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**IN THE DE JURE FEDERAL DISTRICT COURT
DISTRICT OF NEVADA**

Thomas Benson	§	
	§	
Counterclaimant	§	CASE NO: 2:17-cv-00447
	§	
v.	§	
	§	
STATE OF NEVADA	§	Re: Rebuttal to Counterdefendants' Motion
CLARK COUNTY	§	To Strike Cease and Desist and
COUNTY OF CLARK	§	Motion to Dismiss
CITY OF LAS VEGAS	§	
KENNETH MEAD	§	
MICHAEL MADLAND	§	
DOUGLAS GILLESPIE	§	
D. KING	§	
FOX5NEWS	§	
LAS VEGAS METROPOLITAN POLICE	§	
UNITED STATES FEDERAL BUREAU	§	
OF INVESTIGATIONS(FBI)	§	
B. VANOOSBREE	§	
CLARK COUNTY SHERIFF DEPARTMENT	§	
S. JUNG	§	
UNITED STATES DEPARTMENT OF THE	§	
TREASURY	§	
FBI AGENTS DOE THROUGH 40	§	

LAS VEGAS METROPOLITAN	§
POLICE DOES 1 THROUGH 30	§
DEPARTMENT OF THE TREASURY DOE1	§
DEPARTMENT OF THE TREASURY DOE2	§
UNITED STATES INC.	§
EWING BROTHER'S, INC.	§
LAS VEGAS REVIEW JOURNAL	§
ELI SEGALL	§
JASON GUNNELL	§
	§
	§
Counterdefendants	§
	§

Rebuttal of Motion to Strike Cease and Desist and Motion to Dismiss

1. Comes now the counterclaimant to respond to counterdefendants' Motion To Strike Cease and Desist Order and Motion to Dismiss.
2. Counterdefendants arguments have no merit, because a court of record is very well defined and said definition was provided in the Law of the Case included as Exhibit A and was included in the Order to Cease and Desist itself.
3. Counterdefendants argue they do have jurisdiction, but have failed to provide any supporting evidence to prove said jurisdiction as required by over twenty previous case cites, thirteen of which were included in the above entitled action.
4. Counterdefendants Motion to Dismiss is based on the counterclaimant having previously filed an suit in the admiralty court and requesting the admiralty court dismiss the case. This action has been filed in a court of record, a completely different court.

5. Counterclaimant Benson is challenging the jurisdiction of the counterdefendants claim over Counterclaimant, one of the people. Once jurisdiction is challenged it cannot be decided and must be proven on the record. "The law provides that once State and Federal Jurisdiction has been challenged, it must be proven." *Main v. Thiboutot*, 100 S. Ct. 2502 (1980)
6. Proceeding where jurisdiction is lacking is not only a trespass¹, but treason². "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." *Cohens v. Virginia*, 19 U.S. 264, 6 Wheat. 265, 5 L.Ed. 257 (1821)
7. All of the lawful arguments to support the Cease and Desist Order were provided with said order. If counterdefendants could prove jurisdiction, counterdefendants would have provided the evidence rather than the feeble argument presented in their Motion to Strike.
8. Since the counterdefendants did not comprehend the definition of a Court of Record, it is again provided herein.
9. COURT OF RECORD. To be a court of record a court must have four characteristics, and may have a fifth. They are:

¹ Where a court has jurisdiction, it has a right to decide any question which occurs in the cause, and whether its decision be correct or otherwise, its judgments, until reversed, are regarded as binding in every other court. But if it acts without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a remedy sought in opposition to them, even prior to a reversal. They constitute no justification, and all persons concerned in executing such judgments or sentences are considered in law as trespassers. *Elliott v Peirsol*, 1 Pet. 328, 340, 26 U.S. 328, 340, 7L.Ed. 164 (1828)

² The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason. *U.S. v. Will*, 449 U.S. 200, 216, 101, S. Ct. 471, 66 L.Ed. 2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821)

A. A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v.

Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

B. Proceeding according to the course of common law [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v.

Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

C. Its acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony. (3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481;

Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 2310)

D. Has power to fine or imprison for contempt. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2

L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

E. Generally possesses a seal. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2

L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426] See also: The Constitution of the State of Nevada, Article 6, § 9.

Article 6, § 9. Municipal courts. Provision shall be made by law prescribing the powers[,] duties and responsibilities of any Municipal Court that may be established in pursuance of Section One, of this Article; and also **fixing by law the jurisdiction** of said Court so as **not to conflict with that of the several courts of Record.**

10. The Supreme Court of the United States of America has even opined³ that it does not have the jurisdiction to question the decisions of a court of record.
11. Henceforth the writ which is called Praecipe shall not be served on any one for any holding so as to cause a free man to lose his court. Magna Carta, Article 34.
12. "Inferior courts" are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law." Ex Parte Kearny, 55 Cal. 212; Smith v. Andrews, 6 Cal. 652; Criminal courts proceed according to statutory law. Jurisdiction and procedure is defined by statute. Likewise, civil courts and admiralty courts proceed according to statutory law. Any court proceeding according to statutory law is not a court of record (which only proceeds according to common law); it is an inferior court.
13. The inferior court is not permitted to proceed against any people without first proving its jurisdiction on the record, whether the officer presiding over said court has been specifically name as a defendant or not. Public servants do not have immunity for exceeding their

³ "The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it." Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973)]

jurisdiction, since once the jurisdiction has been exceeded, the public servants becomes merely any other individual causing a trespass on one he has not authority over.

14. Counterdefendants Ewing arguments for lack of clarity can be answered by the clarification that Ewing Brother's Inc. is, has and does on a regular basis aid the other defendant corporation to extort funds from the people of Nevada with no authority over said people. As has been stated in the original above titled action at law, counterclaimant is not a U.S. citizen, U.S. person or corporation subject to the jurisdiction of counterdefendants. Counterdefendant Ewing's counsel's lack of comprehension of law and reading comprehension of simple and clear arguments of law is an issue for counterdefendant Ewing since Ewing's counsel presented itself to the public as "attorneys at law". One should have a comprehension of law prior to offering his services to the public.
15. Counterdefendant City of Las Vegas' argument to dismiss lacks merit as the allegations presented in the above titled action very clearly allege that the City of Las Vegas, through it contract with the LVMPD has exceeded its jurisdiction over counterclaimant. This is a very clear and simple argument. The people of Nevada are not subjects of the governments created by the people to serve the people. On the contrary, the government agents and agencies are subjects of the people are have the sole responsibility of protecting the rights of the people rather than infringe on the rights of the people.
16. This court is a court of record having general jurisdiction over all matters and all people. The State of Nevada, a corporation not to be confused with the Nevada state, and all of its

subdivisions have regularly used their positions to obstruct due process⁴ of law. As such, this court is the appropriate venue for hearing a case that involves inferior courts conspiring with the other counterdefendants to commit crimes and injuries against the people of Nevada, the state not the corporation.

17. Counterdefendant Segall's Motion to Dismiss is erroneous from in the very first line of the argument referring to the "complaint" as pro se. This action at law was filed by the sovereign of the court who is standing in court as himself. Counterclaimant is not "representing" himself, because counterclaimant is in the court.

18. The first amendment to the Constitution of the United States of America allows freedom of speech. It does not give free reign for anyone to lie about others in an effort to cause discredit or other injuries to the subject of said lies. Had the story published by counterdefendant Segall been true, then Segall could have depended on the first amendment for protection. However, since, as is evidenced by the fact the the three charges against the counterclaimant have been dismissed in the inferior court not of record, counterclaimant had broken no "laws" and has never referred to himself as a "sovereign citizen", and oxymoron that cannot exist since a citizen is by definition a subject of another, Segall comment publish for broad dissemination could only be construed as to have caused an injury. The first amendment does not provide protection of a trespasser from correcting the record and paying for the

⁴Due process of law is process according to the law of the land Due process of law in the latter [the Fifth Article of Amendment to the Constitution) refers to that law of the land which derives its authority from the legislative powers conferred upon Congress by the Constitution of the United States, exercised within the limits therein prescribed and interpreted according to the principles of the common law Mr. Justice Matthews, delivering the opinion of the court in *Hurtado v. California*, 110 U.S. 516, 3 Sup. Ct. 111,292,28 L. Ed. 232 (1884).

damages caused to the injured party due to the carelessness of the trespasser for doing what would have been a very simple task of getting the other side of the story before merely taking the word of th others that have committed offenses against counterclaimant. Had Segall merely done its job in fact checking, it would not be involved in this action.

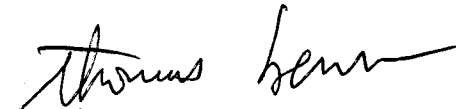
19. Counterdefendant Segall refers to people who use the letter of the Nevada Statutes as “squatters and scammers” when Nevada statutes permit the taking of real property using the very specific steps delineated in said statutes. Furthermore, counterclaimant, who was photographed and included with others, was presumed by Segall to be participating in the same adverse possession. Counterdefendant was merely present doing what Segall does and was collecting information and video for publication according to counterclaimant’s first amendment rights. Segall’s argument is akin to counterclaimant photographing Segall at the scene of a crime and including Segall with the perpetrators of said crime in counterclaimant’s publication.
20. Segall’s argument regarding the name of the injury being a “Trespass on the Case” rather than “defamation” again reveals Segall’s counsel’s lack of knowledge of law. This again is an issue for Segall who depended on his counsel’s knowledge of law when contracting with said counsel.
21. In all Motions submitted by the counterdefendants, said arguments were submitted on behalf od counterdefendants by members of the BAR. Members of the BAR are foreign agents required to register with the United States government as such according to the Fooreign Agent Registration Act of 1938. This act has not been repealed. BAR members are granted the title of

nobility of esquire. Esquire is a title of nobility that falls between gentleman and knight. Article I, Seciton 10, Clause one of the Constitution for the United States of America disallows any state to grant a title of nobility. This serves as evidence the said titles of nobility were granted from without these untied States. Counterclaimant has found no evidence that any of the counterdefendant's "attorney" have filed as required by FARA. As such, said attorney's are not permitted in this court of record.

22. All counterdefendants' motions cite code foreign to this court and said code does not have standing. The law of the case was provided with the above titled action for reference.

23. Counterdefendants' Motions should be denied for lack of merit as has previously been provided on the record and is again provided herein.

The 22th day of March, 2017.


By: Thomas Benson

CERTIFICATE OF SERVICE

I, certify that the true and correct copy of the foregoing document Rebuttal to Motion To Strike will served upon by placing it in a sealed envelope First Class Mail Postage prepaid in the U.S. at Las Vegas, Nevada and address mail to:

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Dated: 22nd day of March, 2017

By Clara L. Bernate