

Exhibit M: LAW OF THE CASE

The law of the case is decreed as follows:

Whereas the people of Oregon have framed, ratified, and adopted a constitution of State government which is republican in form, and in conformity with the Constitution of the United States, and have applied for admission into the Union on an equal footing with the other States;.... [ACT OF CONGRESS ADMITTING OREGON INTO UNION, Approved February 14, 1859.]

Republican government. One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. [In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627." Black's Law Dictionary, Fifth Edition, p. 626.]

We the people of the State of Oregon to the end that Justice be established, order maintained, and liberty perpetuated, do ordain this Constitution. [PREAMBLE to the Oregon Constitution]

Natural rights inherent in people. We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; [Oregon Constitution, ARTICLE I, Section 1.]

In America the sovereign power resides in the people who speak through the law. [Governor Julius L. Meier, Inaugural message to the 36th Legislative Assembly, Oregon, 1931]

...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves..... [CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp471-472.]

The very meaning of 'sovereignty' is that the decree of the sovereign makes law. [American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.]

The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. [Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am.Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.]

The sovereignty of a state does not reside in the persons who fill the different departments of its government; but in the people from whom the government emanated, and who may change it at their discretion. Sovereignty then, in this country, abides with the constituency and not with the agent. And this remark is true, both in reference to the federal and state governments." Spooner v. McConnell et al, 1 McClean 337, (1838) 22 Fed. Cas. 939, 943

....This declaration of rights may not be construed to impair or deny others retained by the people." [California Constitution, Article 1, Declaration Of Rights Sec. 24.]

The state cannot diminish rights of the people. [Hertado v. California, 100 US 516.]

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 US 22, 24.]

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.]

There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights. [Sherer v. Cullen, 481 F 946.]

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business....The people of this state do not yield their sovereignty to the agencies which serve them. [California Government Code, Section 11120.]

"The people of this state do not yield their sovereignty to the agencies that serve them."
Washington Public Records Act, RCW §42.17.251

"[t]he fish in the waters of the state, and the game in its forests, belong to the people of the state, in their sovereign capacity."Anthony et al. v. Veatch et al., 189 Or 462, 487, 220 P2d 493 (1950).

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business....The people of this State do not yield their sovereignty to the agencies which serve them. [California Government Code Section 54950.]

Laws, whether organic or ordinary, are either written or unwritten. [California Code of Civil Procedure, Section 1895.]

A written law is that which is promulgated in writing, and of which a record is in existence. [California Code of Civil Procedure, Section 1896]

The organic law is the Constitution of Government, and is altogether written. Other written laws are denominated statutes. The written law of this State is therefore contained in its Constitution and statutes, and in the Constitution and statutes of the United States. [California Code of Civil Procedure, Section 1897]

Any judicial record may be impeached by evidence of a want of jurisdiction in the Court or judicial officer, of collusion between the parties, or of fraud in the party offering the record, in respect to the proceedings. [California Code of Civil Procedure, Section 1916]

The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land. [California Constitution, Article 3, Sec. 1.]

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. [Constitution for the United States of America, Article VI, Clause 2.]

Property rights of citizens: All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property. [42 USC 1982]

Conspiracy against rights: If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured - They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death. [18, USC 241]

Deprivation of rights under color of law: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; [18, USC 242]

Civil action for deprivation of rights: 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 Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. [42 USC 1983]

Conspiracy to interfere with civil rights: Depriving persons of rights or privileges: If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; . . . or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators. [42 USC 1985(3)]

Action for neglect to prevent: Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages

caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued. [42 USC 1986]

Oregon Constitution: ARTICLE I, BILL OF RIGHTS: Section 10. Administration of justice. No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation.

Oregon Constitution: ARTICLE VII (Original); THE JUDICIAL DEPARTMENT:
Section 1. Courts in which judicial power vested. The Judicial power of the State shall be vested in a Supreme [sic] Court, Circuits [sic] Courts, and County Courts, which shall be Courts of Record having general jurisdiction, to be defined, limited, and regulated by law in accordance with this Constitution

Oregon Constitution: ARTICLE VII (Original); THE JUDICIAL DEPARTMENT:
Section 10. Supreme and circuit judges; election in classes. The Legislative Assembly, may provide for the election of Supreme, and Circuit Judges, in distinct classes, one of which classes shall consist of three Justices of the Supreme Court, who shall not perform Circuit duty, and the other class shall consist of the necessary number of Circuit Judges, who shall hold full terms without allotment, and who shall take the same oath as the Supreme Judges.

Oregon Constitution: ARTICLE VII (Original); THE JUDICIAL DEPARTMENT:
Section 21. Oath of office of Supreme Court Judges. Every judge of the Supreme Court before entering upon the duties of his office shall take, subscribe, and transmit to the Secretary of State the following oath.—I _____ do solemnly swear (or affirm) that I will support the Constitution of the United States, and the constitution of the State of Oregon, and that I will faithfully, and impartially discharge the duties of a Judge of the Supreme, and Circuits [sic] Courts of said State according to the best of my ability, and that I will not accept any other office, except Judicial offices during the term for which I have been elected.—

COURT. The person and suit of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be. [Black's Law Dictionary, 5th Edition, page 318.]

COURT. An agency of the sovereign created by it directly or indirectly under its authority, consisting of one or more officers, established and maintained for the purpose of hearing and determining issues of law and fact regarding legal rights and alleged violations thereof, and of applying the sanctions of the law, authorized to exercise its powers in the course of law at times and places previously determined by lawful authority. [Isbill v. Stovall, Tex.Civ.App., 92 S.W.2d 1067, 1070; Black's Law Dictionary, 4th Edition, page 425]

A consequence of this prerogative is the legal ubiquity of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice. (Fortesc.c.8. 2Inst.186)

His judges are the mirror by which the king's image is reflected. 1 Blackstone's Commentaries, 270, Chapter 7, Section 379.

The courts of one sovereign generally do not execute the penal laws of another. (19) That means that governmental officials who prosecute offenses must do so in the courts of the sovereign that they serve. [165 Or. App. 180 SIMS v. BESAW'S CAFE]

". . .The Tribe's role as commercial partner with petitioners should not be confused with its role as sovereign. It is one thing to find that the Tribe has agreed to sell the right to use the land and take valuable minerals from it, and quite another to find that the Tribe has abandoned its sovereign powers simply because it has not expressly reserved them through a contract. To presume that a sovereign forever waives the right to exercise one of its powers unless it expressly reserves the right to exercise that power in a commercial agreement turns the concept of sovereignty on its head." Merrion v. Jicarilla Apache Tribe, 455 U.S. 130 (1982)

COURT OF RECORD. To be a court of record a court must have four characteristics, and may have a fifth. They are:

A. A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial. [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][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, 231]

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]

Black's Law Dictionary, Fourth Edition pages 425 and 426 gives further discussion of the court of record as follows; "Courts of record are those whose acts and judicial proceedings are enrolled or recorded for a perpetual memory and testimony and which have the power to fine and imprison for contempt..... A "court of record" is a judicial tribunal having attributes and exercising functions independently of the Magistrate designated generally to hold it, and proceeding according to the course of the common law, its acts and proceedings being enrolled for a perpetual memorial. Jones v. Jones;

188 Mo. App.220, 175 S.W. 227, 229; Ex Parte Gladhill, 8 Metc., Mass. 171, per Shaw, C. J. See also Ledwith v Rosalski; 244 N.Y. 406,155 N.E.688, 689.” (Emphasis added).

"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)]

A court of record is a "superior court." A court not of record is an "inferior court."

"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

"The only inherent difference ordinarily recognized between superior and inferior courts is that there is a presumption in favor of the validity of the judgments of the former, none in favor of those of the latter, and that a superior court may be shown not to have had power to render a particular judgment by reference to its record.” Ex parte Kearny, 55 Cal. 212.

Who are magistrates. The following persons are magistrates: [ORS, Sec. 133.030]

- (1) Judges of the Supreme Court;
- (2) Judges of the Court of Appeals;
- (3) Judges of the circuit court;
- (4) County judges and justices of the peace; and
- (5) Municipal judges.

...our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgement in all their points, that is to wit, the Great Charter as the common law.... [Confirmatio Cartarum, November 5, 1297, Sources of Our Liberties Edited by Richard L. Perry, American Bar Foundation]

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].

Separation of powers. The powers of the Government shall be divided into three seperate [sic] departments, the Legislative, the Executive, including the administrative, and the Judicial; and no person charged with official duties under one of these departments, shall exercise any of the functions of another, except as in this Constitution expressly provided. [Oregon Constitution, ARTICLE III, Section 1.].

Oregon Administrative Procedures Act respecting “contested cases”:

183.310 Definitions for chapter. As used in this chapter:

- (1) “Agency” means any state board, commission, department, or division thereof, or officer authorized by law to make rules or to issue orders, except those in the legislative and judicial branches.
- (2)(a) “Contested case” means a proceeding before an agency:

Oregon Vehicle Code --

802.010 Duties of Department of Transportation regarding motor vehicles and drivers.

(1) The Department of Transportation shall perform all of the duties, functions and powers with respect to the following:

(d) The administration of the laws relating to operation of vehicles on highways. . . (Emphasis mine)

ORS 183.482 Jurisdiction for review of contested cases; procedure; scope of court authority.

(1) Jurisdiction for judicial review of contested cases is conferred upon the Court of Appeals.

(7) Review of a contested case shall be confined to the record, the court shall not substitute its judgment for that of the agency as to any issue of fact or agency discretion.

The Hobbs Act states:

Whoever in anyway or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

As used in this section:

(1)The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. (Emphasis added)

Requirements for Standing :

"Standing is an aspect of justiciability which may not be waived." *Strank v. Public Employees Retirement Board*, 108 P.3d 1058.

"A person has standing if resolution of the issues presented will have a practical effect on his or her rights." *Generaux v. Dobyons*, 134 P.3d 983, 986.

"At least in the absence of a statute, a party has standing to assert only its own legal rights." *Estate of Selmar A. Hutchins v. Fargo*, 72 P.3d 638, 640.

"[r]egardless of what the legislature provides regarding the standing of litigants to obtain judicial relief, the courts always must determine that the constitutional requirements of justiciability are satisfied. [citation omitted] Specifically, we reasoned that (1) the party that invokes the jurisdiction of the court

has the "obligation to establish the justiciability of the claim...(2) to establish that the claim is justiciable, the party "must demonstrate that a decision in this case will have a practical effect on its rights." Barton v. City of Lebanon, 88 P.3d 323, 326.

"PLEASE TAKE MANDATORY JUDICIAL NOTICE OF THE FOLLOWING"

3. The ticket is deemed to be a "complaint" and the Supreme Court of the United States of America stated in OVERTON v. OHIO, Tuesday, October 16, 2001 Daily Appellant Report, which says the officer cannot sign the complaint nor the affidavits.

4. Pursuant to Penal Code §740, which says, "except as otherwise provided by law, all misdemeanors and infractions must be prosecuted by written complaint under oath subscribed by the complainant." Such complaint may be verified on information and belief. If there is no complaint, the court has no jurisdiction over the matter. See RIPLEY v. JOHNSON, 120 CAL2nd 548, 261 P2d 318. Please provide me with a copy of the affidavits in support of the complaint and the judge's determination of the probable cause pursuant to Penal Code §813.

5. The officer cannot determine the probable cause. See WONG SUN v. UNITED STATES, 371 U.S. 471, 83 S.Ct. 407 (1963) and OVERTON v. OHIO.

6. The officer cannot prosecute this case. See Penal Code §691(d) which states "Prosecuting Attorney" whether designated as District Attorney, City Attorney, City Prosecutor, Prosecuting Attorney, or by any other title, have by law the right or duty to prosecute, on the behalf of the people, any charge of public offense. The officer doesn't have a "Bar License" (card), he cannot prosecute nor can he have an opinion in court. If the court does not follow procedures prescribed by law, the court and its officers may held liable under "RICO Act." See U.S. V. FREGA, 179 F.3rd 793 (9th Cir. 1999) where three judges were charged with using the court as a "Racketeering Enterprise to Extort Money."

THE "Counterclaim" is a claim asserted by a defendant against a plaintiff. [Florida Fuel Oil, Inc. v. Springs Villas, Inc., 95 So. 2d 581, 583. A "Counterclaim" is a claim presented by defendant in opposition to or deduction from plaintiff's claim. [Kauffman v. Kebert, D.C. PA, 16 FRD 225, 228]. To constitute a "Counterclaim", an answer must be sufficient as a petition and contain a prayer for specific affirmative relief. [Chandler v. Sullivan, Ky, 265 W.S.2d 78].

JUDICIAL COGNIZANCE. Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence. [Black's Law Dictionary, 4th ed.]

If any claim, statement, fact, or portion in this action is held inapplicable or not valid, such decision does not affect the validity of any other portion of this action.

The singular includes the plural and the plural the singular.

The present tense includes the past and future tenses; and the future, the present.

The masculine gender includes the feminine and neuter.