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INSTRUCTIONS

REPLACE ALL COLORED PINK WORDS WITH ONES THAT FIT YOUR SITUATION: DISTRICT, NAME, CASES, ETC.!!! MAKE SURE ALL WORDS ARE IN BLACK WHEN YOU ARE FINISHED BEFORE YOU FILE IT IN COURT!

**COMPLAINT TO VOID JUDGMENTS,
AND FOR WRIT OF QUO WARRANTO**

ELEVENTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF SAN JUAN
COUNTY OF MCKINLEY

STATE OF NEW MEXICO ex rel **KENNETH GOMEZ**,
Plaintiff,
vs. Case Number:
ELEVENTH JUDICIAL DISTRICT COURT,
Defendant.

**COMPLAINT TO VOID JUDGMENTS,
AND FOR WRIT OF QUO WARRANTO**

COMES NOW Plaintiff **Kenneth Gomez** for the State of New Mexico under authority of Section 44-3-4 NMSA 1978 since there are no public officers required by said law who would or could grant permission to **Gomez**, and under authority of Rule 1-060B(4) claiming the judgments and decisions involving him, during times relevant, from the year 1963 to the present issued by any and all the Courts within the jurisdiction of the Defendant **Eleventh** Judicial District Court, "hereinafter, Defendant District Court" have severely injured him by denying him constitutional rights under Sections 1, and 3, Fourteenth Amendment and all civil rights laws giving the said constitutional powers effect. In addition, said decisions and judgments have damaged his personal character *without recourse*, since there are no persons who have acquired title to positions as judges in any State of New Mexico courts of law, and since there are no courts of law to which he could appeal the non-competent judgments rendered. See Orosco v. Cox, 75 N.M. 431, 405 P.2d 668 (1965) for definition of competent court. Said judgments and

decisions have all been null, void, and without legal effect at their inception as repugnant to both constitutions. Marbury v. Madison, 5 U.S. 137, 178, 180; to wit, respectively:

So if the law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must decide that the case conformably to the law, disregarding the constitution; or conformably to the constitution disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty. [At 178.]

and,

Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law, repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument. [At 180.]

I. COMPLAINT

a. Whereas, not one of the persons holding positions as judges within the jurisdiction of the courts of law within the Defendant District Court, during times relevant, have personally given, filed, and recorded a prerequisite penal bond or recognizance to lawfully acquire title to the public offices held, (Section 10-2-9 NMSA 1978), since 1963, and which bound them to the promises in the oath of office contained in Article XX, Section 1, Constitution of the State of New Mexico and as mandated by Article XXII, Section 19, Constitution of the State of New Mexico as confirmed under provisions of Article VI, Clauses 2 and 3, Constitution for the United States of America; to wit, respectively:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. [Clause 2, Article VI, Constitution for the United States of America.]

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States. [Clause 3, Article VI, Constitution for the United States of America.]

b. Whereas, the New Mexico Legislature has no power or authority to unilaterally and without constitutional processes enact laws amending either the Constitution for the United States of America or the Constitution of the State of New Mexico without a referendum vote of the electorate for state amendments as it did when, contrary to Marbury, it enacted Section 34-6-22 (Personnel; oaths and bonds, (1968)) NMSA 1978 altering, revising, or amending Article XXII Section 19 Constitution of the State of New Mexico and Article VI, Clauses 2 and 3, Constitution for the United States of America; to wit said § 34-6-22:

Before entering upon their duties, all district court personnel who receive or disburse money or have custody of property shall take the oath prescribed by the constitution for state officers and file with the secretary of state a corporate surety bond in an amount fixed by the director of the administrative office of the courts. Each bond shall be approved in writing on its face by the director of the administrative office of the courts and conditions upon faithful performance of duties and payment of all money received to the person entitled to receive it. In lieu of individual bond coverage, the director of the administrative office of the courts may prescribe schedule or blanket bond coverage in any judicial district. Bond premiums shall be paid from funds appropriated to the district courts.

History: 1953 Comp., § 16-3-9, enacted by Laws 1968, ch. 69, § 23.

c. Whereas, the several constitutional powers, each and every one of them, cited in the preceding paragraph are given effect in Sections 10-2-5, 6, 7, and 9 NMSA 1978.

d. Whereas, those persons, during times relevant, who previously held and those who currently hold positions as judges within the jurisdiction of the Defendant District Court from Year 1963 and thereafter either did so, or now do so under false pretenses as indicated below:

(1) Whereas, any signed and notarized Declaration of Candidacy submitted for the record and filed among the Records in the Office of the New Mexico Secretary of State or the Clerks, **San Juan** and **McKinley Counties**, by any of those persons referenced above as lawfully holding positions as judges from Year 1963 to the present filed a

falsified Declaration of Candidacy for retention or election in that while holding a position as a judge they, each and every one of them, did so unlawfully and thereby perjured the oath taken while only posing as an active judge by failing to support the above cited provisions of both constitutions which became a fourth degree felony at its inception and intentional when thereafter filed. See Section 1-8-40 NMSA 1978. Had there been a penal bond for those unlawfully holding public office, it could have been called by any citizen and the office immediately vacated; a constitutional power reserved to the New Mexico citizen. Section 23, Article 2, Constitution of the State of New Mexico.

(2) Whereas, no judicial action to hear and determine this matter is authorized for the instant complaint until at least one district judge acquires a valid penal bond from a State authorized bonding agency or recognizance for an amount equal to an amount approved by the proper authority which is thereafter approved by a judge of a superior court competent to act, Orosco v. Cox, 75 N.M. 431, 435; Lopez v. LeMaster, 133 N.M. 59, 66; Johnson v. Cox, 72 N.M. 55, cert. denied, 375 U.S. 855 (1963)), and which is filed for the record, prior to entry to office and acquiring title to the office sought, and recorded among the Records in the New Mexico Office of the Secretary of State in accord with 10-2-9 NMSA 1978.

e. Now Therefore, neither the Defendant District Court nor a surrogate acting therefor possesses jurisdiction and thus competence to act for hearing and determining the instant case.

II. JURISDICTION

a. Constitutional claims. – Without question, the district court has the authority to consider constitutional claims in the first instance. Maso v. State Taxation & Revenue Dep't, 2004-NMCA-025, 135 N.M. 152, 85 P.3d 276, aff'd 2004-NMSC-028, 136 N.M. 161, 96 P.3d 286.

b. Jurisdiction is acquired in criminal case by filing of information. State v. Vaughn, 74 N.M. 365, 393 P.2d 711 (1964).

c. Jurisdiction over state officers, boards and commissions. — Under this section and N.M. Const., art. VI, § 3, supreme and district courts each have original jurisdiction in quo warranto and mandamus against all state officers, boards and commissions in all cases, whether the proceeding was instituted by the attorney general ex officio, in behalf of the state for some prerogative purpose, or brought by some private person for the assertion of some private right; the supreme court will decline jurisdiction in absence of some controlling necessity therefor, and will do so in all cases brought at instance of a private suitor. State ex rel. Owen v. Van Stone, 17 N.M. 41, 121 P. 611 (1912).

d. Section 44-3-4 NMSA 978, to wit:

44-3-4. [Who may bring action; private relators; when action lies.] (1919)

An action may be brought by the attorney general or district attorney in the name of the state, upon his information or upon the complaint of any private person, against the parties offending in the following cases:

A. when any person shall usurp, intrude into or unlawfully hold or exercise any public office, civil or military, or any franchise within this state, or any office or offices in a corporation created by authority of this state; or,

B. when any public officer, civil or military, shall have done or suffered an act which, by the provisions of law, shall work a forfeiture of his office; or,

C. when any association or number of persons shall act, within this state, as a corporation without being duly incorporated, or in case of a foreign corporation, without being duly authorized, to do business within this state.

The district attorneys in their respective judicial districts shall exercise the same power and right given by this section to the attorney general in cases which may be limited in their operation to the said district.

When the attorney general or district attorney refuses to act, or when the office usurped pertains to a county, incorporated village, town or city, or school district, such action may be brought in the name of the state by a private person on his own complaint. `History: Laws 1919, ch. 28, § 4; C.S. 1929, § 115-104; 1941 Comp., § 26-204; 1953 Comp., § 22-15-4.

e. Those persons holding public office as judges within the Defendant District Court have engaged in a course of *liable* and *unfaithful* conduct, at all times relevant, in the clear absence of competent jurisdiction, Sections, (10-2-5, 6, 7, and 9, and said Art. XXII, Sec. 19), without judicial immunity, absolute or otherwise. Bradley v. Fisher, 13 Wall. 335, 351, cited in Stump v. Sparkman, 435 U.S. 349 which is cited in Ysais v NM Judicial Standards Com'n, 516 F. Supp 2d 1176 (D.N.M. 2009); and see State ex rel Evans v. Field, Com'r of Public Lands, et al., 27 N.M. 384, 390 for class of Plaintiff's complaint; to wit:

The other class is where a suit is brought against defendants who, claiming to act as officers of the state, and under the color of an unconstitutional statute, commit acts of wrong and injury to the rights and property of the plaintiff acquired under a contract with the state. Such suit, whether brought to recover money or property in the hands of such defendants, unlawfully taken by them in behalf of the state, or for compensation in damages, or, in a proper case where the remedy at law is inadequate, for an injunction to prevent such wrong and injury, or for a mandamus, in a like case, to enforce upon the defendant the performance of a plain, legal duty, purely ministerial -- is not, within the meaning of the Eleventh Amendment, an action against the state. [Citing cases.]

f. Exercising jurisdiction where it is not given is a very serious matter. Chief Justice Marshall wrote in Cohens v. Virginia, 6 Wheat. 264, 5 L. Ed. 257 (1821), that a court:

"must take jurisdiction if it should. The judiciary cannot, as a legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by, because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. *We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.* The one or the other would be treason to the constitution. Questions may occur which we would gladly avoid; but we cannot avoid them." At 404 (emphasis added).

III. PARTIES

a. Plaintiff **Kenneth Gomez** is a free citizen resident of **San Juan** County, New Mexico exercising power provided him by Article II, Section 23, Constitution of the State of New Mexico in conjunction with Section 44-3-4 NMSA 1978.

b. Defendant is the **Eleventh** Judicial District Court, in and for the Counties of **San Juan** and **McKinley**.

IV. RELIEF DEMANDED UNDER 42 U.S.C. §§ 1983, 1985, 1980, AND 1994

1. All Defendant Court judgments and decisions rendered since 1963 are to be voided:

a. Against **Kenneth Gomez** by the Defendant District Court and all subordinate courts of law within its jurisdiction. See attached list of cases. **(your own cases)**

b. Against pro se litigants who are forbidden to practice law under state law while opposed by a party who is authorized to practice law; a practice with special privileges which denies and deprives a pro se litigant a substantive right to acquire legal prowess; such judgments could not guarantee a fair and objective determination of the matter before the Defendant District Court because the practicing attorney gains legal prowess through practice under special privileges contrary to Article IV, Section 26, Constitution of the State of New Mexico and Section 38-1-1 NMSA 1978, a special and substantive privilege unavailable to pro se litigants.

2. The Court award the sum of one hundred thousand dollars in cash money in and at time of a final judgment for each judgment and decision rendered against **Kenneth Gomez** in attached cases since year **1997**.

3. That persons holding office as judge in courts of law within the jurisdiction of the Defendant District Court who have not acquired lawful title to the office held show what

cause, if any, they may have, under what authority they qualify, hold, and possess title to the office, (§10-2-9), without previously and personally giving, filing, and recording a penal bond binding them to the promises contained in their contract oath of office as mandated by Article VI, Clauses 2 and 3, Constitution for the United States of America and Article XXII, Section 19, Constitution of the State of New Mexico.

Kenneth Gomez
4 CR 5095
Bloomfield, New Mexico

87413

VERIFICATION

**STATE OF NEW MEXICO)
) ss.
COUNTY OF SAN JUAN)**

SUBSCRIBED AND SWORN TO before me by **Kenneth Gomez, 4 CR 5095, Bloomfield, New Mexico** under penalty of perjury this _____ day of **June**, 2010.

My Commission expires: _____.

DATE

NOTARY PUBLIC

VERIFIED MOTION FOR A WRIT OF QUO WARRANTO

**ELEVENTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF SAN JUAN
COUNTY OF MCKINLEY**

STATE OF NEW MEXICO ex rel **KENNETH GOMEZ**,
Plaintiff,
vs. Case Number:
ELEVENTH JUDICIAL DISTRICT COURT,
Defendant.

VERIFIED MOTION FOR A WRIT OF QUO WARRANTO

Plaintiff **Gomez** claims in his complaint that persons holding office as judges within the Defendant District Court's jurisdiction do so under false pretenses for filing Declarations of Candidacy or Appointment Affidavits containing information as being eligible to serve in the public office sought when they, each and every one of them, did not give a personal penal bond or personal recognizance since 1963 binding them to the oath of office required by Article XX, Section 1, Constitution of the State of New Mexico, and they did not file or record the requisite personal penal bond or recognizance among the Records in the Office of the New Mexico Secretary of State or the applicable city or county clerk in accord with applicable laws.

WHEREFORE, Plaintiff **Gomez** prays the Court will grant his motion for writs of quo warranto for each one of them to show what authority they may have, if any, to hold public office.

87413

Kenneth Gomez
4 CR 5095
Bloomfield, New Mexico

VERIFICATION

STATE OF NEW MEXICO)
) ss.
COUNTY OF SAN JUAN)

SUBSCRIBED AND SWORN TO before me by Kenneth Gomez, 4 CR 5095,
Bloomfield, New Mexico under penalty of perjury this _____ day of June, 2010.

My Commission expires: _____.

DATE

NOTARY PUBLIC

**MEMORANDUM BRIEF IN SUPPORT OF
MOTION FOR A WRIT OF QUO WARRANTO**

**ELEVENTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF SAN JUAN
COUNTY OF MCKINLEY**

STATE OF NEW MEXICO ex rel **KENNETH GOMEZ,**

Plaintiff,

vs.

Case Number:

ELEVENTH JUDICIAL DISTRICT COURT,

Defendant.

**MEMORANDUM BRIEF IN SUPPORT OF
MOTION FOR A WRIT OF QUO WARRANTO**

I. GENERAL BACKGROUND

1. Plaintiff **Gomez**, on best belief, alleges that there are no persons lawfully holding public office within the State of New Mexico. Those currently and who formally held public office since 1963 within the jurisdiction of the Defendant District Court are members of that group. Moreover, among that group are those who have exercised the power of the judicial office under false pretenses to injure him. Accordingly, under provisions of Section 44-3-6, (as modified by State ex rel. Anaya v. McBride, 88 N.M. 244, 539 P.2d 1006 (1975)) Plaintiff is authorized to require each of those currently holding public office as judges within the jurisdiction of the Defendant District Court to show in writing on what authority they hold the office and give bond as required by said Section 44-3-6.

II. FACTS, POINTS OF LAW, AND AUTHORITIES

2. 44-3-6. [Usurpation of office; allegations in complaint; compensation of defendant; bond; injunction.] (1919)

Whenever such action shall be brought against a person for usurping an office, the attorney general, district attorney or person complaining, in addition to the statement of the cause of action, shall also set forth in the complaint the name of the person rightfully entitled to the office with a statement of his right thereto, and in such cases, upon proof by affidavit that the defendant has received or is about to receive the fees and emoluments of the office by virtue of his usurpation thereof, the judge of the district court wherein such proceeding is pending, or a justice of the supreme court, if the proceeding be therein pending, may by order require the defendant to furnish a good and sufficient bond, within a designated time not exceeding fifteen days, executed and acknowledged as required by law in the case of supersedeas bonds on appeal, to be approved by said judge, conditioned that in case the person alleged to be entitled to the office should prevail, the defendant will repay to him all fees and emoluments of the office received by him and by means of his usurpation thereof, and in addition to said bond, or in case of a failure to give said bond, the said judge or justice shall upon good cause shown, issue a writ of injunction directed to the proper disbursing officer enjoining and restraining him from issuing to the defendant or his assigns any warrant, check, certificate or certificates of indebtedness representing fees or emoluments of said office, until the final adjudication of said cause.

History: Laws 1919, ch. 28, § 6; C.S. 1929, § 115-106; 1941 Comp., § 26-206; 1953 Comp., § 22-15-6.

3. Supreme court would not give approval to portion of this section which requires the name of the person rightfully entitled to the office involved in a quo warranto proceeding to be set forth in the complaint, at least not if it is meant to affect the subject matter jurisdiction of the court, especially since the statute is inconsistent with Rule 12(a), N.M.R. App. P. (Civ.) (now see Rule 1-012A NMRA), since in any situation where a vacancy was filled by appointment under such reasoning the court would be shorn of its constitutional powers vis-a-vis quo warranto, and presumably, with additional bits of legislative ingenuity, of its powers to issue other extraordinary writs as well; such could not have been the intention of the people when N.M. Const., art. III, § 1 and art. VI, § 3 were adopted. State ex rel. Anaya v. McBride, 88 N.M. 244, 539 P.2d 1006 (1975).

4. Plaintiff, joined with several other persons, searched the Archives of Records maintained by the New Mexico Secretary of State for evidence that persons holding public office within the State of New Mexico gave personal penal bonds or recognizance as a prerequisite to qualifying with title to the public office held and determined that no such bonds were given by any person holding state public office from 1963 to the present day.

III. ARGUMENT

It shall be no difficulty for one holding public office lawfully to produce certified evidence of their qualification to hold title to their particular public office; however, the challenge would be immediately settled should anyone holding public office unlawfully not have evidence of giving and posting a personal penal bond or sufficient recognizance in lieu thereof on file and recorded for public viewing among the Records on file within the Office of the New Mexico Secretary of State. A liability bond under supervision by

the Risk Management Division covering abuses of office is not sufficient to be considered as coverage for personal penal bonds or Section 44-3-4 and 6 NMSA 1978 provides citizens the means to satisfy such a challenge.

The archival records maintained by the New Mexico Secretary of State reveals there were no penal bonds or personal recognizance given for any state public officer on file after 1963. Therefore, sufficient justification exist to require all those persons holding positions as judges within the Defendant District Court to show what authority they may have to possess title to the office held within a reasonable time allotted for that purpose.

IV. CONCLUSION

Good cause exists for all those holding positions as judges within the jurisdiction of the Defendant District Court to provide formal certified evidence of their possessing lawful title to the office held.

87413

Kenneth Gomez
4 CR 5095
Bloomfield, New Mexico

VERIFICATION

STATE OF NEW MEXICO)
) ss.
COUNTY OF SAN JUAN)

SUBSCRIBED AND SWORN TO before me by **Kenneth Gomez, 4 CR 5095, Bloomfield, New Mexico** under penalty of perjury this _____ day of **June**, 2010.

My Commission expires: _____.

DATE

NOTARY PUBLIC

WRIT OF QUO WARRANTO

**ELEVENTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF SAN JUAN
COUNTY OF MCKINLEY**

STATE OF NEW MEXICO ex rel KENNETH GOMEZ,
Plaintiff,
vs.
ELEVENTH JUDICIAL DISTRICT COURT,
Defendant.

Case Number:

WRIT OF QUO WARRANTO

THIS MATTER is before the Court on Plaintiff's verified motion for a writ of quo warranto. The Court being fully advised of the premises that all those holding positions as judges within the jurisdiction of the Defendant District Court may not be holding office lawfully, and finds the Plaintiff has shown good cause to justify the writ;

NOW THEREFORE,

Name and Position held

shall show this Court in writing within seven (7) days of the date hereon by their notarized signature what legal authority they may have, if any, to hold the said office within the jurisdiction of the Eleventh Judicial District Court during all times relevant.

DATE

DISTRICT JUDGE

Additional documents to file in court

DISTRICT COURT OF NEW MEXICO

(area for case identification)

Plaintiff,

vs.

No. CIV

(area for case identification)

Defendants.

**FORMAL MOTION FOR AN ORDER
AGREEING THAT THE COURT IS INCOMPETENT**

THE MATTER before this honorable Court requires that it verify it has jurisdiction to act and is therefore competent to hear and determine the causes of action captioned above. As grounds therefor and by memorandum brief in support thereof, Defendant(s) _____, without waiving any constitutional or statutory rights, state the following:

The Court has persons holding positions as state judges under false pretenses in that they are serving unlawfully as state public officers by denying the power of Article XXII, Section 19, Constitution of the State of New Mexico and simultaneously defying the authorities of Sections 10-2-5, 6, 7, and 9 NMSA 1978.

Others holding positions as state judges who are under oath to a chief justice of the New Mexico Supreme Court which granted them authority to practice law for profit in New Mexico Courts of law, and which gave them a status above and beyond the ordinary citizen who could not practice law in their courts of law for a financial gain; the process occurred under a system of peonism actively practiced within New Mexico, then and now, by denying the power of the Thirteenth Amendment and defying the authorities of 14 Stat. 546, a statute giving effect to that constitutional power.

Still others serve the Court in an employee status who were authorized to practice law for profit in New Mexico courts of law for financial gain; thereby, their participation in the system of peonism automatically held the ordinary citizen subservient under that condition of peonism by denying the power of the Thirteenth Amendment and defying the authorities of 14 Stat. 546, a statute giving effect to that constitutional power.

In view of the foregoing, the Court is not competent to hear and determine any case currently before it. Those who have been made aware of the foregoing state of Court incompetence who do not immediately take action to support the Constitution of the United States as they promised to do in the oath they took to practice law for profit under provisions of Supreme Court Rule 15-304; thereby, perjure the oath taken; they join those holding or serving in positions within the Court as criminal insurgents as defined in *In re Charge to Grand Jury*, 62 F. 828 (ND Ill. 1894) and addressed in Section 3, Fourteenth Amendment.

WHEREFORE, Defendant(s) _____ as (a) free citizen(s), demand relief in an amount equal to three times the amount in controversy under Section 4, Fourteenth Amendment and under authority of 18 U.S.C. Sections 1593A and 1595

giving that power effect for illegally using the power and authority of this honorable Court to compel them involuntarily by legal coercion subjugating them under court orders to a system of peonism against their free will.

Respectfully submitted,

_____ if more than one person involved add name &
address
(name) *Pro Se* At-Arms –Length
(address)

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing motion was sent first class by U.S. Mail, postage prepaid to the following on this ____ day of (month), 2012:
(opposing attorneys)

_____ (name)

DISTRICT COURT OF NEW MEXICO

(area for case identification)

Plaintiff,

vs.

No. CIV

(area for case identification)

Defendants.

**MEMORANDUM BRIEF IN SUPPORT OF FORMAL MOTION
FOR AN ORDER AGREEING THAT THE COURT IS INCOMPETENT**

Statement of the Issue

The _____ claim the Court lacks jurisdiction and is not competent to act on grounds that persons holding positions as public officers and some of those serving the Court as employees do so under false pretenses by denying constitutional powers and defying laws enacted by the legislature giving effect to those powers.

The defendants are thereby held subordinate involuntarily, either directly or indirectly, by court exercised authority to a condition of involuntary servitude satisfying illicit obligations prohibited by 14 Stat. 546, a statute currently codified as 42 U.S.C. § 1994 and 18 U.S.C. §§ 1581 *et seq.* That being so, the _____ are entitled to a civil

remedy from the Plaintiff, authorized under power of Section 4, Fourteenth Amendment, and under 18 U.S.C. §§ 1593A and 1595; the remedy is conveyed to the _____ under the powers of both Sections 4 and 5, Fourteenth Amendment; and the remedy in United States currency demanded equals three times the amount in controversy.

Statement of the Facts, Authorities, and Points of Law

Section 2, 36 Stat. 557, the enabling act authorizing the Territory of New Mexico to:

form a constitution and state government mandated that the constitution shall be republican in form, shall make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. Furthermore, the enabling act mandated that the convention established thereby shall provide, by an ordinance irrevocable without the consent of the United States and the people of the state, a total of nine specific provisions; all of which shall, by proper reference, be made a part of any constitution that shall be formed; and formed in terms as shall positively preclude the making by any future constitutional amendments of any change or abrogation of the ordinance created in whole or in part without the consent of congress.

Section 19, Article XXII Constitution of New Mexico and mandated as one provision of the irrevocable ordinance required in the preceding paragraph that all public officers take the oath of office and give a personal recognizance bond by the existing laws of the Territory of New Mexico, note the date of such laws; to wit:

Article XXII, Section 19, Const. N.M. [First state officers.]

Within thirty days after the issuance by the president of the United States of his proclamation announcing the result of said election so ascertained, all officers elected at such election, except members of the legislature, shall take the oath of office and give bond as required by this constitution or by the laws of the territory of New Mexico in case of like officers in the territory, county or district, and shall thereupon enter upon the duties of their respective offices; but the legislature may by law require such officers to give other or additional bonds as a condition of their continuance in office.

(Section does not exempt officers elected subsequently to first election from giving bond. *Board of Comm'rs v. District Court*, 29 N.M. 244, 223 P. 516 (1924)).

New Mexico laws formally territorial laws as indicated in bold print:

Section 10-2-5. [Recording of bonds required.] **(1893)**

The bonds given by all persons elected or appointed to office in this state shall be recorded.

History: Laws 1893, ch. 56, § 1; C.L. 1897, § 3187; Code 1915, § 515; C.S. 1929, § 17-111; 1941 Comp., § 10-205; 1953 Comp., § 5-2-5.

Section 10-2-6. [Record of official bonds of state and district officers.] **(1893)**

The bonds of all state and district officers shall be recorded in a record book to be provided for that purpose, and known as the record of official bonds, in the office of the secretary of state.

History: Laws 1893, ch. 56, § 2; C.L. 1897, § 3188; Code 1915, § 516; C.S. 1929, § 17-112; 1941 Comp., § 10-206; 1953 Comp., § 5-2-6.

Section 10-2-7. [Filing of bonds by officials of state and state agencies.] **(1905)**

The bonds of all state officials, and of the members of all state boards and institutions, after having been recorded as required by law, shall be filed and kept in the office of the secretary of state; and all state bonds now filed elsewhere shall be transferred to the office of the secretary.

History: Laws 1905, ch. 59, § 1; Code 1915, § 517; C.S. 1929, § 17-113; 1941 Comp., § 10-207; 1953 Comp., § 5-2-7.

Section 10-2-9. [Recording as prerequisite to discharging duties of office.] **(1893)**

Each and every person who may hereafter be elected or appointed to office in this state, required by law to give bond, shall file the same for record **before entering upon the discharge of the duties of the office.** [Emphasis added.]

History: Laws 1893, ch. 56, § 5; C.L. 1897, § 3190; Code 1915, § 519; C.S. 1929, § 17-115; 1941 Comp., § 10-209; 1953 Comp., § 5-2-9.

2. The Fifth irrevocable provision of 36 Stat. 577 mandated that the State shall never enact any law restricting or abridging the right of suffrage on account of race,

color, or previous condition of servitude, and specific language requirements of all state officers. At the time the territory became a state, a system of peonism was actively practiced territory wide. **See** *Federal Peonage Cases*, 123 F. 671 (ND Ala. 1903).

3. The _____ declares before this honorable Court, that as a free citizen, he/she is entitled to the rights of life, liberty, and the pursuit of happiness guaranteed by the national and state constitutions and every statutory right provided by both state and federal law whether:

a. Represented by one unlawfully authorized to practice law in this Court, or not,
b. Representing themselves and their real property,
c. Compelled and then held against their free will by court order rendered by persons denying the powers of the Constitution of the United States of America, and defying the authorities of statutes enacted by the United States Congress giving effect to those powers, and

d. Opposed, in the instant case/ at times, by persons authorized to practice law in New Mexico unlawfully; persons who simultaneously use schemes to deny an overwhelming majority of the free citizens therein - over 99.9 percent of their population - a vocation to practice law for profit in their courts of law. **See** Constitution of the United States of America, the applicable state constitution, federal statutes giving effect to those powers, and similarly the Constitution and Statutes of New Mexico.

4. Holding the _____ to be subordinate to the Court in the above captioned case to and by those, under false pretenses, claiming to hold public office or employment who simultaneously deny powers of the Constitution of the United States of America and also defy the authorities of laws enacted by the United States Congress giving effect to

those powers render the _____ to be peons. See 14 Stat. 546 as currently codified..

5. The _____ as a free citizens could not be *held* lawfully as peons to service any obligation, either voluntarily, involuntarily, directly, or indirectly; and any acts, laws, orders, regulations, or usages maintained or enforced by persons with the same power and authority as those claiming to hold public office or employment while denying a constitutional power and doing so by holding. Forcing one by legal coercion to satisfy such an obligation or *holding them* otherwise under a system of peonage denies a power of the constitution and defies federal statutes giving that power effect; such conduct is declared null and void. See 42 U.S.C. § 1994.

6. The _____ declare, as a free citizen of the United States and the State of New Mexico, that those persons, whether posing as judge or lawyer, who use legal coercion by any means to *hold or return* them to conditions of peonism, a subspecies of involuntary servitude, become criminally liable for their acts. See 18 U.S.C. §§ 1581*et seq.*, and See *Imbler v. Pachtman*, 424 U.S. 409 at 429 (1976) which *voids any immunity claim by federal public officers and employees, state officers and employees, or any other persons authorized to practice law involved in legal coercion as prosecutors to hold or return one to a condition of peonism; to wit:*

This Court has never suggested that the policy considerations which compel civil immunity for certain governmental officials also place them beyond the reach of the criminal law. Even judges cloaked with absolute civil immunity for centuries, could be punished criminally for the willful deprivation of constitutional rights on the strength of 18 U.S.C. § 242, the criminal analog of § 1983. *O'Shea v. Littleton*, 414 U.S. 488, 503, 94 S.Ct. 69, 679, 38 L.Ed.2d 674 (1974; cf. *Gravel v. United States*, 408 U.S. 606, 627, 92 S.Ct. 2614, 2628, 33 L.Ed.2d 583 (1972)). The prosecutor would fare no better for his willful acts. *Imbler*.

7. Those persons under false pretenses claiming to hold public office or employment and receiving public appropriations for personal use while denying the powers of the Constitution of the United States of America and defying the federal statutes giving those powers effect, as well as those who know of the deficiency, are insurgents against the constitution as addressed and defined in a case named and numbered: *In re Charge to Grand Jury*, 62 F. 828 (ND Ill. 1894); to wit:

The open and active opposition of a number of persons to the execution of the laws of the United States, of so formidable a nature as to defy for the time being the authority of the government, constitutes an insurrection, though not accompanied by bloodshed, and not of sufficient magnitude to render success probable.

8. A court without a judge lacks jurisdiction and is not competent. *Orosco v. Cox*, 75 N.M. 431 at 435, 405 P.2d 668 (S.Ct. 1965); to wit:

We note that the word "competent" which modifies "court" in both § 22-11-2, supra, and § 22-11-16, supra, has been defined by Webster's Third New International Dictionary as follows:

"* * * legally qualified or capable: as (a) authorized to act or possessed of jurisdiction [a competent court] [a competent judge] b: * * * c: meeting legal requirements as to validity [competent evidence] * * *."

These sections then require that for a court to be competent, jurisdiction must be present, and that jurisdiction clearly may be lost. *When certain constitutional guaranties are denied, overlooked, or omitted, the conviction or sentence is not by a "competent" court. See Johnson v. Zerbst*, 304 U.S. 458, 82 L. Ed. 1461, 58 S. Ct. 1019, 146 A.L.R. 357.

[Emphasis added.]

Summary of the Argument

1. The Court lacks jurisdiction to hear and determine any cause of action, civil or criminal, while the following conditions exist:

a. Those persons holding positions as state judicial officers or employees assigned duties in this honorable Court while doing so under false pretenses denied the Court jurisdiction and thereby a lack of competence.

b. Those persons who qualified for a office or employment position in the Court grounded upon being authorized to practice law for profit in New Mexico courts of law obtained such authorization by freely applying for that authority under illicit New Mexico Supreme Court Rules and thereby participated in a criminal conspiracy, 18 U.S.C. U.S.C. § 241, with persons posing as supreme court justices and rules they created without any political suffrage of the non-lawyer free citizenry, and then participated to do so under the authority of a foreign power, the American Bar Association, a political entity not under the control of the State of New Mexico or any Department of Government therein. Said conspiracy, joined in by the said applicant's voluntary participation, created the system of peonism currently imposed upon all of their fellow non-lawyer citizens who were denied political participation in the procedure for authority to practice law for profit by the scheme. Still further, such court rules, which denied a free choice to all of their fellow citizens, was prohibited by:

Section 26, Article IV, Constitution of the State of New Mexico,

Section 38-1-1 NMSA 1978, a state statute giving effect to that state constitutional power, and

The mandate contained in 36 Stat. 557. **See** Paragraph 2, Statement of Facts above.

Thereby, giving effect to the said Supreme Court Rules and the free participation in those rules by the eligible few subjected all other non-lawyer free citizens made ineligible to apply, to a system of peonism, a condition of involuntary servitude without

recourse, and without a free political choice constitutionally guaranteed each one of them under 36 Stat. 577 as regards the irrevocable right to political suffrage.

c. Any person receiving public appropriated funds for personal use under false pretenses simultaneously denying any power of the constitution and defying the authorities of statutes giving effect to that power is an insurgent against the constitution. Such persons automatically forfeits the office or employment position held as mandated by Section 3, Fourteenth Amendment unless the disability is removed by a vote of two-thirds in each House of the United States Congress.

First Argument

The Court lacked jurisdiction and therefore competence to act on grounds that certain persons holding positions as state judicial officers or employees assigned duties in this honorable Court served under false pretenses. Persons holding positions as state district judges and assigned duties with the Court are serving as state public officers while denying Section 19, Article XXII, Constitution of New Mexico and the irrevocable territorial statutes giving effect to that constitutional power, statutes which were mandated as a requirement for the territory to become the State of New Mexico. Specifically 36 Stat. 557 at 558 mandated that the constitutional convention provide by an ordinance *irrevocable* without the consent of the United States and the people of New Mexico nine special provisions. The Fifth provision at 36 Stat. 557 at 559 forbids any law restriction or abridging the right of suffrage on account of a previous condition of servitude. Those citizen ineligible to politically engage in a vocation authorized to practice law for the profit motive were eliminated from that specific public domain without the consent of the United States, in violation of the Thirteenth Amendment and in

violation of 14 Stat. 546 which prohibited all forms of peonism. *Any person compelled to satisfy an unlawful obligation by legal coercion is subjected to a system of peonism and may be identified as a peon.*

Those persons serving as state judicial public officers are insurgents against the state constitution while embezzling state public appropriations for personal use while posing as lawful state public officers. Present state judicial public officers are embezzling state public appropriations during their service posing as state public officers.

In view of the foregoing, all decisions, opinions, and orders rendered by anyone of them, at all times pertinent, whether posing as judge or lawyer authorized to practice law, were null, void, and without legal effect at time of inception. The Court lacked jurisdiction and therefore competence to render judicial decisions, opinions, and orders as state district judges, and any one of them that served as chief judge of the court, at any time pertinent, could not hire any persons to serve as court employees.

Second Argument

All those persons who are serving as state officers in the Court are grounded upon being authorized to practice law for profit in New Mexico courts of law obtained such authorization by freely applying for that authority using a criminal scheme unlawfully created by New Mexico Supreme Court justices and court rules they created in violation of Section 38-1-1 NMSA 1978, a statute enacted by the New Mexico Legislature giving effect to Section 26, Article IV, Constitution of New Mexico. Said persons, who subsequently became state employees, thereby participated in a criminal conspiracy scheme with persons unlawfully posing as Supreme Court justices using illicit court rules. Said persons were granted authority under Supreme Court Rules 15-102, and 103,

and under oath prescribed by 15-304 to practice law for profit while participating beneficially - a requirement by said court rules - in the criminal conspiracy as members of a state bar, achieved under provisions created by the American Bar Association, a political entity not eligible to vote in state elections, and not under any control of the State of New Mexico or any Department of State Government therein. The net result of the criminal scheme was a system of peonism imposed upon those declared by the rules to be ineligible to practice law for profit without them given a choice in the matter severely limited their skill and prowess without practice as future *pro se* litigants. Finally, the criminal conspiracy scheme preventing the free New Mexican citizenry from the practice of law for profit as a vocation gave credence to and support for a system of peonism. The system of peonism resulting could not have developed its force and effect and would have been seriously impaired without the participation and blessings of all those illegally authorized to practice law for profit in New Mexico courts of law, an authorization which subsequently qualified some of them for federal employment.. Those employed in this Court as state employees – clerks and magistrate judges - therefore benefited from a criminal scheme which developed into a system of peonism prohibited by 14 Stat. 546 currently codified as 42 U.S.C. § 1994 and 18 U.S.C. §§ 1581*et seq.* and enacted under power of Section 2, Thirteenth Amendment, Constitution of the United States of America. Their participation in a criminal conspiracy became a path for subsequent state employment in this Court and that specific set of circumstances currently denies the Court jurisdiction and competence to act on any and all cases before it during their holding state office or employment.

Third Argument

Any person receiving state public appropriated funds for personal use while doing so under false pretenses simultaneously denying any power of the constitution and defying the authorities of statutes giving effect to that power is an insurgent against the constitution. Such persons automatically forfeits the office or employment position held as mandated by Section 3, Fourteenth Amendment unless the disability is removed by a vote of two-thirds in each House of the United States Congress. Persons addressed by the First and Second Arguments above received state publicly appropriated funds for personal use under false pretenses, and thereby render the Court incapable of possessing valid jurisdiction and competency to render decisions, opinions or orders in any case before it during all times pertinent. The Court lacked jurisdiction and therefore competency to act in all cases before it during all times pertinent which includes the cases captioned above.

Conclusion

This honorable Court is not competent to act in any case before it; the persons therein exercising any power or authority of the Court do so unconstitutionally and unlawfully; they each one of them, embezzle state appropriated funds; and are insurgents against constitutional power and statutory authorities for which _____ are entitled to financial remedies for exposing their insurgency.

All publicly appropriated funds received by those addressed in the first two arguments must be returned to the New Mexico state treasury forthwith.

Respectfully submitted,

if more than one person involved add


name & address
(name) *Pro Se* At-Arms –Length
(address)

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing Memorandum Brief was sent first class by U.S. Mail, postage prepaid to the following on this ____ day of (month), 2012:
(opposing attorneys)

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