresented party certifies that . . . the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.” Fed R. Civ. P. 11. Violations of Rule 11 are subject to monetary sanction. Fed R. Civ. P. 11(c). Plaintiff cites no authority for the proposition that limited representation or the sequence of signatures can absolve an attorney of his duties under Rule 11. Objection 4 will be overruled.

Objection 5 denies that Plaintiff is proceeding *in forma pauperis* and claims that he “filed with the Clerk of the Court the required [filing] fee of \$400.00.” ECF No. 43 at PageID.884–85. To the contrary, the record reflects that Plaintiff filed an application to proceed *in forma pauperis*, ECF No. 2, which Magistrate Judge Morris subsequently granted. ECF No. 5. Objection 5 will be overruled.

Plaintiff’s next objection, also entitled “Objection No. 5,” states that Mr. Gilbert “did not file a notice of appearance on behalf of Plaintiff” but merely appeared as “co-counsel” to allow Plaintiff to access electronic filing. ECF No. 43 at PageID.884–85. Mr. Gilbert filed a notice of appearance on September 18, 2020. ECF No. 22. The fact that he did so as “co-counsel” is irrelevant. This objection will be overruled.

Objection 6 restates the substance of Objection 2—that default judgment should have been entered against Defendant Benson. *See* ECF No. 43 at PageID.885. Objection 6 will be overruled.

Objection 7 merely disagrees that the Amended Complaint can be described as “a rambling and incoherent diatribe.” *Id.* Objection 7 will be overruled.

Objection 8 complains that Magistrate Judge Morris’ discussion of Plaintiff’s “sovereign citizen” rhetoric was “written to cast a negative light [on Plaintiff].” *Id.* at PageID.886. Objection 8 then restates some of the meritless claims already rejected, including that “[a]ny claim of ‘immunity’ is a fraud” and that traveling on public highways without a license is an “inalienable right.” *See id.* at PageID.886–90. This Court “need not provide de novo review where objections . . . are frivolous, conclusive, or general.” *United States v. Vaughn*, 429 F.Supp.3d 499, 537 (E.D. Tenn. 2019). Objection 8 will be overruled.

Objection 9 states no specific or coherent objection but, like Objection 8, reiterates frivolous “sovereign citizen” rhetoric. ECF No. 43 at PageID.890–94. Objection 9 will be overruled.

Objection 10 states that Magistrate Judge Morris erroneously found that Plaintiff “was not arrested” when he was pulled over on June 15, 2019. *Id.* at PageID.894. Whether Plaintiff was arrested on June 15, 2019 is irrelevant to the dismissal of the Amended Complaint as frivolous. The rest of Objection 10 is “sovereign citizen” rhetoric. *See id.* at PageID.894–99. Objection 10 will be overruled.

Objection 11, like prior objections, restates baseless arguments about an inalienable right to travel. *Id.* at PageID.899–901. Objection 11 will be overruled.

Objection 12 states no specific objection to the Report and Recommendation, only that “[the] Magistrate Judge’s Report and Recommendation is concluding

incorrectly the Fourteenth Amendment [sic].” *Id.* at PageID.901–05. Objection 12 will be overruled.

Based on the foregoing, Plaintiff has stated no actionable objection. Nonetheless, the Report and Recommendation will be adopted “in part” because Defendants’ Motions to Dismiss should be denied as moot rather than granted. Under 28 U.S.C. § 1915(e)(2), a frivolous case proceeding *in forma pauperis* “shall” be dismissed “at any time.” Magistrate Judge Morris decided to dismiss the Amended Complaint *sua sponte* because it was “frivolous on its face.” ECF No. 42 at PageID.870 n.2. She expressly declined to reach the merits of the motions to dismiss. *Id.* Consequently, Plaintiff’s objections will be overruled, the Report and Recommendation will be adopted in part, the Amended Complaint will be dismissed, and all pending motions will be denied as moot.

B.

Magistrate Judge Morris also recommended that Mr. Gilbert be required to pay Defendants’ attorney fees and costs as a sanction for violating FRCP 11. ECF No. 42 at PageID.869–70. Her recommendation of sanctions, and her description of Mr. Gilbert’s behavior as “beyond reckless,” are both well-warranted. ECF No. 42 at PageID.871.

Under Rule 11, an attorney must undertake “inquiry reasonable under the circumstances” before filing any paper with the court. Fed R. Civ. P. 11(b). Sanctions may be imposed if “a reasonable inquiry discloses the pleading, motion, or paper is (1) not well grounded in fact, (2) not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, or (3) interposed for any

improper purpose such as harassment or delay.” *Merritt v. Int'l Ass'n of Machinists & Aerospace Workers*, 613 F.3d 609, 626 (6th Cir. 2010) (quoting *Herron v. Jupiter Transp. Co.*, 858 F.2d 332, 335 (6th Cir. 1988)). Mr. Gilbert should have known that “sovereign citizen” rhetoric is routinely rejected as “completely without merit and patently frivolous.” See *United States v. Mundt*, 29 F.3d 233, 237 (6th Cir. 1994) (rejecting taxpayer’s argument that district court lacked jurisdiction because he was “solely a resident of the state of Michigan”). Mr. Gilbert’s failure to conduct a reasonable inquiry—whether negligent or willful—is sanctionable.

Nonetheless, Rule 11 imposes certain restrictions on a district court’s ability to order monetary sanctions *sua sponte*. Specifically, a “court must not impose a monetary sanction . . . on its own, unless it issued [a] show-cause order” requiring the attorney to “show cause why the conduct specifically described in the order has not violated Rule 11(b).” Fed R. Civ. P. 11(c)(3), (5). Additionally, the sanction “must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated.” Fed. R. Civ. P. 11(c)(4).

“In determining an appropriate sanction, the district court should consider (1) the nature of the violation committed, (2) the circumstances (including financial state) of the individual to be sanctioned, (3) those sanctioning measures that would suffice to deter that individual from similar violations in the future,” and (4) the circumstances of the party adversely affected by the violation.

Longo v. Michel, 12 F.3d 213 (6th Cir. 1993) (quoting *Orlett v. Cincinnati Microwave, Inc.*, 954 F.2d 414,

418 (6th Cir. 1992)). Presently, there is no evidence regarding Mr. Gilbert's ability to pay monetary sanctions. Similarly, while several Defendants support the recommendation for sanctions, ECF No. 47 at Page-ID.935, Defendants have not presented evidence of their attorney fees and costs.

Accordingly, Defendants will be directed to submit supplemental briefing stating the amount of attorney fees and costs incurred since the Amended Complaint was filed, and Mr. Gilbert will be directed to show cause in writing why he should not be sanctioned, including evidence regarding his ability to pay. A hearing on the matter will be scheduled.

IV.

Accordingly, it is ORDERED that Plaintiff's Objections to the Report and Recommendation, ECF No. 43, are OVERRULED.

It is further ORDERED that the Magistrate Judge's Report and Recommendation, ECF No. 42, is ADOPTED IN PART. The pending motions to dismiss will be denied as moot rather than granted.

It is further ORDERED that the Amended Complaint, ECF No. 24, is DISMISSED.

It is further ORDERED that all pending motions, ECF Nos. 15, 20, 30, 31, 34, 41, are DENIED AS MOOT.

It is further ORDERED that Defendants are DIRECTED to submit supplemental briefing stating the amount of attorney fees and costs incurred since the filing of the Amended Complaint on or before January 11, 2021.

App.24a

It is further ORDERED that Attorney David J. Gilbert is DIRECTED to show cause in writing why he should not be sanctioned under Rule 11, including evidence regarding his ability to pay, within 14 days of being served with Defendants' supplemental briefing.

It is further ORDERED that Defendants and Attorney David J. Gilbert are DIRECTED to appear by Zoom webinar for a hearing regarding sanctions on March 17, 2021 at 2:00 P.M.

/s/ Thomas L. Ludington
United States District Judge

Dated: December 28, 2020

**MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION
(NOVEMBER 19, 2020)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

THOMAS EARL DUNN,

Plaintiff,

v.

ELIZABETH POST, individually and in her official capacity as Magistrate, DR. KAREN L. MOORE, individually and in her official capacity as Court Administrator, 80th District Court, ZACH PALMREUTER, individually and in his official capacity as Former Gladwin City Chief of Police, JOCELYN BENSON, individually and in her official capacity as Secretary of State, MICHAEL SHEA, individually and in his official capacity as Gladwin County Sheriff, COURT BAILIFF'S OFFICERS, individually and in their official capacity as Deputy Sheriffs, CHARLES P. JONES, former Gladwin¹ City Chief of Police, DARLENE JUNGMAN, LINDA K, HAWKINS, court reporter, 80TH DISTRICT COURT CLERK, GALDWIN [sic], COUNTY of, and GLADWIN, CITY of,

¹ This misspelling of "Gladwin" is on the court's docket and appears in several entries.

Defendants.

Case No. 20-CV-11329

Before: Hon. Thomas L. LUDINGTON, District Judge,
Patricia T. MORRIS, Magistrate Judge.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION ON DEFENDANT BENSON'S MOTION TO DISMISS (ECF No. 15), DEFENDANTS GLADWIN COUNTY, HAWKINS, MOORE, POST AND SHEA'S MOTION TO DISMISS (ECF No. 20), DEFENDANT GLADWIN COUNTY, HAWKINS, MOORE, POST AND SHEA'S MOTION TO STRIKE AMENDED COMPLAINT (ECF No. 30), PLAINTIFF'S MOTION FOR SANCTIONS (ECF No. 31), DEFENDANTS GLADWIN COUNTY, HAWKINS, MOORE, POST AND SHEA'S MOTION TO DISMISS AMENDED COMPLAINT (ECF No. 34), AND PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AS TO JOCELYN BENSON (ECF No. 41)

I. Recommendation

For the reasons set forth below, IT IS RECOMMENDED that:

- (1) Defendants' motions to dismiss (ECF Nos. 15, 20, and 34) be GRANTED, that the Amended Complaint be dismissed as frivolous and that this case be dismissed in its entirety,
- (2) Plaintiff's motions for sanctions and for default judgment (ECF Nos. 31, 41) be DENIED, and
- (3) Defendant's motion to strike (ECF No. 30) be DENIED as MOOT.

- (4) Plaintiff's counsel be sanctioned and ordered to pay Defendants' reasonable attorney fees and costs from the date of the filing of the Amended Complaint forward.

II. Report

A. Background

Plaintiff filed his original *pro se* complaint on May 5, 2020. (ECF No. 1.) Plaintiff's application to proceed in forma pauperis (IFP) was granted on June 1, 2020. (ECF No. 5.) Summons were issued, attorney appearances and Answers to the Complaint were filed on behalf of city and county defendants (ECF Nos. 9, 10, 12, 13, 14), and a motion to dismiss was filed by Defendant Benson in lieu of filing an answer. (ECF No. 15.) Plaintiff then sought a clerk's entry of default against Defendant City of Gladwin, Jones, Jungman, and Palmreuter. (ECF No. 18.) This request was denied because an Answer was filed by these Defendants. (ECF No. 19.) Defendants Gladwin County, Hawkins, Moore, Post and Shea ("Gladwin County Defendants") filed a motion to dismiss on September 14, 2020. (ECF No. 20.) Plaintiff responded (ECF No. 28) and Defendants replied. (ECF No. 29.) On September 18, 2020, attorney David Gilbert filed a notice of appearance on behalf of Plaintiff. (ECF No. 22.) An Amended Complaint was also filed on September 18, 2020. (ECF No. 24.) Defendants City of Gladwin, Jones, Jungman and Palmreuter filed an Answer to the Amended Complaint. (ECF No. 27.) On October 5, 2020, The Gladwin County Defendants filed a motion to strike the Amended Complaint. (ECF No. 24.) On October 12, 2020, Plaintiff filed a motion for sanctions based on the motion to strike and the Gladwin County Defend-

ants responded. (ECF Nos. 31, 33.) The Gladwin County Defendants then appear to have abandoned their motion to strike and filed a motion to dismiss the Amended Complaint on October 14, 2020. (ECF No. 34.) Plaintiff responded (ECF No. 38) and Defendants replied. (ECF No. 39.)

In the meantime, Plaintiff filed a request for clerk's entry of default against Defendant Benson for the "Sum Certain" of \$32,100,000.01 (ECF No. 36) which was denied because it was not a sum certain and the filing of the amended complaint had not been approved. (ECF No. 36.) On November 10, 2020, another request for clerk's entry of default as to Benson was filed (ECF No. 37) and was denied because the amended complaint has not yet been approved to be filed. (ECF No. 40.) Plaintiff then filed the instant motion for default judgment against Defendant Benson. (ECF No. 41.)

Plaintiff's Amended Complaint, filed by attorney Gilbert, as "Co-counsel for Plaintiff" is a 66-page rambling and incoherent diatribe with 32 attached pages, all stemming from a traffic stop occurring on June 15, 2019, when Defendant Officer Palmreuter pulled Plaintiff over for failing to have a sticker on his license plate, and ticketing Plaintiff for that failure and the fact that his driver's license was expired, and that he had no proof of insurance coverage for his vehicle. (ECF No. 24, PageID.449.) Plaintiff was not arrested but was issued a citation for a civil infraction (no proof of insurance) and misdemeanor (driving without a valid driver's license), requiring him to appear in the 80th District Court within 14 days. (ECF No. 24, PageID.503.) Plaintiff was arraigned on the misdemeanor

charge before Defendant Magistrate Post on July 10, 2019. (ECF No. 24, PageID.449-450, 504.)

Plaintiff's Amended Complaint is brought under 42 U.S.C. § 1983 and it sets forth "sovereign citizen" arguments, contending that he is not subject to Michigan's driver's license and proof of insurance requirements and that these requirements deprive him of his "constitutionally protected interest in free movement absent a predetermination hearing, under color of law, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution." (ECF No. 24, PageID.438.) Plaintiff contends he has a "Substantive Right to move unfettered by Michigan State's Motor Vehicle Regulatory codes in his Private Non Passenger Automobile on the taxpayer funded thoroughfares within the Exterior Boundaries of Michigan and all points beyond." (ECF No. 24, PageID.445-46.) Plaintiff also complains that Magistrate Post lacked jurisdiction over him and falsely entered a not guilty plea on the record even though he did not make any plea and that all the Defendants conspired to deprive him of his right to free movement and attempted to extract property from him in the form of license and registration fees. (ECF No. 24, PageID.450, 460-479, 513-519.) In addition to the § 1983 claims, including conspiracy which is more properly plead under § 1985, he also cites to violations of oath of offices, exaction (based on "their corrupted design to constructively Exact my God Given Unalienable Rights"), fraudulent misrepresentation, "allegations of law," and "questions regarding issues presented" such as whether the State has "constitutional standing to inversely condemn a Substantive Right to Property by a colorful usurpation of law to compel a discretionary benefit?" and a "summary"

including observations that “a ‘Person’ is not a Man or a Woman, God made men and women, and to believe that any statute may judge a creation of God, (that being a man or woman) would be blaspheme.” (ECF No. 24, PageID.481, 487) (emphasis in original.)

B. Motion to Dismiss and Screening Standards

A motion to dismiss under Rule 12(b)(6) challenges the legal sufficiency of the complaint regarding whether it states a claim upon which relief can be granted. When deciding a motion under this subsection, “[t]he court must construe the complaint in the light most favorable to the plaintiff, accept all the factual allegations as true, and determine whether the plaintiff can prove a set of facts in support of its claims that would entitle it to relief.” *Bovee v. Coopers & Lybrand C.P.A.*, 272 F.3d 356, 360 (6th Cir. 2001). As the Supreme Court held in *Bell Atlantic Corp. v. Twombly*, a complaint must be dismissed pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted if the complaint does not plead “enough facts to state a claim to relief that is plausible on its face.” 550 U.S. 544, 570 (2007) (rejecting the traditional Rule 12(b)(6) standard set forth in *Conley v. Gibson*, 355 U.S. 41, 45–46 (1957)). Under Rule 12(b)(6), “a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Twombly*, 550 U.S. at 555 (citations omitted). Even though a complaint need not contain “detailed” factual allegations, its “[f]actual allegations must be enough to raise a right to relief above the speculative level on the assumption that all the allega-

tions in the complaint are true (even if doubtful in fact).” *Id.* (citations omitted).

The Supreme Court has explained that the “tenet that a court must accept as true all of the allegations contained in the complaint is inapplicable to legal conclusions.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Although Rule 8 “marks a notable and generous departure from the hyper-technical, code-pleading regime of a prior era,” it “does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions.” *Id.* “Determining whether a complaint states a plausible claim for relief will . . . be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* at 679. Thus, “a court considering a motion to dismiss can choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth. . . . When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.” *Id.*

“In determining whether to grant a Rule 12(b)(6) motion, the court primarily considers the allegations in the complaint, although matters of public record, orders, items appearing in the record of the case, and exhibits attached to the complaint, also may be taken into account.” *Nieman v. NLO, Inc.*, 108 F.3d 1546, 1554 (6th Cir. 1997) (quoting 5A Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1357 (2d ed. 1990)). This circuit has further “held that ‘documents that a defendant attaches to a motion to dismiss are considered part of the pleadings if they are referred to in the plaintiff’s complaint and are central to [the plaintiff’s] claim.’” *Weiner v. Klais &*

Co., 108 F.3d 86, 89 (6th Cir. 1997) (quoting *Venture Assoc. Corp. v. Zenith Data Sys. Corp.*, 987 F.2d 429, 431 (7th Cir. 1993)); *Yeary v. Goodwill Indus.-Knoxville, Inc.*, 107 F.3d 443, 445 (6th Cir. 1997).

In addition, under 28 U.S.C. § 1915(e)(2)(B), the court can *sua sponte* review and dismiss the complaints of plaintiffs proceeding IFP if it determines that the action is frivolous or malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief.

To state a claim under § 1983, a plaintiff must allege facts showing (1) the conduct about which he complains was committed by a person acting under color of state law and (2) the conduct deprived him of a federal constitutional or statutory right. In addition, a plaintiff must allege that he suffered a specific injury as a result of the conduct of a particular defendant and he must allege an affirmative link between the injury and the conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-72, 377, 96 S. Ct. 598, 46 L.Ed.2d 561 (1976).

C. Analysis and Conclusions

I first suggest that the Amended Complaint could be dismissed pursuant to Rule 8(a). Rule 8(a) requires a plaintiff to file a complaint that sets forth “a short and plain statement of the claim. . . .” Fed. R. Civ. P. 8(a)(2). In addition, Rule 8(d)(1) states that “[e]ach allegation must be simple, concise, and direct.” Where, as here, a pleading is so verbose that neither the court nor the defendants can readily identify the claims asserted, the complaint should be dismissed for failure to comply with the Federal Rules of Civil Proce-

dure. *See Flayter v. Wis. Dep't of Corr.*, 16 F. App'x 507, 509 (7th Cir. 2001) (116-page prisoner civil rights complaint subject to dismissal pursuant to Rule 8(a)(2)); *McHenry v. Renne*, 84 F.3d 1172, 1180 (9th Cir. 1996) (“Something labeled a complaint but written more as a press release, prolix in evidentiary detail, yet without simplicity, conciseness and clarity as to whom plaintiffs are suing for what wrongs, fails to perform the essential functions of a complaint.”); *Vicom v. Harbridge Merchant Servs., Inc.*, 20 F.3d 771, 775–76 (7th Cir. 1994) (criticizing district court for declining to dismiss with prejudice pursuant to Rule 8(a); noting that “[a] complaint that is prolix and/or confusing makes it difficult for the defendant to file a responsive pleading and makes it difficult for the trial court to conduct orderly litigation); *Plymale v. Freeman*, No. 90-2202, 1991 WL 54882 (6th Cir. Apr. 12, 1991) (affirming dismissal with prejudice for failure to comply with Rule 8); *Gipbsin v. Kernan*, No. 07-0157, 2008 WL 1970090, at *3 (E.D. Cal. May 5, 2008) (a complaint should not include “preambles, introductions, argument, speeches, explanations, stories, griping, vouching, evidence, attempts to negate possible defenses, summaries, and the like”).

I further suggest that the instant Amended Complaint “fails to state a colorable claim for which relief may be granted under § 1983 or any other law, against [defendants] or anyone else.” *Post v. White*, 2018 WL 1089688, at *2 (M.D. Tenn. Feb. 28, 2018). In *Post*, as in this case, Plaintiff argued that his sovereign citizen status “insulates him from being issued a traffic citation” because he “was not transporting good or persons and was not using his vehicle ‘in commerce’ which the court declared was “simply nonsense.” *Id.* Similarly, other

courts have held that a sovereign citizen plaintiff “is not exempt from state law (such as the requirement to have a driver’s license) and has no authority to prosecute any of the [multitude of] named defendants.” *Wolshlager v. Gast*, 2019 WL 2250752, at *1 (W.D. Mich. May 2, 2019). Sovereign citizen “arguments and outlandish legal theories have been consistently rejected.” *Young v. PNC Bank, N.A.*, 2018 WL 1251920, at *2 (N.D. Fla. Mar. 12, 2018) (collecting cases). I therefore recommend that the Amended Complaint be dismissed in its entirety against all the Defendants.²

The only remaining question is whether the fact that this frivolous Amended Complaint was filed by an attorney should compel sanctions. I suggest that it should. Lawyers who file frivolous pleadings are subject to being sanctioned under Rule 11. Under Fed. R. Civ. Pro. 11(b), “when presenting a pleading to the court, an attorney must certify that, to the best of his or her knowledge, information, and belief . . . (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.” *Bowden v. Schenker*, 2018 WL 1203362, at *3 (M.D. Penn. Mar. 8, 2018) (requiring lawyer who filed a frivolous complaint to pay Defendants’ reasonable attorney fees); *accord, Burda v. M. Ecker Co.*, 2 F.3d 769, 775-776 (7th Cir. 1993) (affirming district court’s sanctions against lawyer under Rule 11 for making objectively unreasonable and frivolous arguments). Even *pro se* plaintiffs have been sanc-

² Defendants make sound arguments regarding their entitlement to dismissal based on absolute or qualified immunity but I do not need to reach these since I find the Amended Complaint frivolous on its face.

tioned for making baseless or frivolous allegations. *See, Tartt v. Magna Health Sys.*, 2014 WL 4087220, at *4 (N.D. Ill. Aug. 19, 2014); *Neuman v. United States*, 2009 WL 1514566, at *2-3 (S.D. Ill. June 1, 2009). The transgression is far more culpable when committed by an attorney. Even though Plaintiff may sincerely believe he is a sovereign citizen who is not subject to state laws requiring a driver's license and insurance to operate a vehicle on its roadways, counsel knows better and his filing of this entirely frivolous Amended Complaint is beyond reckless. Accordingly, I recommend that Plaintiff's "co-counsel," David Gilbert, be required to pay Defendants' reasonable attorney fees and costs.

D. Conclusion

For the reasons set forth above, IT IS RECOMMENDED that Defendants' motions to dismiss (ECF Nos. 15, 20, and 34) be GRANTED, that the Amended Complaint be dismissed as frivolous, the case be dismissed in its entirety, Plaintiff's motions for sanctions and for default judgment (ECF Nos. 31, 41) be DENIED, and Defendant's motion to strike (ECF No. 30) be DENIED as MOOT. I further recommend Plaintiff's counsel be sanctioned and ordered to pay Defendants' reasonable attorney fees and costs from the date of the filing of the Amended Complaint forward.

III. Review

Rule 72(b)(2) of the Federal Rules of Civil Procedure states that "[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. A party may respond to another party's objections within 14 days

after being served with a copy.” Fed. R. Civ. P. 72(b)(2). *See also* 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 155; *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505, 508 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981). The parties are advised that making some objections, but failing to raise others, will not preserve all the objections a party may have to this Report and Recommendation. *Willis v. Sec'y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). According to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this magistrate judge.

Any objections must be labeled as “Objection No. 1,” “Objection No. 2,” etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed. R. Civ. P. 72(b)(2); E.D. Mich. LR 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as “Response to Objection No. 1,” “Response to Objection No. 2,” etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

/s/ Patricia T. Morris
United States Magistrate Judge

Date: November 19, 2020

**ORDER OF THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH
CIRCUIT DENYING PETITION FOR
REHEARING EN BANC
(MARCH 15, 2022)**

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

THOMAS EARL DUNN,

Plaintiff-Appellant,

v.

ELIZABETH POST, MAGISTRATE, ET AL.,

Defendants-Appellees.

No. 21-1412

Before: GILMAN, KETHLEDGE, and
MURPHY, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

App.38a

Entered by Order of the Court

/s/ Deborah S. Hunt

Clerk

**PLAINTIFF REQUEST
FOR ENTRY OF DEFAULT
(OCTOBER 29, 2020)**

DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

THOMAS EARL DUNN,

Plaintiff,

v.

ELIZABETH POST, ET AL.,

Defendants.

Case No. 20-CV-11329-BC

Before: Hon. Thomas L. LUDINGTON, District Judge,
Patricia T. MORRIS, Magistrate Judge.

Thomas Earl Dunn
Plaintiff
425 Cottage Ave.
Clare, MI 48617
989-709-8079
tomdun@gmx.com

Allan C. Vander Laan
Attorney for Defendants,
Gladwin County
Cummings, McClorey,

David J. Gilbert
Co-counsel for Plaintiff
306 E. Broadway St., Ste #3
Mt. Pleasant, MI 48858
1989.779.8505
djjgilbertlaw@gmail.com

Ron D. Robinson
David C. Cannon
Attorneys for Def. Benson
3030 W. Grand River blvd

Davis & Acho. P.L.C Detroit, MI 48202
2851 Charlevoiz Drive, 1313.456.0200
SE, Ste. 327 cannond@michigan.gov
Grand Rapids, MI 49546
1616.975.7470
avanderlaan@cmda-law.com

Alannah M. Buford-Kamerman
Attorney for Defendants, City of Gladwin
325 E. Grand River Avenue, Suite 250
East Lansing, MI 48823
517-324-5638
abuford@plunkettcooney.com

[* * *]

REQUEST FOR ENTRY OF DEFAULT

NOW COMES, Plaintiff Thomas E. Dunn, Pro Se and through his co-counsel David J. Gilbert, and hereby requests the Honorable Clerk of the Court to enter a default against the defendants, Joslyn Benson, Secretary of State on the basis that the record in this case demonstrates that there has been a willful, intentional and knowing act to wantonly fail to answer, plead, or otherwise plead as required by Rules of this Court for Said Defendant's to address in conformity to the rules of this Court, the Plaintiffs Amended Complaint as of the 21st Day, which by rules was September 18, 2020.

Subsequently due directly to the egregious failure of the Defendant Joslyn Benson, Secretary of State to lawfully address this Plaintiff's Amended Complaint, this Plaintiff moves for the entry of a Default Judgment as provided by Federal Rules of Civil Procedure Rule 55(a),

App.41a

Respectfully submitted,

/s/ Thomas Earl Dunn
Plaintiff

**AMENDED COMPLAINT
(SEPTEMBER 18, 2020)**

DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

THOMAS EARL DUNN,

Plaintiff,

v.

ELIZABETH POST, ET AL.,

Defendants.

Case No. 20-CV-11329-BC

Before: Hon. Thomas L. LUDINGTON, District Judge,
Patricia T. MORRIS, Magistrate Judge.

Thomas Earl Dunn Plaintiff 425 Cottage Ave. Clare, MI 48617 989-709-8079 tomdun@gmx.com	David J. Gilbert Co-counsel for Plaintiff 306 E. Broadway St., Ste #3 Mt. Pleasant, MI 48858 1989.779.8505 djjgilbertlaw@gmail.com
Allan C. Vander Laan Attorney for Defendants, Gladwin County Cummings, McClorey, Davis & Acho. P.L.C 2851 Charlevoiz Drive,	Ron D. Robinson David C. Cannon Attorneys for Def. Benson 3030 W. Grand River blvd Detroit, MI 48202 1313.456.0200

Alannah M. Buford-Kamerman
Attorney for Defendants, City of Gladwin
325 E. Grand River Avenue, Suite 250
East Lansing, MI 48823
517-324-5638
abuford@plunkettcooney.com

[* * *]

There is no other claim or case pending or prior before this honorable court.

**AMENDED COMPLAINT
JURISDICTION, VENUE, PARTIES AND JURY DEMAND**

COMES NOW, the Declaration of Claim by Claimant/PLAINTIFF, Thomas Earl Dunn Sui Juris referred to as "Claimant", respectfully amends his complaint and requests this Court to issue a Declaratory Judgment for Preliminary and Permanent Injunctive Relief addressing against the above-named Respondents, their employees, agents, and successors in office, and in support thereof allege the following upon information and belief and before this Court addressing the subversion of Substantive Rights moved by Public Actors from the State, County of Gladwin and City of Gladwin Allegedly under the Color of State Law for the wrongful Acts of Michigan State Public Actors.

1. This is a civil action brought pursuant to 42 U.S.C. 1983 seeking declaratory and injunctive relief and money damages against Respondents/Defendants for depriving Claimant/Plaintiff of his constitutionally

protected property interest in free movement absent a pretermination hearing, under color of law, in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

2. The jurisdiction of this court is invoked pursuant to 28 U.S.C. 331, 1343(a)(3), and 1343(a)(4). Jurisdiction for the declaratory relief sought is also premised upon 28 U.S.C. 2201 and 2202. Venue lies in the Eastern District of Michigan, Northern Division, pursuant to 28 U.S.C. 1391(b).

3. Claimant is a citizen of the United States and a resident of the City of Clare, Michigan within the Eastern District of Michigan Northern Division.

4. Respondent/Defendant City of Gladwin, Michigan is a municipal corporation organized and existing under the constitution and laws of the State of Michigan

5. Respondent/Defendant County of Gladwin, Michigan is a municipal corporation organized and existing under the constitution and laws of the State of Michigan.

6. Respondent/Defendant Jocelyn Benson is and was at all relevant times the duly elected Secretary of the State of Michigan.

7. Respondent/Defendant Elizabeth M. Post is and was at all relevant times the duly appointed Magistrate of the 80th District Court of Gladwin County, Michigan of Defendant government unit.

8. Respondent/Defendant Sheriff, Michael Shea is and was at all relevant times the duly elected Sheriff of Gladwin County, Michigan of Defendant government unit.

9. Respondent/Defendant Court Bailiff's Deputy Sheriff Officers (Does) are and were at all relevant times the duly appointed Deputies of Gladwin County, Michigan of Defendant government unit.

10. Respondent/Defendant Dr. Karen L. Moore is and was at all relevant times the duly appointed Court Recorder of the 80th District Court of Gladwin County, Michigan of Defendant government unit.

11. Respondent/Defendant Linda K. Hawkins is and was at all relevant times the duly appointed Court Recorder of the 80th District Court of Gladwin County, Michigan of Defendant government unit.

12. Respondent/Defendant John and Mary Doe unknown are and were at all relevant times the duly appointed Clerks of the 80th District Court of Gladwin County, Michigan of Defendant government unit.

13. Respondent/Defendant Darlene "Dee" Jungman is and was at all relevant times the duly elected Mayor of the City of Gladwin, Gladwin County, Michigan of Defendant government unit.

14. Respondent/Defendant Charles P. Jones is and was at all relevant times the duly appointed Chief of Police of the City of Gladwin, Gladwin County, Michigan of Defendant government unit.

15. Respondent/Defendant Zach Palmreuter is and was at all relevant times the duly appointed Police Officer of the City of Gladwin, Gladwin County, Michigan of Defendant government unit.

16. Respondent/Defendant City of Gladwin is a Michigan municipal City, organized under the laws of the State of Michigan. It is responsible for the policies, procedures, usage and practices implemented through

its various agencies, agents, departments, and employees, and for injury occasioned thereby. It was also the public employer of Respondents Charles P. Jones, Prior Chief of Police, Officer Zach Palmrueter, Gladwin City Mayor, Darlene "Dee" Jungman and those listed below who are or were employed by Gladwin City or contracted by the City of Gladwin and at all times relevant to this Complaint. The City of Gladwin is responsible for the Training and Education of its Law Enforcement Police Officers and their knowledge of the laws they are required to enforce this is the knowledge of the statutes as well as the Articles of the Constitutions controlling their Oath of Office.

17. Respondents/Defendants County of Gladwin Sheriff Michael Shea, Officers bailiffs, and others not presently known to the Claimant were, at all times material to this Complaint. Claimant sues all public employees of the City of Gladwin, County of Gladwin named in this cause of action in their official capacities, individually, severely and jointly for violation of the Claimant's rights under the color of law. The County of Gladwin is responsible for the Training and Education of its Law Enforcement Deputy's, Bailiff's and their knowledge of the laws they are required to enforce this is the knowledge of the statutes as well as the Articles of the Constitutions controlling their Oath of Office. At all times material to this Complaint, Respondents/Defendants acted toward Claimant under color of the statutes, ordinances, customs, and usage of the State of Michigan, County of Gladwin.

18. Respondents/Defendants of the State of Michigan Jocelyn Benson, individually and in her official capacity as Secretary of State and others not presently known to the Claimant were, at all times material to

this Complaint. Claimant sues all public employees of the City of Gladwin, County of Gladwin named in this cause of action in their official capacities, individually, severely and jointly for violation of the Claimant's rights under the color of law. The State of Michigan, Secretary State is responsible for the Training and Education of its employees and their knowledge of the laws they are required to enforce this is the knowledge of the statutes as well as the Articles of the Constitutions controlling their Oath of Office. At all times material to this Complaint, Respondents/Defendants acted toward Claimant under color of the statutes, ordinances, customs, and usage of the State of Michigan.

STATEMENT OF CLAIM

In support thereof, Claimant shows unto the Court as follows:

19. This is a Civil action whereby Plaintiff seeks Preliminary and Permanent Injunctive Relief enjoining the State of Michigan from subordinating this Michigander enjoyment of his private property by Michigan State Public Actors who collectedly and individually move under the Color of Public Act 254 of 1933¹, and its Ordinance Enforcement² Provisions as codified in Public Act 300 of 1949 to directly violate the Substantive

¹ Department of State Police Commercial Vehicle Enforcement Division Motor Carriers by authority conferred on the department of state police by section 6 of article V of the motor carrier act, 1933 PA 254, MCL 479.6, and Executive Reorganization Order No. 2015-3, MCL 460.21

² Department of State Police Uniform Traffic Code for Cities, Townships, and Villages implemented by authority conferred on the director of the department of state police by 1956 PA 62, MCL 257.951 et seq.

App.48a

Rights of the Complainant by denying free movement of his non-passenger automobile³ across the byways and highway here in the State of Michigan and points beyond.

20. It is the set Public Policy here in the State of Michigan to presumptively proclaim by regulatory fiat that all privately owned non-passenger automobiles are denied the Free and Unfettered use of the Taxpayer funded public Thoroughfares⁴.

21. Public Act 254 of 1933 is the State's statutory method administered by the Department of State Police who may issue the Commercial Applicant a Certificate of Authority for the use of the Public Thoroughfares for the Transportation⁵ of goods and services by the Common Carrier statutorily defined as the Motor Vehicle.

22. Public Act 254 of 1933 is the regulatory scheme for issuing a Certificate of Authority to the

³ Title 49 U.S.C.A § 32901(a)(17): "non-passenger automobile" means an automobile that is not a passenger automobile or a work truck.

⁴ Uniform Traffic Code for Cities, Townships, and Villages: Part II R 28.1101 Rule 101. Police department; traffic duties. It is the duty of the chief of police and the officers of the police department to enforce the street traffic regulations of this governmental unit and all state vehicle laws that are applicable to street traffic in this governmental unit, including making arrests for certain traffic violations, issuing citations for civil infractions, investigating accidents, cooperating with the city traffic engineer and other officials of this governmental unit in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and carrying out those duties specially imposed by this code and other traffic ordinances of this governmental unit.

⁵ Title 49 U.S.C.A § 13102(23)

Operator of Common Carriers operating a Motor Vehicle(s) for the regulatory carriage of Goods and Services on the Taxpayer funded thoroughfares here as its Base State, in intrastate and interstate commerce⁶ from here in the State of Michigan.

23. All Operators with a Certificate Authority are required to comply with the Ordinance Provisions of Public 300 of 1949 by presenting said authority to the Offices of the Secretary who shall then issue a Certificate of Title for a MOTOR VEHICLE and corresponding Registration Plate (LICENSE PLATE) for the operation of the Motor Vehicle in intrastate⁷ and or interstate commerce from within or without the Base State⁸.

24. Operators of registered Motor Vehicles are required to by the Ordinance Provision of Public Act 300 of 1949 to procure from the Offices of the Secretary a Driver (LICENSE) and or Operators License that by legislative fiat authorizes the Operation of the Registered Motor Vehicle by the Operator from

⁶ "He has no power of eminent domain or franchise under the state, and no greater right to use the highways than any other member of the body public. He does not undertake to carry for the public, and does not devote his property to any public use. He has done nothing to give rise to a duty to carry for others." *Michigan Pub. Util. Comm'n v. Duke*, 266 UPS. 570, 576 (1925)

⁷ "A state which, at its own expense, furnishes special facilities for the use of those engaged in interstate and intrastate commerce may exact compensation therefor, and if the charges are reasonable and uniform, they constitute no burden on interstate commerce. The action of the state in such respect must be treated as correct unless the contrary is made to appear. *Hendricks v Maryland* 235 US 610, 611(1915)"

⁸ Title 49 U.S.C.A § 14504a(a)(2)

App.50a

within its Base State for moving intrastate and interstate commercial carriage as the common carrier.

25. The Complainant is not an Owner or Operator of a Common Carrier operating as a Motor Vehicle in a Base State in intrastate and or interstate commerce.

26. This Complainant does not operate a Motor Vehicle⁹ in intrastate, nor in interstate commerce for others.

27. The Complainant is a Michigan State Citizen, who has the Substantive Right to move unfettered by Michigan State's Motor Vehicle Regulatory codes in his Private Non Passenger Automobile¹⁰ on the taxpayer funded thoroughfares within the Exterior Boundaries of Michigan and all points beyond.

28. The Secretary of State's¹¹ Public Actors have no legal standing to command an owner of a non-passenger automobile to Register¹² his private property

⁹ Title 18 U.S.C.A § 31(a)(6)

¹⁰ Title 49 CFR § 523.5 : A non-passenger automobile means an automobile that is not a passenger automobile or a work truck and includes vehicles described in paragraphs (a) and (b) of this section

¹¹ Public Act 300 of 1949 § 202: Except as provided in this act, the secretary of state is the exclusive state agent for the administration of the driver license provisions of this act.

¹² Public Act 300 of 1949 § 209: The department shall examine and determine the genuineness, regularity, and legality of every application for registration of a vehicle, for a certificate of title therefor, and for an operator's or chauffeur's license and of any other application lawfully made to the department, and may in all cases make investigation as may be deemed necessary or require additional information, and shall reject any such application if not satisfied of the genuineness, regularity, or legality

App.51a

as if said coerced recipient were to operate a Motor Vehicle for hire, when there is no underlying Certificate of Authority¹³ that authorizes a Person to operate as a commercial transporter upon the Taxpayer funded highways and byways in the Base State, as a Common Carrier engaged in the interstate and or intrastate portage of goods and services is a prior restraint of the Complainant's Liberty.

29. The set Public Policy of the State of Michigan to forcibly impose under the color of law the registration¹⁴ of a non-passenger automobile as if it were administratively privileged¹⁵ to operate for hire as a Motor Vehicle is the inverse condemnation of private property for public use.

thereof or the truth of any statement contained therein, or for any other reason, when authorized by law.

13 Public Act 254 of 1933 § 2: The commission, upon the filing of an application for a certificate of authority, shall ascertain and determine, under reasonable rules as it promulgates, whether to issue the certificate of authority.

14 Public Act 300 of 1949 § 215: It is a misdemeanor for any person to drive or move or for an owner knowingly to permit to be driven or moved upon any highway any vehicle of a type required to be registered hereunder which is not registered or for which a certificate of title has not been applied for or for which the appropriate fee has not been paid when and as required hereunder, except as provided in subsection (b) of section 217.

15 Public Act 254 of 1933 § 1: A motor carrier of general commodities shall not operate any motor vehicle in for-hire transportation on any public highway in this state except in accordance with this act. A motor carrier of general commodities shall not operate upon any public highway without first having obtained a certificate of authority from the commission.

30. The Set Public Policy of Michigan State Public Actors to compel Michiganders to register their private property under the color of Public Act 245 of 1933, and Public Act 300 of 1949 is the directed Constitutional Violation of this Complainant's substantive rights¹⁶ to Life, Liberty and Property.

Introduction

31. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

32. Thomas E. Dunn, a Michigan State Citizen living in the City of Clare in the County of Clare Michigan. Claimant above complains against Respondents above named for depriving Claimant of his Substantive rights by wrongful action coercively moved under color of State Law to subordinate said Claimant's Rights to Travel unfettered over the taxpayer funded thoroughfares here within the Exterior boundaries of Michigan and points beyond.

33. That the Secretary of State failed to investigate and determine if Complainants application for registration, certificate of title and or operator's license was necessary based on the PA 300 of 1949 those applica-

¹⁶ "It is settled by a long line of recent decisions of this Court that an ordinance which, like this one, makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official-as by requiring a permit or license which may be granted or withheld in the discretion of such official-is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms." *Staub v. City of Baxley*, 355 U.S. 313, 322 (1958):

tion should be rejected for they would not satisfy legally that which was authorized by law.

34. That the Secretary of State's employees under the common usage and policy are not trained in the law and deceived the Complainant where fraud and deceit may arise from silence where there is a duty to speak the truth¹⁷

CASE OVERVIEW

34. That on June 15, 2019 Claimant lost his freedom and was restrained from moving about the state of Michigan by Officer Palmreuter of the Gladwin City Police Department for approximately one half hour. *See EXHIBIT No. 8 (CAD INCIDENT DETAIL)*

35. Office Palmrueter followed Claimant approximately a mile and a quarter from Commerce Ct. in the City of Gladwin beyond the city limits to Pratt Lake Rd. in the County of Gladwin proper before he activated his emergency lights.

36. After being stopped, officer Palmrueter stated, "Your sticker is missing from your license plate." Your expired Driver's License is a misdemeanor and a jailable

¹⁷ MCL 257.209 Application for registration; certificate of title; operator's or other license, investigation. Sec. 209: The department shall examine and determine the genuineness, regularity, and legality of every application for registration of a vehicle, for a certificate of title therefor, and for an operator's or chauffeur's license and of any other application lawfully made to the department, and may in all cases make investigation as may be deemed necessary or require additional information, and shall reject any such application if not satisfied of the genuineness, regularity, or legality thereof or the truth of any statement contained therein, or for any other reason, when authorized by law.

offense. You have no proof of Insurance all under threat of being transported to jail.

37. Office Palmreuter issued a Uniform Law Citation G19485 for No Proof of Insurance and Expired License and said, "just go get your license and send your proof in or show an officer and the ticket will be dismissed." SEE EXHIBIT No. 1 (CITATION)

38. Officer Palmreuter's roadside detention actions extended for more than 30 minutes.

39. On or about June 23 or 24 of 2019 Claimant received via USPS a NOTICE TO APPEAR, CASE NO. 19-1455-OT at 9:00 a.m. on July 10, 2019 for Arraignment before Magistrate Elizabeth M. Post (P-77830), the Notice was Dated 21 June 2019 and was unsigned by the Clerk. SEE EXHIBIT No. 2 (NOTICE)

40. On July 10, 2019 at or about 8:15 a.m. Claimant and personal friend visited with the Gladwin County Sheriff, Mike Shea and asked that he assure me that my constitutional rights would be upheld in the proceedings of Arraignment to be commenced at or about 9:00 a.m. Sheriff Shea assured me that all would be upheld and this assurance was witnessed by Mr. Mark DeYoung. Sheriff Shea was apprised of my concerns by letter which was on his desk. SEE EXHIBIT No. 3 & No. 10 (AFFIDAVITS)

41. At approximately 9:40 a.m. July 10, 2019 my name was called in the court room of Magistrate Post. Claimant responded from behind the bar and Claimant quoted to the best of his recollection; *"I am not the person summoned on the notice, my name is spelled Thomas E. Dunn (Upper and Lower case) and I am my own Ambassador, a man, I am INNOCENT, and this*

Court does not have jurisdiction, MCL 600.8511, 12 & 13." See EXHIBIT No. 4 (TRANSCRIPT)

42. Magistrate Elizabeth Post fraudulently noted on court documents that Claimant plead Not Guilty during the hearing. SEE EXHIBIT No. 5 (IN THE 80TH DISTRICT COURT)

43. While trying to respond to the court the Bailiffs started to approach with hands on their weapons during the hearing at which time Claimant apologized for speaking. Claimant rights were violated by the officers of the court.

44. On or about July 5 or 6th of Claimant received a Notice from the 80th District Court in conjunction with the Secretary of State that a Default Judgment was filed and that Claimant was to pay \$135.00 for no Proof of Insurance. This document was sent on an Open Post Card dated July 03, 2019 under the hand of Dr. Karen L. Moore, court administrator. The 80th District Court Had Proof of Insurance on file but still issued a Default Notice demanding payment. See EXHIBIT No. 6 (POST CARD)

45. That the Clerks stated on July 7th, 2019, while getting a copy of the record and ROA for case No. 19-19485-O1, they stated they worked for SOS and the SOS abstracted the Default using the computer. The clerks admitted they had a copy of the Proof of Insurance in the court file. See EXHIBIT No. 7 (PROOF OF INSURANCE).

46. That Claimant has, as a result of Defendants actions, suffered a loss of his constitutional liberty rights, due process rights, property rights and others, due to the unlawful "detention, search and seizure" of his person and private property under the state con-

stitution and the Fourth, Fifth, and Fourteenth Amendments of the U.S. Constitution, and other laws so related.

47. That Claimant has within this complaint, made a "clear and plain showing" that Defendants in enforcing the states. "Motor Vehicle Code" have exceeded their constitutional and statutory authority regarding a non-person.

48. The main cause of action addresses the systemic fraudulent application of State Law to subordinate the Rights of Claimant, a Michigan State Citizen to freely move unfettered on the highways and byways within the Exterior boundaries of the State and points throughout the United States of America.

49. Respondents acted fraudulently and oppressively and with full knowledge of the consequences and damage it would cause to Claimant.

50. Claimant request this court to use its equitable powers to find All Respondents personally liable for damages in excess of \$250,000.00 for abuse of power, violation of their Oath of Office, conspiracy and due process.

SUMMARY OF THE CASE.

51. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

52. The Defendants/Respondents individually, severely and jointly violated petitioner's constitutional rights.

53. I need not prove my case and present all the evidence here; I merely need to make a plain statement

of facts pursuant to Federal Rules of Civil Procedure, rule 8.

54. The Respondents individually and jointly violated my rights.

55. This cause of action is grounded in 42 U.S.C. section 1983 which reads as follows:

- a. *“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitutions and laws shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress”*
- b. *Marbury v. Madison*, 5 US 137: “The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law.”
- c. *Murdock v. Penn.*, 319 US 105: “No state shall convert a liberty into a privilege, license it, and attach a fee to it.”
- d. *Boyd v. U.S.*, 116 U.S. 616: “The court is to protect against any encroachment of Constitutionally secured liberties.”
- e. *Cooper v. O’Conner*, 99 F.2d 133: There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign.

General Allegation Pertaining to All Causes of Action:

56. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

57. The Unlawful actions, by all State, County and City Public Actors towards Claimant violate this Claimant's Substantive Rights to deny the constitutional constituted due processes of Law by Officers of the Public Trust. Publicly acting in conspiratorial concert under the Color of Public Law to violate Due Process under the color of Law. Michigan statutes as cited in the Uniform Law citation do not apply the Claimant.

58. In committing the acts described herein all Respondents subjected Claimant to deprivation of rights, privileges, and immunities secured by the U.S. Constitution and the state constitution and the laws made thereunder. Respondents all stripped Claimant of his right to Life, Liberty and Property.

59. All Respondents acted under color of statutes, ordinances, regulations, customs, and/ or usage, of the state of Michigan, County of Gladwin, City of Gladwin and State of Michigan and other laws and regulations.

60. All Respondents are liable to Claimant in an action at law, suit in equity, or other proper proceeding for redress of grievance.

61. I demand redress.

62. I set forth the details as follows.

FACTS

63. Complainant Restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

64. Respondent Palmrueter Stopped Claimant while traveling in his private automobile, modern mode of conveyance without a warrant, without probable cause that Claimant was Driving, Operating or Trafficking in commerce.

65. Respondent Palmrueter detained Claimant a private Citizen and his wife for over 30 minutes at the corner of North M-18 and Pratt Lake Rd. This officer was not in HOT pursuit for Pratt Lake Rd. is over 1 mile from the City Limits of Gladwin City and Officer Palmreuter did not activate his emergency overhead lights until we were within 1/8 of a mile from Pratt Lake Rd.

66. As a result of Respondent Palmrueter unlawful and malicious detention and containment of Claimant, Respondent Palmrueter deprived Claimant of both his right to his liberty to travel without due process of law and his right to equal protection of the laws, and the due course of justice was impeded and probable cause was not present.

67. That officer Palmrueter under custom and policy exercised his police powers as part of training and enforcement instruction of the City Mayor and Chief of Police. These Public Actors are ignorant of the Laws they were enforcing.

68. That "The government's interests in permitting an officer without statutory jurisdiction or authority to make a traffic stop for a minor misde-

meanor offense in these circumstances is minimal and is outweighed by the intrusion upon the individual's liberty and privacy that necessarily arises out of the stop,", *State v. Brown* (2003).

69. That in *Prouse*, the United States Supreme Court held that the Fourth Amendment prohibits a police officer from arbitrarily stopping an automobile for the sole purpose of checking the driver's license and registration (*See; Delaware v. Prouse* (1979), 440 U.S. 648, 653, 99 S. Ct. 1391, 1396, 59 L.Ed.2d 66 Claimant.

70. That if police stop a vehicle then the vehicle's passengers as well as its driver are deemed to have been seized from the moment the car comes to a halt, and the passengers as well as the driver may challenge the constitutionality of the stop, *Brandling v. California*, 551 U.S. 249,263 (2007).

71. Respondent Palmrueter to the best of my knowledge and belief was an employee of the City of Gladwin a municipal corporation.

72. This officer's total lack of training, of understanding of the Law his Chief and Mayor is reprehensible as they were also acting without knowledge of the law or to whom he was enforcing it on expressed by the city's policy and custom and usage. *Miranda v. Arizona*, 384 U.S. 436: "Where rights secured by the Constitution are involved, there can be no rule making or legislation, which would abrogate them."

73. By their conduct, Respondents, Jocelyn Benson, Elizabeth Post, Charles Jones, Michael Shea, Court Bailiff's officers, Darlene "Dee" Jungman, Linda K. Hawkins, Dr. Karen L. Moore, 80th District Court Clerks, City of Gladwin and County of Gladwin inten-

tionally and improperly interfered with Complainants
Due process and property rights.

74. Claimant request this court to use its equitable powers to find Respondents personally all liable for damages in excess of \$250,000.00 for abuse of power, violation of their Oath of Office, conspiracy and due process.

**Count I: Violation of Constitutional Safeguards;
Unlawful Search and Seizure and Lack
of Due Process**

75. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

76. That the Michigan Constitution of 1963 under Article I § 11 states; Sec. 11. The person, houses. papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state. (Note: Last sentence ruled unconstitutional.) Officer Palmreuter seized and detained Claimant.

77. That the Michigan Constitution of 1963 under Article I § 17 states: Sec. 17 No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals,

firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. All Respondents acted in concert and violated Claimant's due process of law.

78. That the Fourth Amendment of the U.S. Constitution provides that the "right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures. Shall not be violated; and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." Claimant was unreasonably seized and detained by Officer Palmreuter and in concert by the State, City and County Public Actors.

79. That Claimant claims at the time of the seizure he was not a danger to anyone, was not committing a breach of the peace and had not committed any felony and Respondent, Palmreuter deprived us of liberty without due process of law. *See EXHIBIT No. 8 (Cad Incident Report 12/23/2019)*

80. That the state nor the U.S. Constitution empowers the Michigan State Government to "seize" any man or woman solely because he/she is exercising his/her liberty right to use of private property consumer goods automobiles for personal purposes.

81. That a private automobile registration plate without a sticker does not provide the necessary reasonable suspicion for an investigatory stop, *Ybarra v. Illinois*, 444 L S. 85 (1979); *Brown v. Texas, supra*;

82. That "The government's interests in permitting an officer without statutory jurisdiction or authority

to make a traffic stop for a minor misdemeanor offense in these circumstances is minimal and is outweighed by the intrusion upon the individual's liberty and privacy that necessarily arises out of the stop.", *State v. Brown* (2003).

83. The Supreme Court has said Probable cause is the traditional justification" for the seizure of a person. *Whren*, 517 U.S. at 817 (emphasis deleted); SIC also *Dunaway v. New York*. 442 U.S. 200207-208 (1979). Officer Palmreuter violated the probable cause rule.

84. That Under U.S.C. Title 42 § 1986. Action for neglect to prevent . . . it states: Every person who, having knowledge that any wrongs conspired or to be done . . . and having power to prevent or aid in preventing . . . Neglects or refuses so to do . . . shall be liable to the party injured. . . .

85. That, All Respondents had knowledge of what the enforcement department was doing and are liable to the Claimant as it pertains to this conspiracy to commit a fraud a scheme against Claimant to extract property. *See Exhibit No. 6*

86. That the Fourth Amendment's protection against unlawful search and seizure generally prohibits arbitrary vehicle searches. The Defendant/Respondent, Zack Palmreuter, searched Claimant's automobile without a warrant, permission, or a valid reason and has violated Claimant's constitutional rights.

87. That the reduced expectancy concept has broadened police powers to conduct automobile searches without warrants, but they still must have probable cause to search a vehicle, *Almeida v Sanchez*,-. United States, 413 U.S. 266 (1973) (roving patrols); United

States, Ortiz, 422 U.S. 891 (1975). *Cf. Colorado v. Bannister*, 449 U.S. (1980).

88. That if police stop a vehicle then the vehicle's passengers as well as its driver are deemed to have been seized from the moment the car comes to a halt, and the passengers as well as the driver may challenge the constitutionality of the stop, *Brandling v California*, 551 U.S. 249,263 (2007). Respondent Officer Palmreuter detained Claimant for over 30 minutes.

89. That the search and seizure warrant requirement is meant to protect the privacy of citizens from the intrusive eyes of the government, *Arizona v. Gant* 556 U.S. (2009); the Supreme Court has stated. "the right of privacy was deemed too precious to entrust to the discretion of those whose job is the detection of crime and the arrest of criminals" *Chimel v. California*, 395 U. S. 752 (1969).

90. That there should be no arbitrary deprivation of life or liberty, or arbitrary spoliation of property. (Police power, Due Process) *Barber v. Connolly*, 113 U.S. 27, 31; *Yick Yo v Hopkins*, 118 U.S. 356.

91. That "A person is seized by the police and thus entitled to challenge the government's action under the Fourth Amendment when the officer 'by means of physical force or show of authority' terminates or restrains his freedom of movement.' (Citations)" (*Brendlin v. California* (2007) 551 U.S 249 1168].[Ed. 2" 132]; *People v: Zamudio* (2008) 43 Cal.4th 327, 341-342; *Nelson v. City of Davis* (9th Cir. 2012) 685 F.3d 867, 875.).

92. That in *Edwards v. California* 314 U.S. 16, the Court held that the right to unimpeded movement of persons is GUARANTEED against oppressive state

legislation by the Commerce Clause. Claimant was in his personal, private property consumer good, automobile.

93. That a detention occurs “only when there is a governmental termination of freedom of movement through means intentionally applied.” (*United States v. Nasser* (9th Cir. 2009) 555 F.3d 722).

94. That a detention is a “seizure . . . for purposes of the Fourth Amendment. and occurs whenever a law enforcement officer, by means of physical force or show of authority, in some way restrains the liberty of a citizen, *Florida 1, Bostick* (1991) 501 U.S. 429, 438, L.Ed.2d 389, 398].

95. That Respondents acted willingly, unlawfully and without any authority or jurisdiction, and must be held personally accountable for their unlawful acts, under the color of law actions.

96. That Obstruction of a federal right is a crime pursuant to federal law under 18 U.S.C. Sec. 241.

97. Claimant request this court to use its equitable powers to find all Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office for abuse of power, conspiracy and due process.

Count II: Conspiracy Rico Act 18 U.S.C. 1961-1968.

98. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

99. The Unlawful actions moved by State, County and Local City Public Actors to deny the constitutionally constituted due process of Law by Officers of the Public Trust, Publicly acting in conspiratorial

concert under the color of Public Law to unconstitutionally and unlawfully suppresses under the color of law, the Claimant's God Given Unalienable Rights to Life, Liberty and Property.

100. The Unlawful actions moved by Public Actors of the Local Units of Government moving in conspiratorial concert with State Public Actors Secretary of State to Exact the substantive rights of the Claimant under the color of Michigan State Public Acts by overtly violating the Michigan State Constitution of 1963 authorities for the regulation of private travel and licensing.

101. Respondent City of Gladwin, County of Gladwin are municipal corporation, its Chief of corporate police Charles P. Jones, Post, Palmreuter, Shea, Jungman, Hawkins, Dr. Moore and Secretary of State Benson may not claim immunity. *Owen v. Independence*, 100 S. Ct. 1398, 445 U.S. 622: "Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law."

102. Respondent City of Gladwin a municipal corporation its Mayor and its Chief of corporate police Charles P. Jones conspired with the 80th District Court Clerks by docketing the uniform law citation as a misdemeanor crime in violation of the state's statutory enactment MCL 764.9 (g)¹⁸ and violating

¹⁸ 764.9g Magistrates jurisdiction; pleas, complaint. Sec. 9g. (1) When under the provisions of sections 9b or 9c an officer issues an appearance ticket, an examining magistrate may accept a plea of guilty or not guilty upon the appearance ticket, without the necessity of a sworn complaint. If the offender pleads not guilty, no further proceedings may be had until a sworn complaint is filed with the magistrate. A warrant for arrest shall not issue for an offense charged in the appearance ticket until a

Claimant's constitutional rights secured by The constitution of the United States of America Ninth Amendment and the 1963 constitution for "The State of Michigan" Article I sec 23 and denying Claimant's right to due process by an accusation of GUILTY before the court. (MCL 761.1 (c))¹⁹ which is repugnant to the Construction. *Marbury v. Madison*, 5 US 137: "The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law."

103. That the Secretary of State and the employees of the 80th District Court clerk's (Mary Doe's to be amended and added) office sent documents such as notice to appear unsigned and default notice, Judgment on a post card claiming judgment of \$135.00.

104. That (Clerks Mary Doe's to be amended) when confronted at the District Court Window, Further stating "this is all done through the Secretary of State's computer as an Abstract to it". *Murdock v. Penn.*, 319 U.S. 105: "No state shall convert a liberty into a privilege, license it, and attach a fee to it."

105. That the Magistrate E. M. Post failed to consider on my challenge to make a finding or ruling of Jurisdiction during my forced appearance for an arraignment hearing. *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821): "When a judge acts where he or she does not have jurisdiction to act,

sworn complaint is filed with the magistrate.

¹⁹ 761.1 Definitions. Sec. 1. As used in this act: (c) "Complaint" means a written accusation, under oath or upon affirmation, that a felony, misdemeanor, or ordinance violation has been committed and that the person named or described in the accusation is guilty of the offense.

the judge is engaged in an act or acts of *treason*.”.” *Elliot v Dudley* 8 Mich 63, The officer before whom the proceedings take place has no authority except what the statute gives him/her. And if the case presented does not come within all the requisites prescribed by the statute, he/she has no jurisdiction. And everything necessary to confer jurisdiction must affirmatively appear upon the record”. Jurisdiction was challenged forthwith at the beginning of the arraignment.

106. Furthermore, Magistrate E. M. Post fraudulently misrepresented material facts on court documents as representing that Claimant plead NOT GUILTY when Claimant expressed Innocent *SEE EXHIBIT No. 5* (in the 80th District Court) several times and moreover stated that MCL 8511, 8512 and 8513 did not allow her the magistrate to accept a plea of Innocent. Magistrate Post, if her Oath of Office exists, her Oath is to the Constitutions of the united States of America and the Constitution of Michigan, not the statutes she is in violation of Claimant s substantive rights under the color of law and violation of her oath of office.

107. Claimant was deprived by unlawful detention “stop” of both liberty and time without due process of law and my right to equal protection of the laws, and the due course of justice was impeded, in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. sec. 1983.

108. This is a “racket” and is prohibited by federal law. Racketeer influenced and Corruption Organizations Act (RICO) 18 U.S.C.A. § 1961 *et seq.*[1970]. *See EXHIBIT No. 9* (District Court Farming by Judge David Hogg)

109. I am entitled to damages pursuant to the RICO act 18 U.S.C. 1961-1968.

110. Respondent City of Gladwin a Michigan municipal corporation the County of Gladwin and State of Michigan and their employees, Chief of corporate police Charles P. Jones, its Mayor Darlene "Dee" Jungman, Officer Palmreuter, Magistrate Post, Sheriff Shea, Court Reporter Hawkins, Dr. Karen L. Moore, Secretary of State Benson and Bailiffs/Clerks unnamed and complaint to be amend, conspired with the 80 District Court its employees, the State of Michigan, its Secretary of State Jocelyn Benson to extract property in the form of License Fees, Registration Fees, mandatory Insurance cost, Money and liberty time, from the Claimant under the color of law.

111. All of the Acts of the elected and appointed Officers of the Public Trust, their officers, agents, servants, and employees, as alleged herein, were conducted under the color and pretense of the statutes, ordinances, regulations, customs, or usages, by the Public Officers situated within the employ of the City of Gladwin, the County of Gladwin and the State of Michigan.

112. The overt conspiratorial denial of the Due Processes of Michigan State Law by all respondents' whether appointed or elected public actors of the Public Trust, respondents' who knowingly used public monies, and resources to wrongfully target the Claimant, in their corrupted design to constructively Exact Claimant's God Given Unalienable Rights, under the color of the State Constitution and Public Laws.

113. Claimant reserves the Right to Amend the names of any of the people who committed these torts

are unknown but I will amend as necessary. This tortious conduct of state, state's officers, employees acting in such capacity are liable for damages which will be accurately described at this time.

114. Claimant request this court to use its equitable powers to find Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office.

Count III: Violations of 42 U.S.C. 1983-Malicious Threats:

115. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

116. The wrongful acts moved by Magistrate Post and the County of Gladwin, City of Gladwin, et al and those yet unnamed, who singularly and collectively moved under the color of law, on the floor of the District Court to advance the conspiratorial designs of the elected and appointed Officers of the Public Trust, their officers, agents, servants, and employees, as alleged herein, that were conducted under color and pretense of the statutes, ordinances, regulations, customs, or usages within the County of Gladwin City of Gladwin and the State of Michigan.

117. At all times relevant herein, the conduct of all Respondents individually, jointly and severally were subject to 42 U.S.C. sections. 1983, 1985, 1986, and 1988.

118. Acting under the color of law, Respondents worked a denial of Claimant's rights, privileges or immunities secured by the United States Constitution or by Federal law, to wit;

- a. by depriving Claimant of his liberty without due process of law,
- b. by conspiring for the purpose of impeding and hindering the due course of justice, with intent to deny Claimant equal protection of laws.
- c. by refusing or neglecting to prevent such deprivations and denials to Claimant, thereby depriving Claimant of his rights, privileges, and immunities as guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.

119. As a result of their concerted unlawful and malicious threats by Respondents, at arraignment, Claimant was deprived of both his liberty without due process of law and his right to equal protection of the law by Respondent Bailiffs unknown who's action threatened Claimant by moving toward Claimant when responding to Magistrate Elizabeth M. Post, where the due course of justice was impeded, in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. sec. 1983.

120. Furthermore Sheriff Shae was personally asked about 1 hour prior to Arraignment to insure that my rights were not violated.

121. Moreover "Punitive damages are recoverable in sec. 1983 suit where Respondent's conduct is motivated by an evil motive or intent, or where it involves reckless or callous indifference to Claimant's federally protected rights). *Smith v. Wade*, 461 U.S. 30, 50-51 ((1983); *Clark v. Taylor*, 710 F.2d 4, 14 (1st Cir. 1983). *Miga, supra* at 355. *Boyd v. U.S.*, 116 U.S. 616: "The court is to protect against any encroachment of Consti-

tutionally secured liberties." 1 Smith's Leading Cases, 816: In regard to courts of inferior jurisdiction, "if the record does not show upon its face the facts necessary to give jurisdiction, they will be presumed not to have existed."

122. Claimant request this court to use its equitable powers to find all Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office for abuse of power, conspiracy and due process.

Count IV: Unlawful Acts 42 U.S.C. 1983 Joinder

123. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

124. Those undetermined Wives and Husbands yet to be named or amended to this complaint are to the best of Claimant's knowledge and belief, complicit respectively of Respondents named above;

125. They may be joined as a protection to Claimant against their husbands or wife's unlawful dissipation of assets or attempted conveyances of property in an attempt to defraud legitimate creditors.

126. Claimant request this court to use its equitable powers to find Respondents personally all liable for damages and temporarily restrain spouses from conveying property during the pendency of the cause of action.

127. . . .

Count V: Violation of Oath of Offices

128. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

129. That the oath of office is a major part of the public servants contract obligations. The ONLY thing in the oath the officers have sworn to do is uphold and protect are the constitutions.

130. That since Respondents have not done their sworn duty as mentioned in #100, they have stepped out of their office and are liable as a private person for ALL trespass.

131. That the United States Supreme Court ruling in 2013 regarding public officials being held liable for actions done or failure to perform required actions is found in *Millbrook v. United States*, 4778 Fed. Appx, 4.

132. By Law, ARTICLE XI, PUBLIC OFFICERS AND EMPLOYMENT § 1 Oath of public officers, Constitution of Michigan, Respondents, Benson, Palmreuter, Jones, Jungman, Post, Shea, Hawkins, Moore and those yet unnamed have been required by Oath of affirmation, to support and defend Claimant's Constitutional rights when or where they claim to have jurisdiction over or official duties with the Claimant. *U.S. v. Prudden*, 424 F.2d. 1021; *U.S. v. Tweel*, 550 F. 2d. 297, 299, 300 (1977): "Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading. We cannot condone this shocking conduct . . . If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately".

Morrison v. Coddington, 662 P. 2d. 155, 135 Ariz. 480 (1983): "Fraud and deceit may arise from silence where there is a duty to speak the truth, as well as from speaking an untruth". In regard to courts of record: "If the court is not in the exercise of its general jurisdiction, but of some special statutory jurisdiction, it is as to such proceeding in an inferior court, and not aided by presumption in favor of jurisdiction."

133. Claimant request this court to use its equitable powers to find all Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office for abuse of power, conspiracy and due process.

Count VI: Denial of Due Process

134. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint Claimant is guaranteed Due process of Law by the Fifth Amendment of our U.S. Constitution.

135. Claimant's case was docketed on the district court register of action as guilty MCL 761 (c) which is repugnant to US Constitution and Article I Section 17 of the Michigan Constitution.

136. Under the 13th. Amendment to the constitution Claimant is protected against peonage and involuntary servitude, where the actions of Respondents appear to destine Claimant.

137. Under the 14th amendment of the constitution equal protection of the law Claimant is protected under Title 18 U.S.C., Sec. 241 and 242 from the acts of Respondents. *Brady v. U.S.*, 397 U.S. 742, 748: "Waivers of Constitutional Rights, not only must they

be voluntary, they must be knowingly intelligent acts done with sufficient awareness.” “If men, through fear, fraud, or mistake, should in terms renounce or give up any natural right, the eternal law of reason and the grand end of society would absolutely vacate such renunciation. The right to freedom being a gift of ALMIGHTY GOD, it is not in the power of man to alienate this gift and voluntarily become a slave.” Samuel Adams, 1772. *United States v. Sandford*, Fed. Case No.16, 221 (C.Ct.D.C. 1806): “In the early days of our Republic, ‘prosecutor’ was simply anyone who voluntarily went before the grand Jury with a complaint.”

138. Claimant request this court to use its equitable powers to find all Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office for abuse of power, conspiracy and due process.

Count VII: Exaction

139. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint

140. The overt conspiratorial denial of the Due Processes of Michigan State Law by appointed and elected public actors of the Public Trust, who knowingly used public monies, and resources to wrongfully target the Claimant in their corrupted design to constructively Exact my God Given Unalienable Rights, under the color of the State Constitution and Public Laws.

141. Officer Palmrueter had no probable cause to believe that I had committed a crime.

142. The police around this country are out of control and fail to know the Law they enforce. An investigatory stop, which is limited to a brief and nonintrusive detention, constitutes a Fourth Amendment seizure. There was no articulable and reasonable suspicion that a vehicle or one of its occupants is subject to seizure for a violation of law.

143. The police do what they do to raise revenues.

144. The police trample on our civil rights as described herein. There was no reasonableness the touchstone of the Fourth Amendment is reasonableness. *OHIO v ROBINETTE*, 519 US 33, 39; 117 S Ct 417; 136 L Ed 2d 347 (1996)

145. If Officer Palmrueter had no right to stop me, then I contend it was kidnapping for the purpose of extorting money. See *EXHIBIT NO. 6 (DEFAULT JUDGMENT POST CARD)* from me and in concert with the City of Gladwin and authorized by the Chief of Police and executed by the employees of the 80th District Court, the Secretary of State and Gladwin County. Exaction, extortion and kidnapping are predicate RICO crimes as shown in 18 U.S.C. 1961 appended hereto. 1028 and 1341 of 18 U.S.C. are also candidates for predicate crimes.

146. The actions are an ongoing racketeering enterprise directed against anybody in the County of Gladwin and/or City of Gladwin. The City Police nor the County Deputies have under most circumstances no articulable or reasonable suspicion that a vehicle or one of its occupants are subjects to seizure for a violation of law.

147. The purpose is to steal from one class and give to the other class consisting of County, City and

State of Michigan employees. The Judge, Magistrate Prosecutors and employees are all paid from the exactions of property of the Claimant.

148. These are wrongful acts of officials and officers under the color of their official authority and exact what is not their due. The Michigan Supreme Court long ago opined that officers of the law must act within the Law. *People v. Haveksz*, 215 Mich 136, 138; 183 NW 752 (1921).

149. Claimant request this court to use its equitable powers to find all Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office for abuse of power, conspiracy and due process.

Count VIII: Conspiracy Over Acts

150. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

151. Respondents conspired together and with others as yet unknown to Claimant to deprive him of his rights.

152. Overt acts committed by Respondents, Benson, Post, et al and those yet unnamed includes that complained of in above paragraphs of this complaint.

153. Respondents named above relying on their own discretion and erroneous interpretation of the Supreme Law of the Land, Which is the Constitution and not any statute in conflict there with issued or caused to be issued for the Respondents to subvert the constitution by excepting Titles of Nobility and to

make something other than gold and silver coin a tender for payment of debt.

154. All these wrongful acts are contrary to Article 1, Sec. 10, of the Constitution.

155. Respondent's aforenamed deprived Claimant of his 9th and 10th Amendment rights, which protect him from Oath-breaking of so-called "public servants" who wallow in the public trough while trampling upon Claimant's Constitutional Rights.

156. Said Respondents, Meanwhile attempt to impose Totalitarian Socialism upon the People, although such a System is the Antithesis of the Constitution, that public servants and duly constituted Authorities are Sworn to uphold.

157. Respondents have exceeded their jurisdiction.

158. Respondents have abused their discretion.

159. Respondents have absolutely acted outside the Lawful perimeters of their official duties.

160. The Respondents have Grossly, Willfully, Wantonly, Unlawfully, Carelessly, Recklessly, Negligently, Intentionally, maliciously, Purposefully, and Discriminatingly Conspired to deprive Claimant of his Constitutional rights and they have Refused, neglected or Failed to Protect Claimant from said Conspiracy although they have been in a position to do so. They failed at the onset.

161. Respondents, Charles P. Jones, its Mayor Darlene "Dee" Jungman, Post, Palmreuter, Shea, Hawkins, Moore, Benson and Does unnamed, and those undetermined Wives and Husbands yet to be named, are the husbands and wives respectively of the afore-

named Respondents Who are Employed as Erstwhile "public-servants"; These husbands and wives are in effect are "Socialist-Queens/Princes", enjoying and living on the Largess and Unlawful spoils brought home by their husbands and wife's as compensation for said husband's or wife's Violation of their Oaths of Office and for their willing perversion of the U.S. Constitution and the Michigan Constitution.

162. Said husband and wife Respondents have failed, refused or neglected to protect Claimant from the conspiracy of their husbands and wife's and said failure is intentional, purposeful and malicious.

163. The acts of omission of said husband and wife Respondents constitute an overt act of conspiracy to refuse to protect Claimant.

164. Respondent acts as heretofore complained of have caused harm and damage to Claimant. Said acts have caused mental and physical suffering, insomnia, worry, financial insecurity, stress and strain in relationships, with my family, relatives and friends, Respondents activities may have impaired Claimants credit standing.

165. Respondents have subjected me to public ridicule and embarrassment.

166. Respondents herein are sued in their individual and collective capacities and not as agents of the State of Michigan or The United States.

167. The United States or the State of Michigan cannot be substituted as a party Respondent and the consent of the united States or the State of Michigan to be sued is not demanded.

168. Claimant request this court to use its equitable powers to find Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office.

Count IX: Fraudulent Misrepresentation

169. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

170. Respondents Post and unknown Respondents intentionally made false representations of material facts to Claimant regarding the Notice to Appear and arraignment sheet. *See EXHIBIT No. 3 (Notice Form MC 06)*

171. Respondent's representations were false when they were made.

172. Respondent knew that its representations were false when they were made or it made them recklessly, without knowing whether they were true, lawful or correct.

173. Respondent intended that Claimant rely on their representations.

174. As a result of Respondent's fraudulent misrepresentations, Claimant has suffered substantial loss of time and being subjected to arrest and economic loss of property.

175. Respondents all gain economically from any judgment imposed and paid by the Claimant they have an economic interest is seeing the Claimant pay even though they know it is wrong.

176. All the Respondents are in the business of collecting money and enriching the municipal govern-

ment they work for. The Honorable David A. Hogg called it “District Court Tax Farming” the Michigan Bar Journal of 2011.

177. Claimant request this court to use its equitable powers to find Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office and E. M. Post for fraud upon the court.

Count X: Allegations of Law

178. Complainant restates and incorporates by reference the allegations in the preceding paragraphs as though fully set forth in this complaint.

179. All of the acts of the Respondents, their officers, agents, servants, and employees, as alleged herein, were conducted under color and pretense of the statutes, ordinances, regulations, customs, or usages of the City of Gladwin and the County of Gladwin.

180. The lack of adequate training of Police and Deputies in the areas of understanding the laws that they are enforcing or what their Oath constitutes which shows a deliberate indifference to the constitutional rights of the Claimant, and is a policy, custom, or practice lack of training in the law of the County of Gladwin and the City of Gladwin for purposes of imposing liability.

181. This is a civil rights Suit and not under the torts claims act.

182. That All Respondents/Defendants and those unnamed Bailiffs and Court Clerks can be held liable for money damages since their conduct violated clearly established constitutional law, *Anderson v. Creighton*,

483 U.S. 635,640 (1987); *Harlow v. Fitzgerald*, 457 U.S. 800, 819 (1982).

183. That All Respondents/Defendants actions will be construed as a blatant and willful disregard of their status as federal citizens, their rights, the Rule Of Law and will constitute a "dishonor in commerce", as well as a Lack of faithful performance of duty under oath. *"The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice."* *Davis v. Wechsler*, 263 U.S. 22, 24.

184. Claimant request this court to use its equitable powers to find Respondents personally all liable for damages in excess of \$250,000.00 under the color of law and violation of their oath of office and require adequate training in the Laws being enforced.

185. Questions Regarding Issues Presented

A. Does the State have the administrative authority to regulate the Commercial Motor Vehicle by issuing a discretionary benefit by an operation of law to operate a Motor Vehicle?

The Plaintiff says: Yes

The Defendant(s) says: Yes

186.

B. Does the State have constitutional standing to inversely condemn a Substantive Right to Property by a colorful usurpation of law to compel a discretionary benefit?

The Plaintiff Says: No

The Defendant(s) Says Yes

C. Does the Plaintiff have an unalienable right to locomotion in his non-passenger automobile without procuring the State's Discretionary benefit issued as a Certificate of Authority to operate a Commercial Motor Vehicle certified as the Motor Vehicle?

The Plaintiff Says: Yes

The Defendant(s) Says: No

SUMMARY

188. A Local Unit of Government is defined by Michigan State Law enacted in compliance to Article VII § 17 of the Michigan State Constitution of 1963, as a public agency. Public Act 306 of 1969 § 3 (2): "Agency" means a state department, bureau, division, section, board, commission, trustee, authority or officer, created by the constitution, statute, or agency action. Agency does not include an agency in the legislative or judicial branch of state government, the governor, an agency having direct governing control over an institution of higher education, the state civil service commission, or an association of insurers created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or other association or facility formed under that act as a nonprofit organization of insurer members.

189. A Local Unit of Government is an administrative municipal authority that falls within the legalistic limitations as prescribed in the authorizing Laws, which are its statutory directives as enacted by the State Legislative Body, signed into Law by the Executive Authority of Michigan.

190. The Department defined in PA 300 of 1949 is the authority that regulates the reach of the Local Governments addressing the administrative oversight of the § 257.

191. Claimant is not the Person as Defended in the MVC sec. 257 or 49 U.S. Code § 31301, Claimant is a Man, sovereign and under his creator and defies anyone to disprove that fact.

192. There is only one federal authority defining a state issued "motor vehicle operator's license", 49 U.S. Code § 30301(5), and a state issued "driver's license" under 49 U.S. Code § 31301(6), and a state issued "commercial driver's license" under 49 U.S. Code § 31301(3) by the authority of the Department of Transportation (DOT). The state issued drivers/operators license must then mean every vehicle bearing a state issued license or plate is a business, or acting in some form of commerce. Claimant is none of the above.

193. No state may convert a right into a privilege and require a license or fee for the exercise of that right *See: Murdock v. Pennsylvania*, 319 U.S. 105, "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda v. Arizona*, 384 US 436, 491 (1966),"

194. The claim and exercise of a constitutional right cannot thus be converted into a crime." *Miller v. U.S.*, 230 F.2d 486, at 489 (1956)," . . . there can be no sanction or penalty imposed upon one because of his exercise of constitutional rights." *Sberar v. Cullen*, 481 F.2d 946 (1973). In *Hertado v. California*, 110 US 516.

195. That the U.S. Supreme Court states very plainly: "The state cannot diminish rights of the people." "The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment." *Kent v. Dulles*, 357 U.S. 116, 125 (1958). If a state does erroneously require a license or fee for exercise of that right, the Citizen may ignore the license and/or fee and exercise the right with total impunity *See: Schuttlesworth v. Birmingham*, 373 U.S. 262. The Supreme Court has recognized that personal liberty includes "the right of locomotion, the right to remove from one place to another according to inclination." *Bauer v. Acheson*, 106 F. Supp. 445,450 (1952).

196. MCL 257.13 "Driver" defined. Sec. 13. "Driver" means every person who drives or is in actual physical control of a vehicle.

197. MCL 257.25 "License" defined. Sec. 25. "License" means any driving privileges, license, temporary instruction permit, commercial learner's permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.

198. MCL 257.33 "Motor vehicle" defined. Sec. 33. "Motor vehicle" means every vehicle that is self-propelled, but for purposes of chapter 4 of this act motor vehicle does not include industrial equipment such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under this act. Motor vehicle does not include an electric patrol vehicle being operated in compliance with the electric patrol vehicle act, 1997 PA 55, MCL 257.1571 to 257.1577. Motor vehicle does not include an electric personal assistive mobility device. Motor vehicle does

not include an electric carriage. Motor vehicle does not include a commercial quadricycle.

199. MCL 257.79 "Vehicle" defined. Sec. 79.
"Vehicle" means every device in, upon, or by which
any person or property is or may be transported or
drawn upon a highway, except devices exclusively
moved by human power or used exclusively upon sta-
tionary rails or tracks and except, only for the purpose
of titling and registration under this act, a mobile home
as defined in section 2 of the mobile borne commission
act, Act No. 96 of the Public Acts of 1987, being section
125.2302 of the Michigan Compiled Laws.

200. There is only one Supreme federal authority defining a state issued "motor vehicle operator's license", 49 U.S. Code § 30301. Definitions (5) "motor vehicle operator's license" means a license issued by a State authorizing an individual to operate a motor vehicle on public streets, roads, or highways. (1) to prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and (2) to carry out needed safety research and development. (3) "commercial driver's license" means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles. (6) "driver's license" means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.

201. MCL 8.31 "Person" defined. Sec. 31, The word "Person" may extend and be applied to bodies politic and corporate, as well as to individuals.

202. Any Officer of any agency of this state who wants to detain an automobile on the highways or roads

of this state must first determine if said automobile is a vehicle under the Michigan Vehicle Code.

203. MCL 257.79 we see that it is a vehicle only if any “person” or property is being transported or drawn (transported in commerce), so we now must go to MCL 257.40. “Person” “means every natural person, firm, copartnership, association, or corporation and their legal successors.

204. Now in reading the definition of “Person” it is plain that only legal entities are persons under the code. If any officers of any agency detains an automobile and is unable to provide proof if requested then he/she has committed a crime against the “people” of this state.

205. Notice that a “Person” is not a Man or Woman, God made men and women, and to believe that any statute may judge a creation of God, (that being a man or woman) would be blaspheme. Through ignorance of not being properly trained in the statute the officer has committed an offense against his oath of office the Magistrate commits an offense against their oath of office and those supporting are complicit and violate the law.

206. The Scheme of Driver’s License, Motor Vehicle Licenses and mandatory insurance for Private Property is Fraud upon the People it is not illegal for the state to enforce commerce but is not lawful or legal to enforce its police powers where jurisdiction does not lie and that is on this Private Citizen not in commerce.

207. That an actual controversy/claim exists between Claimant and Respondents.

208. That Plaintiff hereby request that the court determine the following;

- a. That Federal courts have jurisdiction to hear state and federal claims against state officials sued in their individual capacity under the ruling in *Raygor v. Regents of the University of Minnesota*, 534 U.S. 533, 542 (2002), and 42 UPSPCP, § 1983 provides the federal court with jurisdiction and under 28 U.S.C. § 1367. Section 1367(a), or any other law.
- b. The applicability of State and Federal Law, including Civil Rights to Plaintiffs claims.
- c. The amount of relief due Plaintiff for Respondents actions.
- d. Other determinations, orders and judgments necessary to fully adjudicate the rights of the parties;

209. This Plaintiff owns a non-passenger automobile, which is his private property.

210. The Plaintiff has lawful standing to legally operate his non passenger automobile by right or by lawful authority, rather than operating it in accordance with law.

211. This Plaintiff shall not be compelled under the color of law to have his rights to properly inversely condemned under the color of constitutional authority to be taxably coerced to accept a non petitioned discretionary benefit.

212. This Plaintiff shall not have his lawful rights to operate his non passenger automobile by being

coerced to move under the *mala prohibita* scheme of the State's regulation of intrastate commerce.

213. This Plaintiff shall not have his Constitutional Travel Interstate to be defined for refusing to be coercively compelled to accept the State's Discretionary benefit for the intrastate regulation of the commercial motor vehicle to be registered as the Motor Vehicle.

214. This Plaintiff did not Petition the Department for a Certificate of Authority.

215. The Plaintiff does not operate a Commercial Motor Vehicle for hire²⁰.

216. The Plaintiff does not operate a motor vehicle in intrastate commerce.

217. The Plaintiff is denied the right to travel interstate in his non passenger automobile unless he unwilling tolerates the Secretary of State's inverse condemnation of his rights to property by proffering taxes for the discretionary benefit of operating a registered motor vehicle first in intrastate commerce.

²⁰ Definitions-Motor vehicle.+ The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo. "Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen." *Escobedo v. State* 35 C2d 870 in 8 Cal Jur 3d p.27. The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the interest of realism to conclude that the RIGHT to use an automobile on the public highways partakes of the of a liberty within the meaning of the Constitutional guarantees

ARGUMENT

218. The Controversy herein moved by the Plaintiff addresses the wrongful use of the regulatory laws of Michigan, in this instance, Public Act 300 of 1949 where in public actors in the Secretary of State's employ wrongfully issue documentation that inversely condemns this Plaintiff's substantive rights, by denying him the lawful property right for the use of his private property, his non passenger automobile on the byways and highways within The State of Michigan.

219. The Secretary of State nor any public actor of The State of Michigan may claim immunity from a Federal Complaint moved by a State Citizen under Title 42 U.S.C.A § 1983. Title 42 U.S.C.A § 1983, was enacted as the Civil Rights Act of 1866 to address the wrongful actions of State, County and City Public Actors (Secretary of State, Gladwin County, Magistrate Elizabeth Post, Sheriff Michael Shea, Court Administrator Karen Moore, Court Recorder Linda Hawkins, City of Gladwin, Chief of Police Charles P. Jones, Officer Zach Palmreuter and Mayor Darlene "Dee" Jungman) ALL who wrongfully trespassed the Substantive Rights of a State Citizen by moving under the color of State Law.

220. The Fourteenth Amendment to the Constitution of the United States for the United States of America was moved by the 39th Congress of the United States of America in 1866, as adopted by the United States of America in 1868, to assure the Federal Courts standing to address the Public Wrongs of State Public Actors who by moving under the color of State Law breaches the Substantive Rights of State Citizens and in this instant case the Plaintiff.

221. It is an operation of State law, that the Motor Vehicle, moves as the Commercial Motor Vehicle in intrastate commerce here in Michigan by statutory right as first defined in Public Act 254 of 1933 § 1(c)²¹.

222. This issuance of the statutory privilege here in Michigan as the discretionary benefit issued defined in this instance as the Certificate of Authority, is currently issued by the Department of State Police to an owner and or operator who intends to move the Common Carrier in Commerce as the Registered Motor Vehicle.

223. The commercial motor vehicle as defined in Public Act 254 of 1933 § 1(d)²² is defined by Federal Law in Title 49 U.S.C.A § 14504(a) substantiates the point in law, that the abuse of the regulatory authority the State arises as a federal question of interstate travel for the State law relies upon federal authority for the regulation of intrastate commerce moved by registered motor vehicles.

224. Here is where the dissident abuse of local law by the Secretary of State has directly usurped the substantive rights of this Plaintiff's movement intrastate within the Exterior boundaries of Michigan in his private properly, his non passenger automobile.

225. The Secretary of State's public policy directs its staff to issue under the color of law documentation that if not displayed by the Private owner of his non passenger²³ automobile entangles one within the regu-

²¹ (c) "Certificate of authority" means a certificate issued under this act to a motor carrier authorizing a transportation service.

²² "Commercial motor vehicle" means that term as defined in 49 U.S.C. 14504a

²³ Title 49 CFR § 523.5: A non-passenger automobile means an

latory authorities arising within Public Act 300 of 1949. This Regulatory Authority was administratively codified by the Department of State Police in "The Uniform Traffic Code for Michigan Cities, Townships and Villages" as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969 (MCL 24.201 et seq.) and made effective October 30, 2002.

226. It is "A Fortiori" of Statutory law moving under the Police Powers of the State that its public actors have administrative standing to regulate commercial transportation within its exterior boundaries as stated clearly by the Court in *Hendrick v. Maryland*, 235 U.S. 610, 611 (1915).

"A state which, at its own expense, furnishes special facilities for the use of those engaged in interstate and intrastate commerce may exact compensation therefor, and if the charges are reasonable and uniform, they constitute no burden on interstate commerce. The action of the state in such respect must be treated as correct unless the contrary is made to appear."

227. The Court in Hendricks at 623 clarified that fact by addressing the nature of the regulated activity THAT arises as intrastate commerce moved by the commercial carrier, who moves in Michigan under the Certificate of Authority.

"But the provisions on the subject contained

automobile that is not a passenger automobile or a work truck and includes vehicles described in paragraphs (a) and (b) of this section:

in the statute of Alabama under consideration are not regulations of interstate commerce. It is a misnomer to call them such. Considered in themselves, they are parts of that body of the local law which, as we have already seen, properly governs the relation between carriers of passengers and merchandise and the public who employ them, which are not displaced until they come in conflict with express enactments of Congress in the exercise of its power over commerce, and which, until so displaced, according to the evident intention of Congress, remain as the law governing carriers in the discharge of their obligations, whether engaged in the purely internal commerce of the state or in commerce among the states”.

228. The Secretary of State has systemically moved its administrative authority to inversely condemn the private property rights of THE PLAINTIFF under the color of Public Act 300 of 1949, by indexing his non passenger automobile as a Certified Motor Vehicle wherein registration plates²⁴ are issued to be displayed uniformly on the Rear Bumper of a Registered Motor Vehicle.

229. Failure to display a documented Registration plate subjects anyone moving their private property here within the Exterior Boundaries of The State of Michigan upon the byways and highways, as the federally defined Non Passenger Automobile to the

²⁴ Title 49 U.S.C.A § 14506(b)(3): under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;

regulatory reach of the Department's²⁵ "Uniform Traffic Code for Michigan Cities, Townships and Villages".

230. This systemic scheme moved under the color of law by the Secretary of State to inversely condemn the private property of a Michigander, his non passenger automobile, has been acknowledged by the Court in *Dolan v City of Tigard*, 512 US 374 (1994) to be a known constitutional wrong moving in violation to the 5th Amendment of the Constitution of the United States.

"Under the well-settled doctrine of "unconstitutional conditions," the government may not require a person to give up a constitutional right in exchange for a discretionary benefit conferred by the government where the property sought has little or no relationship to the benefit."

IN SUMMARY

231. The Secretary of State directed by Defendant Benson is the Public Agency authorized by Public Act 300 of 1949 to issue legal documentation to an owner and or operator for operating a statutorily defined Motor Vehicle as the Commercial Motor Vehicle in intrastate Commerce, under the Certificate of Authority issued by the Department, which concurrently authenticates in comity to move in interstate commerce.

232. The Secretary of State's public policy is violative of this Plaintiff's Substantive Rights to use his private property, his non-passenger automobile,

²⁵ Public Act 59 of 1935 § 1(f): "Department" shall mean the "Michigan state police."

which by an operation of law, is not a motor vehicle moving as the commercial motor vehicle. This Public Policy of the Secretary of State Inversely condemns the property rights of the Plaintiff, which is perfected by the color of law, commanding the Plaintiff to unwillingly accept a discretionary benefit where his private property has no relationship to the documented privilege of operating a commercial motor vehicle in intrastate commerce as the registered Motor Vehicle.

CONCLUSION

233. The State's failure to stand squarely within the four corner of its mala prohibit scheme applicable to the discretionary benefit of operating a registered motor vehicle under a Certificate of Authority violates this Plaintiff's Substantive Rights to Free Association, and Interstate Travel in his non-passenger automobile by depriving his rights to property under the color of constitutional condemnation. 44. Plaintiff's property was taken in violation of constitutional due process and color of law, if plaintiffs rights are to be constitutionally protected the outcome must be by a 12 man jury.

234. Plaintiff reserves the right to Amend Defendants during this cause of action.

PRAYER FOR RELIEF

WHEREFORE I respectfully ask this Honorable Court for the following remedies:

I. Claimant a private citizen operating under the common law deserves remedy for the deprivation of his rights, having to defend himself in a criminal court for frivolous misdemeanor traffic offenses in a com-

mercial “traffic court” with threats of jail time, all costs related to and resulting from his unlawful seizure. The cost of having to bring this case forward to protect his rights, and the rights of others. Plaintiff has brought his complaint looking for justice in a respectful and honorable manner to a common law court of record in the hopes that the dispute between the parties can be settled in the interest of justice.

II. That this Honorable Court enter a judgment against the Respondents in such an amount as the trier of facts shall determine to be fair and just, but which sum will clearly exceed Two Hundred Fifty Thousand Dollars (\$250,000.00); for Violations of Oath of Office, Denied Right to Reasonable Defense Arguments, Denied Right to Truth in Evidence, Denied Provisions in the Constitution, Slavery (Forced Compliance to contract not held) 18 U.S.C. 3571.

III. That the court rule in favor of Claimant to recover and obtain maximum appropriate equitable and declaratory relief available under the law to eliminate the pattern or practice of these fraudulent, malicious, and oppressive acts. For consideration of \$1,680,000.00 in compensatory and punitive damages for Conspiracy 18 U.S.C. 241, Extortion 18 U.S.C. 872, Mail Threats 18 U.S.C. 876, Fraud 18 U.S.C. 1001 and Falsification of Documents 18 U.S.C. 1001, detention and trespass of Fourth and Fifth Amendment protections;

IV. That the court rule in favor of Claimant to recover and obtain appropriate equitable relief available under law for the Due Process violation. For consideration of \$500,000.00 in damages, Fifth Amendment protections;

V. That the court rule in favor of Plaintiff to recover and obtain appropriate relief available under law for false detainment and deprivation of time and embarrassment. For consideration of \$50,000.00 in damages;

VI. Declare that Respondents/Defendants violated Claimants' constitutional rights as set forth in this Complaint;

VII. Claimant demands for each and every count Against all the Respondents jointly and severally, for actual, general, special, compensatory damages in an amount as the trier of facts shall determine to be fair and just, but which sum will clearly exceed Twenty-Five Thousand Dollars (\$25,000.00), including costs, attorney's fees (per 42 U.S.C. 1988) and such other relief as this court may deem appropriate, in equity, fairness and good conscience.

VIII. Claimant further demands judgment against each of said Respondents, jointly and severally, for punitive damages (1) in the amount of \$300,000.00 plus the costs of this action, including attorney's fees, and such other relief deemed to be just and equitable.

- (1) "Punitive damages are recoverable in sec. 1983 suit where Respondent's conduct is motivated by an evil motive or intent, or where it involves reckless or callous indifference to Claimant's federally protected rights). *Smith v. Wade*, 461 U.S. 30, 50-51 ((1983)); *Clark v. Taylor*, 710 F.2d 4, 14 (1st Cir. 1983). *Miga, supra* at 355

IX. Order, Claimant demands for all issues to be decided by the Jury Demanded;

App.98a

X. Order, If Respondents move to dismiss this suit, Claimant Demands that it be heard by the jury demanded, and only be dismissed if the Jury considers it lacks merit.

XI. Order all damages shall be payable to Claimant in Constitutional Lawful Money redeemable in gold or silver coin as set forth in Article 1 Sec. 10 of the constitution **IN THE ALTERNATIVE CLAIMANT MAY ACCEPT FRN'S.**

XII. Injunctive Relief:

(1) Order the Secretary of State to initiate an abstract (or other documents) via its best resource (LEIN) to all state and federal agencies that Claimant is exempt from any form of Driver's License. Prepare and provide License Plates and Tabs when run through the LEIN system that the Motor Vehicle (private automobile/conveyance) they are attached to belongs to Claimant and is free to use the highway of this or any other state and that License Plate Tabs and Insurance is not required. (Claimant is not in Commerce)

XIII. Compensatory Damages: \$630,000.00.

- (1) For compensatory damages of \$630,000.00, DETENTION for 30 MINUTES.
- (2) Exemplary Damages: \$1,890,000.00.

XIV. For exemplary damages of \$50,000.00 from the officer who wrote the uniform law citation/ticket.

XV. For exemplary damages of \$250,000.00 from the Magistrate Post who violated my rights under the color of law, failed to recognize her statutory limita-

tions and who misrepresented official court documents.

XVI. For exemplary damages of \$50,000.00 from the officers Bailiffs' who threatened me in the court room rather than standing for my rights to redress my grievance verbally and Sheriff Shea who failed to uphold his Oath of Office \$250,000.00.

XVII. For exemplary damages of \$5,000,000 from the agencies that employed the police officers, court transcriptionist and court officers, clerks and bailiffs.

XVIII. Triple Damages pursuant to RICO.

(1) For triple damages pursuant to RICO statute.

XIX. Declaratory Relief:

(1) That Claimant has the Right to travel in his automobiles. The Right to use the public roads without fear of Police Powers, Licensure, Insurance and Registration of private property used to travel within the united State of America.

XX. I ask this Honorable Court for declaratory relief in all regards. (1) Attorney Fees, Witness Fees, and Costs

XXI. I ask for attorney fees, witness fees, and costs pursuant to RICO and 42 U.S.C. 1988.

XXII. Claimant further demands for such other relief as the court may deem appropriate. In addition Claimant prays such other and further relief as to the jury demanded in this case shall appear just.

XXIII. Jury Demand. I demand a jury.

App.100a

Respectfully Submitted,

/s/ Thomas E. Dunn

David J. Gilbert, (P56956)
Co-Counsel for Thomas E. Dunn
306 E. Broadway St., Ste. #3
Mt. Pleasant, MI 48858
1989.779.8505
dgilbertlaw@gmail.com

Dated: September 18, 2020

EXHIBIT #1 TRAFFIC CITATION

EXHIBIT #2 NOTICE TO APPEAR

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT

NOTICE TO APPEAR

Case No. 19-1455

Offense: 1) LIC Not Val

Court address: 401 W Cedar Ave #7 Gladwin, MI 48624

Court telephone no: (989) 426-9207

Case: *City of Gladwin v. Dunn/Thomas/Earl 425
Cottage St Clare, MI 48617*

You are Directed to Appear at:

The court address above, courtroom

Magis. Elizabeth M. Post, P-77830

Day: Wednesday Date: 7/10/19 Time: 9:00am

Plaintiff's attorney/People

(989) 426-8592 Aaron W. Miller 401 W Cedar Ave Ste. 5
Gladwin, MI 48624

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make

Clerk of the Court

Date Issued: June 21, 2019

EXHIBIT #3 AFFIDAVIT OF THOMAS DUNN

**AT COMMON LAW RIGHT TO TRAVEL
COMMON LAW CONSTRUCTIVE NOTICE
COMMON LAW JUDICIAL NOTICE**

**NOTICE TO ALL MEN AND WOMEN WHOM THESE
PRESENTS MAY COME, IS THE TRUTH:**

THE UNDERSIGNED Common Law Citizen, being a Man a Human Being with the apparition of Thomas E. Dunn whose domicile is 425 Cottage Street, Clare Michigan 48617 Clare County Michigan, is of legal and lawful age, sound of mind and body does hereby Certify, by Rights Secured under provisions of the Constitution of the United States of America, the Constitution of the several states, Common Law, Nature and Laws of Natures GOD, that these Rights are retained in FEE SIMPLE ABSOLUTE, and held and protected with special regard to Rights designated and/or set forth as follows: ALSO NOTE "Rights and Property are ONE AND THE SAME THING-by the Honorable Justice LOUIS BRANDIS U.S. SUPREME COURT"

**NOTICE AND ADVISORY OF RIGHTS
CLAIMED INVIOLENTE:**

- 1) The Right to TRAVEL FREELY, UNENCUMBERED, and UNFETTERED is guaranteed as a RIGHT and not a mere privilege. That the Right to TRAVEL is such a BASIC RIGHT it does NOT even need to be mentioned for it is Self-evident by Common Sense that the Right to TRAVEL is a BASIC Commitment of a FREE Society to come and go from length and breath FREELY UNENCUMBERED and UNFETTERED dis-

tinguishes the characteristic required for a FREE PEOPLE TO EXIST IN FACT. Please See SHAPIRO vs. THOMSON, 394 U.S. 618. Further, the Right to TRAVEL by private conveyance for private purposes upon the Common way can NOT BE INFRINGED.

No license or permission is required for TRAVEL when such TRAVEL IS NOT for the purpose of [COMMERCIAL] PROFIT OR GAIN on the open highways operating under license IN COMMERCE.

The above named Common Law Citizen listed IS NOT OPERATING IN COMMERCE and as such is thereby EXEMPTED FROM THE REQUIREMENT OF A LICENSE AS SUCH. Further, the Michigan state, is FORBIDDEN BY LAW from converting a BASIC RIGHT into a PRIVILEGE and requiring a LICENSE and or a FEE CHARGED for the exercise of the BASIC RIGHT. Please SEE MURDOCK vs. PENNSYLVANIA, 319 U.S. 105, and if Michigan, state does ERRONEOUSLY convert BASIC RIGHTS into PRIVILEGES and require a License or FEE a Citizen may IGNORE THE LICENSE OR FEE WITH TOTAL IMMUNITY FOR SUCH EXERCISE OF A BASIC RIGHT. Please see Schuttlesworth vs. BIRMINGHAM, ALABAMA, 373 U.S. 262. Now if a Citizen exercises a BASIC RIGHT and a Law of ANY state is to the contrary of such exercise of that BASIC RIGHT, the said supposed Law of ANY state is a FICTION OF LAW and 100% TOTALLY UNCONSTITUTIONAL and NO COURTS ARE BOUND TO UPHOLD IT AND NO Citizen is REQUIRED TO OBEY SUCH UNCONSTITUTIONAL LAW OR LICENSE REQUIREMENT. Please see MARBURY vs. MADISON, 5 U.S. 137 (1803), which has never been over-

turned in over 194 years, see Shephard's Citations. Now further, if a Citizen relies in good faith on the advice of Counsel and or on the Decisions of the UNITED STATES SUPREME COURT that Citizen has a PERFECT DEFENSE to the element of WILLFULNESS and since the burden of proof of said WILLFULNESS is on the Prosecution to prove beyond a REASONABLE DOUBT, said task or burden being totally impossible to specifically preform there is NO CAUSE OF ACTION FOR WHICH RELIEF MAY BE GRANTED BY A COURT OF LAW. Please see U.S. vs. Bishop 412 U.S. 346. OBVIOUSLY THERE IS NO LAWFUL CHARGE AGAINST EXERCISING A BASIC Right to TRAVEL for a regular Common Law Citizen NOT IN COMMERCE on the common way Public Highway. THAT IS THE LAW!!! The above named Citizen IS IMMUNE FROM ANY CHARGE TO THE CONTRARY AND ANY PARTY MAKING SUCH CHARGE SHOULD BE DULY WARNED OF THE TORT OF TRESPASS!!! YOU ARE TRESPASSING ON THIS Common Law Citizen!!!

2) The original and judicial jurisdiction of the United States Supreme Court is ALL actions in which a State may be party, thru subdivision, political or trust. This includes ALL state approved subdivisions and/or INCORPORATED Cities, Townships, Municipalities, and Villages, Et Al. Please see Article 3, Section 2, Para. (1) and (2), U.S. Constitution.

3) The undersigned has NEVER willingly and knowingly entered into ANY Contract or Contractual agreement giving up ANY Constitutional Rights which are secured by the CONSTITUTION, the SUPREME LAW OF THE LAND, The Rule of Law. This Common Law Sovereign Citizen has NOT harmed any party,

has NOT threatened any party, and that includes has NOT threatened or caused any endangerment to the safety or wellbeing of any party and would leave any claimant otherwise to their strictest proofs otherwise IN A COURT OF LAW.

The above Affiant, Citizen is merely exercising the BASIC RIGHT TO TRAVEL UNENCUMBERED and UNFETTERED on the Common public way or highway, which is my/our RIGHT TO SO DO!!! Please see Zobel vs. Williams, 457 U.S. 55, held the RIGHT TO TRAVEL is CONSTITUTIONALLY PROTECTED!!

4) Conversion of the RIGHT TO TRAVEL into a PRIVILEGE and or CRIME is A FRAUD and is in clear and direct conflict with the UNITED STATES CONSTITUTION, THE SUPREME LAW OF THE LAND. LAWS made by any state, which are clearly in direct CONFLICT or REPUGNANT are UNCONSTITUTIONAL and are WITHOUT STANDING IN LAW AND ARE BEING CHALLENGED AS SUCH HERE AND THEREBY ARE NULL AND VOID OF LAW ON THEIR FACE. NO COURTS ARE BOUND TO UP-HOLD SUCH FICTIONS OF LAW AND NO Citizen is bound to obey such a FICTION OF LAW. SUCH REGULATION OR LAW OPERATES AS A MERE NULLITY OR FICTION OF LAW AS IF IT NEVER EXISTED IN LAW. No CITIZEN IS BOUND TO OBEY SUCH UNCONSTITUTIONAL LAW!!!!

5) The payment for a privilege requires a benefit to be received As the RIGHT TO TRAVEL is already secured it is clearly unlawful to cite any charges without direct damage to the specific party. Nor may a Citizen be charged with an offense for the exercise of a CONSTITUTIONAL RIGHT, in this case the RIGHT TO TRAVEL. Please see Miller vs. UNITED

App.107a

STATES 230 F2d 486. Nor may a Citizen be denied
DUE PROCESS OF LAW or EQUAL PROTECTION
UNDER THE LAW.

- a. I am not now a statutory "person" as defined at MCL 8.3L of the Michigan Compiled Laws.
- b. I am not now a statutory "person" as defined at MCL 257.40 of the Michigan Compiled Laws.
- c. I am not now a statutory "individual" as used or defined at MCL 600.701 of the Michigan Compiled Laws.
- d. I am not now a statutory "individual" as used or defined at MCR 1.101 of the "Michigan Court Rules of 1985."
- e. I am not now a statutory "individual" as used or defined at MCR 2.105 of the Michigan Compiled Laws.
- f. I am not now "individual" as used or defined in the Michigan constitution of 1963 Article 1 section 17, second sentence which states "The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed."
- g. SERVICE OF PROCESS,-Rule 2.105 Process;
Manner of Service
 - (A) Individuals. Process may be served on a resident or nonresident individual by

App.108a

- (1) delivering a summons and a copy of the complaint to the defendant personally; or
- (2) sending a summons and a copy of the complaint by registered or certified mail, return receipt requested, and delivery restricted to the addressee. Service is made when the defendant acknowledges receipt of the mail. A copy of the return receipt signed by the defendant must be attached to proof showing service under subrule (A)(2).
- h. Provisions for service of process contained in these rules are intended to satisfy the due process requirement that a defendant be informed of an action by the best means available under the circumstances. These rules are not intended to limit or expand the jurisdiction given the Michigan courts over a defendant. The jurisdiction of a court over a defendant is governed by the United States Constitution and the constitution and laws of the State of Michigan. See MCL 600.701 et seq.
- i. Rule 2.102 Summons; Expiration of Summons; Dismissal of Action for Failure to Serve

6) The undersigned does hereby claim, declare, and certify ANY AND ALL this Man's CONSTITUTIONAL RIGHTS INVIOLATE from GOD and secured in THE UNITED STATES CONSTITUTION and the CONSTITUTION OF THE Michigan state wherein I abode as a SOVEREIGN, COMMON LAW CITIZEN existing and acting entirely AT THE COMMON LAW,

and retains ALL BASIC RIGHTS under the CONSTITUTION OF THE UNITED STATES OF AMERICA, NATURE AND NATURE'S GOD AND UNDER THE LAWS OF GOD THE SUPREME LAW GIVER.

7) ANY VIOLATOR OF THE ABOVE CONSTRUCTIVE NOTICE AND CLAIM IS CRIMINALLY TRESPASSING UPON THIS ABOVE NAMED COMMON LAW Citizen, as a Sovereign and WILL BE PROSECUTED TO THE FULLEST EXTENT UNDER THE SUPREME LAW OF THE LAND.

BE WARNED OF THE TRESPASS AND THE ATTACHED CAVEATS.

TAKE CONSTRUCTIVE NOTICE, IGNORANCE OF THE LAW IS NOT AN EXCUSE!!

"I declare under the penalties of perjury that this AFFIDAVIT OF TRUTH AND NOTICE has been examined by me and that its contents are true to the best of my information, knowledge, and belief." (per MCR 1.109(b)). That I am a Citizen of Michigan, Sovereign and one of the "We The People" endowed with certain unalienable rights given first by my creator GOD and protected by the state constitution and the United States of America Constitution and the Michigan Constitution Article I Section 17

/s/ Thomas E. Dunn

App.110a

Michigan State)

) solemnly affirming and subscribing
Clare County)

On this the 5th day of July, A.D., 2019 before me
the under-signed, a Notary Public in and for the said
State personally appeared Thomas E. Dunn known to
me to be the same person described in and who
executed the within instrument, who acknowledged
the same to be of his free will and deed. Purpose of
jurat is for oath and identification only and cannot be
used to indicate entry into any foreign jurisdiction.
Witness my hand and official seal.

Witness my hand and official seal

REBECCA HERSHBERGER
Notary Public, Clare County, MI
My Commission Expires 05/09/2025
Acting in the county of Clare

Notary Public in and for said State

EXHIBIT #4 TRANSCRIPT ARRAIGNMENT

STATE OF MICHIGAN
IN THE 80TH JUDICIAL
DISTRICT COURT FOR GLADWIN COUNTY

THE PEOPLE OF THE STATE OF MICHIGAN,

v.

THOMAS EARL DUNN,

Defendants.

DC File No. 19-1455-OT

Before: Elizabeth M. POST (P77830),
Attorney/Magistrate.

Gladwin, Michigan

Wednesday, July 10, 2019-9:41 a.m.

THE COURT: Thomas Dunn? This is The People of
the State of Michigan versus Thomas Earl Dunn,
Case Number 19-1455-OT.

(semi-audible, unrecorded voice speaking from
gallery; transcriber unable to certify this portion
of transcript)

THE COURT: Sir—okay. Are you Thomas Dunn?

(semi-audible, unrecorded voice speaking from
gallery; transcriber unable to certify this portion
of transcript)

THE COURT: So, this is—I'm just going to call the case and we're going to proceed with the arraignment. You're welcome to come forward. You're welcome to stand there and not—

(semi-audible, unrecorded voice speaking from gallery; transcriber unable to certify this portion of transcript)

THE COURT: I do have jurisdiction, sir. This is the—sir, we are not going to do this. You can come forward and be arraigned, or you can leave. That's the options you have today.

(semi-audible, unrecorded voice speaking from gallery; transcriber unable to certify this portion of transcript)

THE COURT: Okay. We'll call this case later.

(semi-audible, unrecorded voice speaking from gallery; transcriber unable to certify this portion of transcript)

THE COURT: Nope. Okay. That's fine.

(At 9:42 a.m., defendant approached a microphone and was recorded)

THE DEFENDANT: Okay. So, you can hear me.

THE COURT: Okay. So, we are—this is The People of the State of Michigan versus Thomas Earl Dunn, Case Number 19-1455-0T. We are here on a one-count criminal misdemeanor Complaint. There is a civil infraction, as well; however, that's not what we're dealing with today. The criminal misdemeanor—

THE DEFENDANT: If I knew what it was, Ma'am, based on what I have received, it would be

wonderful. I had talked to—and we are being recorded, correct?

THE COURT: Yes. That's correct.

THE DEFENDANT: Okay. I had seen Mr. Gage, and he said we could not discuss this until after this proceeding was over.

THE COURT: Okay.

THE DEFENDANT: So, therefore, what I had seen in the docket was totally different from anything that I had seen in the past. The only thing—the only—one reason that I'm here today is because there is a 'notice to appear', which fails to be signed by anybody. It was just sent in the mail. Therefore, I'm having a hard time understanding those charges that I am not aware of at this point in time.

THE COURT: Okay, sir. So, here—

THE DEFENDANT: But, I would be—

THE COURT: Sir. I need you to stop speaking.

THE DEFENDANT: All right. I will. Thank you.

THE COURT: You are going to stop speaking. This is The People of the State of Michigan versus Thomas Earl Dunn, Case Number 19-1455-OT. We are here on a one-count criminal misdemeanor Complaint. We are not addressing the civil infraction. It is alleged that on or about June 15th, 2019, in the City of Gladwin, County of Gladwin, on North Silverleaf, that you did operate a motor vehicle upon North Silverleaf, a highway in this state, without a valid operator's license or chauffeur's license and the appropriate endorsement for the

type or class of vehicle being driven or towed, or you had more than one valid driver's license.

That's a misdemeanor in the State of Michigan, punishable by up to 90 days in jail and/or \$100.00 in fines, plus court costs.

Sir, do you understand what you're being charged with and the maximum possible penalties?

THE DEFENDANT: I do not understand the charges.

THE COURT: Okay. That's fine, sir. The record will reflect that I've stated them to you, and you do not understand what they are. Again, you are being charged with no license or multiple licenses on your person. That is punishable by up to 90 days in jail and/or a \$100.00 fine plus court costs.

Additionally, you have not signed an 'advice of rights' form. You have some rights in this case. Specifically, you have the right to remain silent. Anything you say or write can be used against you. You have the right to an attorney. If you cannot afford one, one may be appointed to you at public expense. You also have the right to a jury trial, wherein, in order to be convicted of this crime, you would have to be found guilty beyond a reasonable doubt by a jury. Do you understand what you're being charged with and the—or, do you understand what your rights are in this case?

THE DEFENDANT: I understand what you have read. I am innocent and this court can only take certain pleas, and that's under 600—

THE COURT: Sir, that's—

THE DEFENDANT:—8511, 12 and—

THE COURT: Sir—

THE DEFENDANT:—13, which I'm sure you're aware of.

THE COURT: Sir, stop. Okay. So, we are going to continue on. I understand that you have some things you want to say, and you may have a valid defense.

THE DEFENDANT: Yes.

THE COURT: However, that's not what the process is going to be here today. I need—

THE DEFENDANT: All right. But, you do under—

THE COURT: I'm going to have to ask you to stop. I will ask you questions. You can respond to them. However, we cannot have just this on-and-on about what you believe—

THE DEFENDANT: I apologize.

THE COURT:—my rights are. Okay?

THE DEFENDANT: Yes. Thank you.

THE COURT: Okay. Thank you. So, having all of that, do you understand what your rights are in this case?

THE DEFENDANT: I understand what you're saying.

THE COURT: Okay. Thank you.

THE DEFENDANT: I do not agree with the jurisdiction and jurisdiction must be—

THE COURT: You don't—that's fine.

THE DEFENDANT: You are presuming—

THE COURT: That's fine.

THE DEFENDANT:—jurisdiction. Okay.

THE COURT: That's fine. So, at this point, would you—
are you seeking a court-appointed attorney, or are
you going to represent yourself, or are you going
to go retain an attorney?

THE DEFENDANT: Well, I am here as a man and not
as a person. I will be discussing—hopefully—with
Mr. Gage at a conference—

THE COURT: I'm sorry.

THE DEFENDANT:—or a prelim.

THE COURT: Sir? Okay. So, the answer is no; you're
going to meet with a prosecutor on your own.

THE DEFENDANT: Yes.

THE COURT: Okay. So, there will be a not guilty plea
today, and your case will proceed on to a pretrial
conference.

Were you arrested in this case or just ticketed?

THE DEFENDANT: Just a presentment of a form—

THE COURT: Okay.

THE DEFENDANT:—by the police officer—

THE COURT: So, you were—

THE DEFENDANT:—for the city.

THE COURT:—not arrested.

THE DEFENDANT: No, I wasn't arrested.

THE COURT: No bond; no bond to continue. Stop at
the clerks' office for your next court date.

EXHIBIT #5
FORM IN THE 80TH DISTRICT COURT

IN THE 80TH DISTRICT COURT

Date: 7/10/19

File: 19-1455

Time: 9412 to 9472

The People of the State of Michigan v. Thomas Earl Dunn

Charge Action: Lic Not valid or Improper

Waived Right to Attorney

PLEA: Not Guilty Misdemeanor

SET MATTER FOR: PRE-TRIAL 7/25/1909 am

OTHER: * Charges read to def on record.

* Penalties read to def on record.

/s/ Elizabeth Post

Magistrate

Recorder Ah03000

[* * *]

**WAIVER OF RIGHT TO DISCUSS CASE
WITH ARRAIGNMENT ATTORNEY**

THIS PARAGRAPH MUST BE READ: "All adults, except those appearing with retained counsel or those who have made an informed waiver of counsel, shall be screened for eligibility under this act, and counsel shall be assigned as soon as an indigent adult is deter-

App.118a

mined to be eligible for indigent criminal defense services." MCL 780.991(1)(c)"

I have read the above paragraph and understand I have a right, prior to being arraigned by a judge or magistrate, and prior to entering any plea in this case, to discuss my case with an arraignment attorney. The Court has offered me this right, I understand that I also have a right to waive (not have) this meeting with the arraignment attorney.

By signing this document, I hereby state that I do not wish to discuss my case with the arraignment attorney and wish to proceed directly to arraignment and/or plea.

This waiver is only for the arraignment attorney. I understand that I am still entitled to hire an attorney or request a court appointed attorney to assist me through my case. I understand that, if I qualify, the court will appoint me an attorney to handle my case.

Refused to sign

App.119a

80-2 DISTRICT COURT
401 W CEDAR AVE
GLADWIN MI 48624
989-426-9207

07/10/19 9:57 01 MISC/OTHER MN

CASH TRANSCTN TMA A D102116
AMT PAID

Copy Fees Totals 4:00 4:00

4:00 4:00

Cash Tendered Total Paid: 4:00

4:00

**Thomas E. Dunn
425 Cottage St., Clare Michigan 48617
Phone: 989-709-8079 Email: tomdunn@gmx.com**

Hon. Judge Joshua M. Farrell
401 W. Cedar Ave.
Gladwin, MI 48624

The Honorable Judge Joshua M. Farrell,

When I specially visit your court on a forced response on July 10, 2019 to a Bill of Pains and Penalties issued by the Officer Zach Palmreuter employed by the Gladwin City Police Department employed by the corporate City of Gladwin Michigan, state of Michigan and noticed by the 80 District Court as case No. 19-1455-01 as a notice to appear.

I move this court and you, Judge Joshua M. Farrell to take judicial notice that my special visitation was forced, that my visitation is special, and not general, since this notice is my timely and specific objection to the presumptions upon which a false conclusion of law has been made administratively with regard to my status before this court.

The plaintiff in this case is an administrative officer representing the corporate and de facto state of Michigan, which has legislative power to compel performance upon the letter of its statutes upon all persons subject to its jurisdiction. The only due process that its legislative courts recognize is the right to be heard on the facts of the case.

The corporate plaintiff in this criminal action before this court has made an unproven conclusion of law that Thomas E. Dunn is among those persons who

App.121a

have lost, or otherwise abandoned, their status in the guaranteed

“Republican Form” of Government and who must perform under legislative power upon the exact letter of every legislative statute with no due process of law protection other than that outlined in paragraph two of this letter.

It is from this false conclusion of law that administrative officer Zach Palmreuter issued the contested Bill of Pains and Penalties upon Thomas E. Dunn.

EXHIBIT #6
80TH DISTRICT CT POST CARD (DEFAULT)

80TH DISTRICT COURT	
401 W. CEDAR AVE.	
GRADY, MICHIGAN 49022	
DEFAULT JUDGMENT	
Civil Infraction	
Case Number:	13-1048-100
Infraction Date:	10-15-13
Civil Infraction:	13-1048-100
Vehicle Plate No.:	13-1048-100
AMOUNT OF JUDGMENT	
Fees:	\$ 0.00
Costs:	\$ 0.00
State Costs:	\$ 0.00
Total:	\$ 0.00
Bond Postponed:	
Plaintiff's Name:	

少説的／丁寧的語調／文語的
専ら「その」で表され、語意
は必ず文頭

卷之三

卷之三

EXHIBIT #7 PROOF OF INSURANCE

ALLSTATE FIRE AND
CASUALTY INSURANCE
COMPANY
Insurance

Temporary Proof of Insurance Card

Here are your temporary proof of
insurance card(s). Please keep in mind
that your card(s) will not be valid more
than 30 days after the "Effective Date"
stated on the card(s). We will send your
permanent (or card(s)) before that time.

Please keep the temporary card(s) in
your vehicle until your permanent
card(s) arrive. When your permanent card(s)
arrive, please replace these temporary
card(s) with the permanent card(s),
and then destroy the temporary card(s).

TEMPORARY CERTIFICATE OF NO FAULT INSURANCE State of Michigan		Allstate
ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY		
An insurance professional has certified that I have leased a vehicle complying with the 1974 P.L. 93-542 as required for the period of my vehicle.		
LEASER NAME	DRIVER'S NAME	EXPIRATION DATE
CLARE MC CALLISTER	JOHN WALTERS	10/14/2012
PROJECT NUMBER	VEHICLE ID NUMBER	INSURANCE POLICY
0000000000000000	1000000000000000	0000000000000000
EFFECTIVE DATE	EXPIRATION DATE	EXPIRATION DATE
01/14/2012	10/14/2012	10/14/2012
This card is not a insurance card for policy will remain in effect until the stated expiration date. ANY DAMAGE AND THE COSTS THEREOF, WHETHER OR NOT THE INSURANCE COULD BE HELD LIABLE, WILL BE THE SOLE RESPONSIBILITY OF THE DRIVER. AT ALL TIMES, IF YOU FAIL TO PROVE IT IS NOT YOUR FAULT FOR THE ACCIDENT, YOU WILL BE INCOMPETENT FOR A COURT INVESTIGATION.		

If you have an accident or a claim:

- Get medical attention if needed.
- Notify the police immediately.
- Notify your insurance company, provide numbers (work and home) and
license-plate numbers of all persons involved (including
passenger and witness).
- Call 1-800-ALLSTATE (1-800-227-8728), 10am-4pm Allstate.com
or contact your Allstate agent or agency possible.

Allstate Agent:

EDWARD AMARAL
25455 DEQUINN DR.
SUITE 100
MADISON HEIGHTS, MI 48070
1-800-227-8728

Warning: When a named insured, partner, spouse, or subscriber
to liability coverage is 16-19, neither the insured owner of the vehicle
nor others legally responsible for the care of the same, excludes
liability from personal liability arising from negligent operation and
unintended damage by such person(s). Insurance coverage is not
extended to his/her personal protection insurance liability.

App.124a

EXHIBIT #8 CAD INCIDENT DETAIL

12/3/2019
15:56:50 CAD Incident Detail PAGE 1
USER BARLO

CAD Incident: 2019-00007787 ESN : 0117 L
Phone : - Law : SHERIFFS
Name : Fire : GLADWIN FD
Address : N M-186 PRATT LAKE RD G2140 EMS : GLADWIN
Community: Jurisdtcn: Rescue:
Intersect: Subdivisn: Disp : C
Subdivisn: Source: O

CAD Call Times: TRAFFIC STOP (CLI)

Incoming Call: 06/15/2019 12:27:21
Call Created : 06/15/2019 12:27:21 Created By: DOHERTY Pos:002 TERM 2
Call Send Time : 12:27:21 Sent By : DOHERTY Action:
Call Dispatch Time: 12:27:21 Event : TS 1 Language:
Call Enroute Time : 12:27:21 Law : TS 1
Call Arrival Time : 12:27:21 Fire :
Call Clear Time : 12:55:12 EMS :
Call Closed : 06/15/2019 12:55:12 Rescue:
4Y.M/W

Vehicle Information

Vehicle Information:
Tag : St: MI Year: 2019
VIN : Condition:
Make: Model: Color:
DL : State: MI

Vehicle Demographic Data: No Information Entered

UNIT	DEPT	STATUS/DSP/CASE	LOCATION/REMARK	USER	DATE	TIME
3915	L02 OL			DOHER	06/15	12:27:22
3915	L02 LOG	DUNN/THOMAS/EARL 5/27/46		DOHER	06/15	12:32:44
3915	L02 LOG	SECURE		DOHER	06/15	12:38:07
3915	L02 LOG	DUNN, LINDA LEE 121647		PETER	06/15	12:46:40
3915	L02 CLR			DOHER	06/15	12:55:11

EXHIBIT #9 DISTRICT COURT TAX FARMING

Michigan Bar Journal
February 2011



As Roman legions vanquished Asia Minor in about 125 B.C., politicians struggled with the escalating costs of an expanded government. Understanding his countrymen's distaste for direct taxation, a clever tribune named Gaius Gracchus invented the practice now known as *tax farming*: Rome assigned the duty to *collect* taxes in the recently acquired provinces to *publicans*, entrepreneurs who underwrote the cost of the collection process. By sharing thy wealth with the provincial tax collectors, Gaius guaranteed that the new revenue source would he enthusiastically exploited, without antagonizing tax-averse Roman citizens.

Segue to twenty-first century Michigan. Our state is broke, and the taxpayers have learned how to say no. Where can lawmakers find the money to create or enhance worthwhile programs without appearing to raise taxes to pay for them? The answer: district courts.

As were Roman publicans, today's judges have been appointed revenue agents, collecting sums to be shared with the state from people in no position to complain. Local governments bankroll a collection huh, known as the district court, hoping this investment will provide a sufficient return for them, after obligations to the state treasury are satisfied. The beauty of collecting this money in district court is that the exaction process is almost invisible to the general public. Lawmakers can speciously pledge no new taxes, then increase court assessments to pay for their favorite programs.

Requiring people to pay for the privilege of using their own court system is nothing new. judges have historically assessed costs of prosecution, and courts have long charged fees to cover administrative expenses. These sums are logically and transparently retained by the local units of government that foot the bill.

Beyond that, these reimbursements are required to bear a reasonable relationship to the expense that the government actually incurred on a case specific basis. But today, commingled with monies intended to reimburse direct court expenses, are mandatory charges that pay for an assortment of state programs that one would expect to be supported by general taxation. All trial courts Court users now unknowingly support a variety of state programs by paying hidden fees that may have nothing to do with the purpose of their court visit, in amounts unrelated to their consumption of

government resources. participate, but the district courts' high case volume provides the most lucrative cash pool by far. This scheme is efficient, but it poses serious unintended consequences for the courts, state policymakers, and the people they serve.

The History of Trial Court Tax Farming

Tax farming in the Michigan court system began by requiring trial courts to collect money for state officers' pensions. When the judicial retirement system was created in 1951, the state paid for it by grabbing a portion of each circuit court filing fee. The Legislative Retirement System was born in 1961, and it was funded the same way. Next, the Law Enforcement Officers' Training Council was established in 1965, and trial judges were required to impose a surcharge on penal fines to pay for the new state program. The Court of Appeals invalidated this assessment, but lawmakers followed up with a \$5 judgment fee for state retirement programs. The judgment fee survived a constitutional challenge, and this practice has metastasized since then. Court users now unknowingly support a variety of state programs by paying hidden fees that may have nothing to do with the purpose of their court visit, in amounts unrelated to their consumption of government resources.

District Court Tax Farming Today

People filing civil lawsuits and offenders fulfilling sentences all contribute to a myriad of dedicated funds maintained by the state treasurer. Between 56 and 79 percent of every civil filing fee is deposited in the Civil Filing Fee Fund. Motion fees enrich the State Court Fund.¹⁶ When levying fines and costs for a crime or

traffic civil infraction, a judge must order the payment of \$40, \$48, \$53, or \$68 to the Justice System Fund. One convicted of a serious misdemeanor pays an additional \$75 or \$130, and 90 percent of this amount is sent off to the Crime Victim's Rights Fund. A person who pays a traffic ticket too late illogically contributes \$15 to the Juror Compensation Reimbursement Fund. Trial courts now send off more than \$100 million a year to the state treasury to be deposited in these funds.

The path this money travels afterward looks like a money laundering scheme. Each dollar is broken to bits and then transferred back and forth through a labyrinth of other dedicated funds. A big chunk of dough is eventually returned to the counties that financially support the trial courts. But before this occurs, enough cash has been siphoned off by the state to pay for lots of other things that may have no relationship to the court activity that generated the money in the first place. (The author's best attempt at describing this process is the creation of the flowchart shown on page 31.)

It's probably best that people paying speeding tickets don't know they are making a defined contribution to their legislator's pension. Why should stray-dog citations help to house felons in county jails? And judges should be embarrassed that the solvency of their retirement plan depends on the number of cases filed by people whose taxes have already paid their salaries. recent addition to this family of dubious fees is an \$8 Justice System Fund add-on to pay for the newly created Sexual Assault Victim's Medical Forensic Intervention and Treatment Fund and the Children's Advocacy Center Fund. Most people who pay this increase

will not have abused a child or sexually assaulted anyone. They won't derive a benefit from these new programs greater than the vast majority of Michigan citizens who will pay nothing toward funding them. Is it legal to do this? And, more importantly, is it wise?

Fast Facts

Where can lawmakers find the money to create or enhance worthwhile programs, without appearing to raise taxes to pay for them? The answer: district courts.

Some district court assessments may violate United States and Michigan constitutional protections.

District court tax farming is fundamentally unwise. It is regressive and unfair, hurts local trial court funding, and promotes tangential programs over core services. Worst of all, it diminishes respect for our Justice system.

Is This Legal?

Are Justice Fund Assessments and Victim's Rights Charges Unconstitutionally Diverted Fines?

The legality of requiring trial court users to pay for unrelated expenses of state government may depend on whether these charges are considered to be costs of prosecution, penal fines, taxes, or user fees. This issue was last addressed in 1982, when the Court of Appeals in *Saginaw Library Bd v District Judges* considered a \$5 "judgment fee" earmarked for legislative and judicial retirement funds. Article 8, § 9 of the 1963 Michigan Constitution requires that state penal fines be used exclusively to support public libraries. The library board claimed that the judgment fee was a fine be-

cause it was uniform in each case and unrelated to the actual costs of prosecution. The Court disagreed, holding that the state could obtain revenue by requiring trial courts to collect reasonable, uniform “base costs” that were not considered to be fines because their purpose was compensatory. How court users consume or benefit from state officers’ pensions was not explained.

Whether today’s justice fund and victim’s rights charges would survive a similar challenge is uncertain. These assessments are significantly larger than the judgment fee considered in *Saginaw Library Bd.*, measured both by their absolute amounts and in proportion to the overall fine and costs imposed. For example, a meager \$81 speeding ticket now includes a whopping \$40 Justice System Fund assessment. Trial court collections for the Justice System and Crime Victim’s Rights funds now exceed \$70 million annually. This past December, crime victim’s rights assessments were drastically increased to provide \$35 million in seed money for a statewide trauma center/? After that, these court charges will continue to provide trauma center funding of at least \$1.75 million annually, even if crime victims’ use of the trauma center Is never demonstrated.

The Court warned in *Saginaw Library Bd.* that fee[s] . . . which would be considerably greater than that involved here might offend the constitutional or statutory provisions.” As these charges have grown larger and become disconnected almost completely from the expense of prosecution, a constitutional challenge based on the misdirection of fine revenues has become more likely to succeed.

Do Mandatory District Court Charges Violate Constitutional Equal Protection?

Money collected by the district courts for the state treasury could also be challenged as unconstitutional taxes or user fees; a distinction that sometimes matters.” In 2007, the Court of Appeals considered a constitutional attack on the contentious Michigan driver responsibility fee, an amount charged by the secretary of state to had drivers as a requirement of maintaining an operations license: The Court upheld the constitutionality of this assessment, but the judges on the panel could not agree whether this charge is a tax, a user fee, or a penal fine. A Fair reading of the individual opinions suggests that two judges on this panel might find some mandatory district court charges to be taxes.”

Taxes and fees must pass muster of equal protection under both the United States and Michigan constitutions, and analysis under each is the same. If taxes or fees are charged to some citizens, but not others, the classification system must be rationally related to some governmental purpose. Clearly, the crime victim’s rights levy, imposed on persons convicted of crimes, would pass this test. But the rational basis for taxing speeders to house felons in county jails is harder to explain. And it is a real stretch to claim that people who use the court system should pay more toward legislators’ pensions than those who do not.

Are Mandatory District Court Charges Really Taxes Not “Distinctly Stated”?

If determined to be taxes, district court financial assessments would also need to comply with article § 32 of the 1963 Michigan Constitution. which provides

that delivery law which imposes, continues or revives a tax shall distinctly state the tax." This obscure constitutional provision appears to be aimed at preventing the legislature from deceiving itself and furnishing moneys for unintended purposes. A challenge under this section would determine if the wording of statutes creating various trial court assessments adequately discloses their purpose of funding peripheral state programs, such as legislative pensions. No assessment has ever been struck down for violating this section, but if its true purpose is to prevent deceitful taxation, hidden court charges could be the first.

Is This Wise?

An appellate court may someday decide if trial courts *can* legally raise revenue for state government in this way, but state government leaders shouldn't wait until then to decide if they *should*. There are good reasons to question the wisdom of district court tax farming. As a tax policy, it is extremely regressive. Most of this money is paid by criminal or traffic offenders. These people are disproportionately poor and the least able to pay for governmental programs. Imposing these assessments can be counterproductive. Unmet financial obligations cause poor people to fail on probation, thwarting the courts' primary goal of behavior modification. Raising revenue for the state through court assessments may actually hurt trial court funding. Counties and municipalities are legally obligated to pay for state trial court operations. They are able to do this by retaining revenue that district courts collect as costs of prosecution, ordinance fines, and civil filing fees." But as these funds are collected, courts are required to remit all amounts due to the state before any money may be retained locally. The sequence in

which collected funds are disbursed is important because many assessments ordered as part of a sentence are not paid in full. For partially collected assessments, it is a court's funding unit that is always shortchanged. As state base costs increase, the local share of collected revenue correspondingly shrinks in every case in which court charges are not fully paid. Ironically, the local governments ability to financially support the district courts is undermined by increasing the courts' burden to collect money for peripheral state programs.

The ability to hide a funding source within a trial court assessment promotes tangential programs over core services. Consider recent events. Plummeting tax revenues caused general fund expenditures to be slashed by executive order. Prisons were slated for closure, and state police officers were laid off all about the same time, lawmakers incurred the expense of creating the Children's Advocacy Center Fund. Was this an intelligent balance of our citizens' limited resources? We don't know because the burden of funding the new program was simply assigned to the trial courts by increasing the Justice System Fund assessment. Prioritizing the value of enhanced victims' services against the loss of cops and prison cells never occurred. Worthwhile programs should compete on the level playing field provided by general-fund financing to get the biggest bang for our buck.

The most troubling aspect of district court tax farming is its inevitable damage to the stature of the courts. As people look to the courts to resolve their disputes and enforce our laws, most expect to pay their fair share. Offenders will generally accept a reasonable financial penalty as a consequence of their conduct, and most litigants are resigned to paying for

their actual use of court services. But respect for judicial authority will erode as people learn that their court appearance has simply become a taxable event, an opportunity for the government to take their money without regard to their acts or omissions. With each new assessment, the brash, pecuniary goal of our justice system becomes more difficult to conceal.

Conclusion

The scheme of assigning locally funded trial courts to collect money for peripheral state programs is fundamentally unwise, and parts of it may be unlawful. This fertile revenue source cannot immediately be replaced in these difficult times. But we should draw a lesson from the history of the first tax farmers and begin to reverse the trend. Caesar Augustus ended Roman tax farming after it revealed itself to be not only unjust, but ineffective. And we know this: as Roman revenue collection grew arbitrary and disproportionately directed at the poor, the publicans became disrespected, then ultimately despised. Many Michigan citizens will form their opinions of our justice system solely from their experience in district court. As they seek justice, we can't allow them to view our judges as tax collectors.

EXHIBIT #10
AFFIDAVIT OF MARK DE YOUNG

Mark DeYoung, being sworn, states:

1. I am of Legal Age and on July 10, 2019 was present at the Arraignment of Mr. Thomas E. Dunn in the Court of the 80th District Gladwin Michigan.
2. I was present at approximately 9:40 when Mr. Dunn made direct statement from behind the Bar concerning his name and how it was noted by the court, when he state that he was Innocent and challenged jurisdiction of the court and that Magistrate Elizabeth Post rejected same.
3. I can testify to the matters contained in this affidavit if I am called to do so.
4. I further recall
5. I was present when Mr. Dunn confronted Assistant Prosecutor Norman Gage prior to Mr. Dunn's presents in the Court Room when Mr. Gage stated he could not discuss Mr. Dunn's case until after his arraignment.
6. I was also present when Mr. Dunn and I inquired of the Sheriff Mike Shea to accompany Mr. Dunn to the Court where he thought his Constitutional Rights may be violated contrary to the Oath of Officers and the Judge.
7. I can confirm that this is the truth to the Best of my knowledge and belief
8. Further, to the best of my knowledge and belief Mr. Dunn's assumptions were correct about his rights being violated under the color of law by both the Magistrate and the Bailiffs in the court room.

App.136a

Respectfully Submitted,

/s/ Mark DeYoung

Affiant

BLANK PAGE

