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Reserved for Clerk's Filing Stamp

7 This document is <http://www.lawyerdude.netfirms.com/8622.pdf> , <http://www.lawyerdude.netfirms.com/8622.html>
8 <http://www.lawyerdude.netfirms.com/8622.rtf> and <http://www.lawyerdude.netfirms.com/8622.wpd>

9 **Municipal Court of California**
800 South Victoria, Ventura, California 93003

10 <http://www.ventura.courts.ca.gov/> Ticket payment: <https://public.courts.ventura.org/tphome.htm>

11 Clerk of court, a high school graduate, having
12 unlawfully and unconstitutionally (in
13 violation of her oath of office)
14 usurped the prosecutorial function
15 that is solely the province of the
16 elected prosecutor, dba under false
17 color of law and corrupt legal fiction
18 as "The People of California"
19 Specious

20 Plaintiff.
21 v
22 Robert Grafton,
23 One of the actual People of California,
24 Moving Party and Putative, Faux non-
25 Defendant.

Case Number
Ticket Number 929969
Deadline for response to ticket: 3 July.

1st Substantive Motion for Defendant.
Document #8622 Version 1.001

**Demand to Quash due to the clerk's
having usurped the power of the
prosecutor and for failure to file a
complaint.**

**Demand for recordation by a
stenographic court reporter.**

**Demand for prompt e-transcript of
every hearing by email to my
address shown above.**

Proof of Service.

Date: Tuesday 17 July 2007
Time: 1:30 pm
Place: Court #14_____

22 **Demand to Quash. Demand to Vacate. Waiver of time.**

23 To the clerk, judge, and police officer: You have all conspired and usurped the role of the
24 prosecutor by filing a ticket in this case thereby initiating prosecution and bypassing the prosecutorial
25 function: **At the venue designated in the caption or at such other venue as the court
26 shall designate**, I will demand that the court dismiss this case. Not one of you is a prosecutor. Some
27 of you work for the court; the court's job is to be a neutral judge - not a prosecutor. The inquisition ended
28 some years ago. You have done the work of the prosecutor and yet you don't do my work. You should be
neutral; you are not. "Equal Protection of the Law" is the law. **I waive my right to a speedy trial as
necessary to vindicate my legal rights. You should have advised me well; you didn't. If there were**

Motion #8622. Demand to Quash. By Robert Grafton.

1 a neutral prosecutor I could have worked this out with him. You may not be both judge and
2 prosecutor.

3 Signed _____ Robert Grafton. Monday, June 18, 2007

4 **Contents of this Demand to Quash/ Dismiss:**

5 **Notice of Concurrent and Upcoming Motions and Demands** -3-

6 **Statement of the Case** -3-

7 **There was no legal basis for this traffic stop. Traffic rules are merely
8 recommendatory.** -3-

9 **Police officer has usurped the clerk's role.** -3-

10 Declaration of Expert Attorney Douglas Palaschak regarding Traffic Court Abuses,
11 Methodology, Corruption, and Systemic Denial of Due Process - especially in Divisions
12 12, 13, and 14 in Ventura. -4-

13 A ticket can never be a summons. -5-

14 **Table of Authorities and Fountains of Liberty cited herein:** -6-

15 **U.S. Constitutional Clauses Cited herein:** -6-

16 **List of Clauses from the Florida Constitution cited herein:** -6-

17 **List of U.S. Supreme Court cases cited herein:** -6-

18 **Treaties cited herein:** -7-

19 **Illinois, California, and other Foreign Constitutions rightfully cited herein:** ... -7-

20 **Table of Statutes cited herein:** -7-

21 **List of California state cases cited herein:** -7-

22 Argument. Memorandum of Points and Authorities. -7-

23 **Clerk has unconstitutionally usurped function of prosecutor; Dismissal is my
24 remedy.** -8-

25 **My constitutional right to a remedy.** -8-

26 **Under U.S. Constitution IV, 2, I am entitled to Georgia, Illinois, and California
27 rights** -9-

28 I am entitled to utilize the constitutional concepts expressed in foreign constitutions. -9-

Fountains of Liberty: Magna Charta, 1948 Universal Declaration of Human rights.
..... -9-

I am a beneficiary of the rights declared by the California constitution. -10-

**The clerk and judge have usurped the prosecutorial function; that is wrong.
Dismissal is the remedy.** -10-

A defendant may appear by motion. -11-

Permitting Police to Summon me to court denies Equal Protection Under the Law
..... -11-

1 **The Legislature may not give Police the Power to Summon and may not give**
2 **Clerks the power to prosecute. -12-**
3 **You are Equitably Estopped from Presuming a Waiver of Jurisdictional Challenge.**
4 **. -12-**
5 **Pleadings of Pro Se Litigants must be given some leeway -12-**
6 **Special Scrutiny and Prosecution for those who know the law denies equal**
7 **protection. -12-**
8 **Proof of Service -12-**
9 **Appendix: Brief Biography of Attorney Douglas Palaschak -12-**
10 **Appendix: Sample state Bill of Rights. Excerpts from the Florida Bill of Rights. . . . -13-**
11 **Excessive fines -15-**
12 **Topical Index -15-**

11 **Notice of Concurrent and Upcoming Motions and Demands**

- 12 1. I will be filing a motion to suppress all evidence in this case.
13 2. Regarding the Pretextual Stop using the instrument of a vague and overbroad statute, I will be
14 challenging the statute should that issue arise. All traffic laws are merely recommendatory.
15 Otherwise the statutes would be oppressive. I will be moving in that regard.

16 **Statement of the Case**

17 I was ticketed in a pretextual traffic stop. Speeding. 58 in a 45. The clerk has invaded the
18 exclusive province of the prosecutor as set forth more fully in my memorandum of authorities below.

19 **There was no legal basis for this traffic stop. Traffic rules are merely recommendatory.**

20 There was no legal basis for this traffic stop/ ticket. Traffic rules are there to prevent accidents
21 and to assist in determining causation/ liability/ blame in the event of a car crash.

22 Even if there were a basis for the stop, a prosecutor would be required to make the decision to
23 prosecute - not this clerk. A prosecutor would have an ethical duty to reject this case. However, the clerk,
24 being uneducated in the law violates my rights when she usurps the prosecutorial role as she has done
25 here. Furthermore the clerk is biased in this case by loyalty to her employer. Money from my fine would
26 be added to the fund that pays her. She has thereby caused the court to be unconstitutionally biased.
27 See for example: *Tumey v Ohio* (1927) 273 U.S. 510. In this prohibition era case, the city received \$5 for
28 each conviction. The Tumey case can be see at: <http://www.lawyerdude.8k.com/Tumey.html>

Police officer has usurped the clerk's role.

 There has been a reciprocal usurpation. Ironically the police officer usurped the clerk's function
 which is to summon people to court only after there is a case filed by a duly authorized person. There was
 no such complaint/ case when the usurpatious officer issued the faux, spurious summons/ ticket to me
 appear in court. My remedy is this motion to Quash.

 To this date, I have been served neither a valid summons nor a verified complaint. I therefore

1 demand dismissal. I demand that this court recognize that I have neither been properly summoned to
2 court nor properly prosecuted by an authorized prosecutor. Instead a mere police officer performed the
3 legal nullity of serving me a substitute for a summons. The officer has no authority to summon me to
4 court; issuance of a summons is the duty of the clerk. The officer may not ordain himself a clerk even if
5 the legislature so deems.

6 The clerk, who would ordinarily issue summonses, now elevates herself to the position of
7 prosecutor by prosecuting this case without the requisite legal formality of a complaint signed by a
8 complaining party/ witness. This is classic stealthy incessant encroachment. Only a prosecutor may
9 lawfully file a complaint. The clerk may not ordain herself to the status of prosecutor.

10 Usurpation denies me Due Process. Both the federal and Georgia constitution guarantee me due
11 process.

12 By stealthy encroachment our oppressive governments encroach. Corporations including
13 governments enjoy eternal life and infinite wealth. They tell the lie over the course of generations. My
14 children do not know the lie that the government told my parents. This truth about the lie is most obvious
15 regarding income taxes. They were sold to Americans around 1909 as a tax that would never tax the
16 wages of the working man. Example 2: In 1903 the federal government usurped the power of our various
17 state militias by creating the National Guard and seizing control of the militias by co-opting/ incorporating
18 them.

19 Every court wants to be a profit center. They incorrectly claim to be working for the greater good
20 but they are not. Like all corporations they exist to serve their own; they thus create "the governing class"
21 which is a parasitic class. Traffic tickets are the bite of these parasites. The city justifies traffic tickets as
22 a means to raise revenue. In New Orleans the Public Defender is paid from revenue from parking meters.

23 In American the individual is king. All the aforementioned usurpations are destructive of our great
24 country.

25 So now we have a dynamic tension: the struggle between the individual human and the corporate/
26 government for hegemony. Today the various governments have sent forth swarms of employees to eat
27 up all our wealth.

28 This will not stand.

29 **Declaration of Expert Attorney Douglas Palaschak regarding Traffic Court Abuses, Methodology,**
30 **Corruption, and Systemic Denial of Due Process - especially in Divisions 12, 13, and 14 in**
31 **Ventura.**

32 For over a quarter century I have studied the tactics and methodology of traffic courts. They are
33 an instrument of oppression. Over half of my work consists of writing motions for traffic court. I see the
34 same patterns in nearly all the 50 states. Feudalism is a natural system. As civilized people we rise
35 above the medieval cruelty that was feudalism.

36 For years Ventura showed a video that contained blatant lies about your rights. In particular they

1 said there were 3 pleas; there are 6. They ignored the demurrer.

2 The prosecute insurance tickets even in the absence of an accompanying citation on the same
3 paper - in violation of statute.

4 Police court retains the vestiges of both feudalism and the Inquisition. Proof: "Mr. Smith, you are
5 accused of going 50 in a 35. How do you plead." Mr. Smith never thinks to ask "Who accuses me?" It is
6 obvious: the court accuses you! When the court is the accuser and the judge, then the system is
7 Inquisitorial and not Adversarial. Such is this police court of Mount Vernon. Masquerading under the
8 euphemism of "municipal court" changes nothing. This is military power used unconstitutionally against
9 the people.

10 **A ticket can never be a summons.**

11 A summons is required for the court to gain jurisdiction. A summons is a notification from the
12 court addressed to the defendant in a pending case. A ticket is never a summons despite the intentions of
13 the legislature. When a person write a ticket there is no pending case. There will be no pending case
14 until a prosecutor has made a decision to prosecute. Then the prosecutor files a complaint. Only then is
15 a summons possible. There is then a pending case. I would then have the opportunity to settle the case
16 with the prosecutor. Most traffic courts today permit the clerk to prosecute the case. This practice is
17 unconstitutional. It is an example of denial of equal protection. The clerk has demonstrated a bias for the
18 prosecution. Also, the clerk is paid by the money earned by the ticket that she prosecutes.

19 Your pretext for prosecuting this defendant is violation of a license. The license is a legal fiction.
20 We are each entitled to use the roads! It is only by incessant stealthy encroachment that the police state
21 now treats the roads as its private fiefdom. The right to use the highway has been eroded and diminished
22 until today it is no longer a right of the people but a franchise of the state.

23 The police power stems from a medieval concept of questioning every stranger. The police court
24 has been an instrument of institutional oppression. Your name has now been changed to the euphemism
25 of "municipal court" but the game remains the same. Your name change is part of your institutional deceit.

26 You are a mockery to justice.

27 No. This will not stand.

28 Signed by Robert Grafton for and with Special Permission of Palaschak

_____Monday, June 18, 2007.

1 **Table of Authorities and Fountains of Liberty cited herein:**

2 **U.S. Constitutional Clauses Cited herein:**

3 Article IV, Section 2.: The citizens of each state shall be entitled to all privileges and immunities of citizens
in the several states. -9-

4 Commerce Clause/ interstate commerce -9-

5 Due Process Clause -11-

6 Equal protection clause of the 14th amendment -12-

7 Griffin v Illinois (1956)100 L Ed 891, 351 US 12, 79 S Ct 585, 55 ALR2d 1055 I have a right to a transcript
even if I cannot afford one. <http://www.circuitlawyer.8m.com/griffin.html> -8-

8 **Haines v Kerner** (1972) 404 U.S. 519 (1972) [Http://www.lawyerdude.netfirms.com/haines.html](http://www.lawyerdude.netfirms.com/haines.html) Pleadings of
9 Pro Se litigants are entitled to some leeway. **Haines v Kerner** (1972) 404 U.S. 519 (1972)
[Http://www.lawyerdude.netfirms.com/haines.html](http://www.lawyerdude.netfirms.com/haines.html) This ruling is consistent with statutes in nearly all
10 jurisdictions. The law is not a trap for the unwary. For every wrong there is a remedy. -12-

11 No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the
12 United States; nor shall any state deprive any person of life, liberty, or property, without due process of
law; nor deny to any person within its jurisdiction the equal protection of the laws. - Privilege and
13 Immunities Clause of the 14th amendment. -9-

14 **List of Clauses from the Florida Constitution cited herein:**

15 Florida Bill of Rights. Excerpts are reprinted in the Appendix. -13-

16 Florida constitution Art. 1, section 21. guarantees my right to a remedy: Art. 1, section 21. Access to
17 courts- The courts shall be open to every person for redress of any injury, and justice shall be
administered without sale, denial or delay. - Florida Bill of Rights. -8-

18 **List of U.S. Supreme Court cases cited herein:**

19 **Bell v Burson** (1971) 402 US 535, 29 L Ed 2d 90, 91 S Ct 1586,
<http://www.circuitlawyer.8m.com/Burson.html> <http://www.lawyerdude.netfirms.com/bursonb.html>
20 -8-

21 **MLV v SLJ** (1996) 519 US 102; 117 S Ct 555; 136 L Ed2d 473 <http://www.circuitlawyer.8m.com/mlb.html>
Right to a free transcript even in some civil cases. -8-

22 **Norton v Shelby County, Tennessee** (1886) 118 U.S. 425 . "An unconstitutional act is not a law; it
23 confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal
contemplation, as inoperative as though it had never been passed."
<http://www.lawyerdude.netfirms.com/norton.html>
24 -8-

25 **Tumey v Ohio** (1927) 273 U.S. 510. In this prohibition era case, the city received \$5 for each conviction.
<http://www.lawyerdude.8k.com/Tumey.html> The clerk has usurped the prosecutorial function - for
26 profit. -3-

27 **U.S. v Gonzalez-Lopez** 2005-352. Decided 2006. <http://www.lawyerdude.netfirms.com/8345.html> -8-

1 **Treaties cited herein:**

2 Treaty. 1948 Universal Declaration of Human Rights“Article 20(2) No one may be compelled to belong to
3 an association.” <http://www.lawyerdude.netfirms.com/8213.html> This treaty, the 1st amendment, the 6th,
4 and the 14th amendments preclude the regulation of the practice of law by non-government lawyers. . . -9-

4 **Illinois, California, and other Foreign Constitutions rightfully cited herein:**

5 California constitution: Section 1. All people are by nature free and independent and have inalienable
6 rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting
7 property, and pursuing and obtaining safety, happiness, and privacy.
8 http://www.leginfo.ca.gov/const/article_1 <http://www.leginfo.ca.gov/const-toc.html> -10-

9 Illinois constitution. Section 6. Searches, Seizures, Privacy, and Interceptions: The people shall have the
10 right to be secure in their persons, houses, papers and other possessions against unreasonable searches,
11 seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other
12 means. No warrant shall issue without probable cause, supported by affidavit particularly describing the
13 place to be searched and the persons or things to be seized. -10-

14 Illinois Constitution. Section 1. Inherent and Inalienable Rights: All men are by nature free and
15 independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit
16 of happiness. To secure these rights and the protection of property, governments are instituted among
17 men, deriving their just powers from the consent of the governed. -10-

18 Illinois Constitution: Section 2.Due Process and Equal Protection. No person shall be deprived of life,
19 liberty or property without due process of law nor be denied the equal protection of the laws. -11-

15 **Table of Statutes cited herein:**

16 PC 949. The first pleading on the part of the people in a misdemeanor or infraction case is the complaint
17 except as otherwise provided by law. -12-

18 Penal Code§ 740 states as follows: Except as otherwise provided by law, all misdemeanors and
19 infractions must be prosecuted by written complaint under oath subscribed by the complainant. -12-

19 **List of California state cases cited herein:**

20 **People v Dragomir** Feb 14, 2006 <http://www.lawyerdude.netfirms.com/Dragomir.html> -11-

21 **People v Carlucci** 1979 <http://www.lawyerdude.8k.com/Carlucci.htm>
22 <http://www.lawyerdude.netfirms.com/carlucc.html> -11-

23 **People v Kurt Albert Stapf** (1999) <http://www.lawyerdude.netfirms.com/8289.html> Only the duly elected
24 prosecutor or attorney general may prosecute. -8-

25 **People v. Municipal Court (Real Party: Pellegrino)** (1972)
26 <http://www.lawyerdude.netfirms.com/8453.html> 27 CA3d 193 (Ventura). In Pellegrino a Ventura judge
27 appointed a local lawyer to prosecute after the prosecutor declined to prosecute. The court of appeal
28 ruled that the special prosecutor was unconstitutional. See also the *Stapf* case herein. -8-

Argument. Memorandum of Points and Authorities.

1 **Under U.S. Constitution IV, 2, I am entitled to Georgia, Illinois, and California rights.**

2 Under the constitutional concept of “dual federalism” we are all beneficiaries of at least two
3 constitutions, to wit: state and federal.

4 The federal constitution and the common law invest us with additional rights as follows:

5 **I am entitled to utilize the constitutional concepts expressed in foreign constitutions.**

6 All people in all states, including Washington, are entitled to the rights of Californians, except the
7 right to vote in California state and local elections, which, or course, is reserved to California citizens. That
8 is why I cite California law herein.

9 U.S. Constitution: Article IV, Section 2.: The citizens of each state shall be entitled to all
10 privileges and immunities of citizens in the several states.

11 The officer violated the Privileges and Immunities Clause of the 14th amendment which states:

12 No state shall make or enforce any law which shall abridge the privileges
13 or immunities of citizens of the United States; nor shall any state deprive
14 any person of life, liberty, or property, without due process of law; nor
15 deny to any person within its jurisdiction the equal protection of the laws. -

16 Privilege and Immunities Clause of the 14th amendment.

17 **Fountains of Liberty: Magna Charta, 1948 Universal Declaration of Human rights.**

18 We struggle to “find” the law. Example: A lawyer need not change his bar license upon entering a sister
19 state. Once he has passed his test he has proven himself. Compulsion to join the compulsory bar
20 violates the compulsory association clause of the 1948 Universal Declaration of Human rights

21 “Article 20(2) No one may be compelled to belong to an association.” -

22 Treaty. 1948 Universal Declaration of Human Rights.

23 <http://www.lawyerdude.netfirms.com/8213.html>

24 Likewise a driver need not register himself at every state border. Neither should a statute require
25 that I re-register my car upon residing in a state more than 60 days or whatever that state requires. Such
26 a requirement violates so very many clauses in the various fountains of liberty. Example: To do so
27 imposes an undue burden on **interstate commerce**. Both lawyers and drivers are subjected to ever
28 tightening reigns of state governments. Governments by stealthy encroachment over the course of
generations seek to fatten the corporate bureaucracies and extract greater percentages of the wealth of
the citizenry which they view as their subjects. In the beginning we sought government to provide law and

1 order - not to enslave and rule us. Consider the portentous words of “our” Illinois constitution. By terms of
2 the U.S. constitution, we free people of every state are beneficiaries of the liberating clause of the
3 constitutions of Illinois and California as well as our own. We have 51 fountains of liberty from which to
4 drink:

5 Illinois Constitution. Section 1. Inherent and Inalienable Rights: All men
6 are by nature free and independent and have certain inherent and
7 inalienable rights among which are life, liberty and the pursuit of
8 happiness. To secure these rights and the protection of property,
9 governments are instituted among men, deriving their just powers from
10 the consent of the governed. - Illinois Bill of Rights.

11 There are 50 state constitutions. It is interesting to compare them and investigate their derivation.
12 Consider the flowery language of the first paragraph of the California Constitution which is constantly
13 under attack by Republicans shaming Lincoln and attempting to curtail our rights by, for example, limiting
14 our own search prohibition so that it is no stronger than the 4th amendment. Here is that first flowery
15 meaningless clause:

16 California constitution - same as Ohio constitution: Section 1. All people
17 are by nature free and independent and have inalienable rights. Among
18 these are enjoying and defending life and liberty, acquiring, possessing,
19 and protecting property, and pursuing and obtaining safety, happiness,
20 and privacy. <http://www.leginfo.ca.gov/const-toc.html>

21 **I am a beneficiary of the rights declared by the California constitution.**

22 I was exercising my California defined Section 1 rights as a free and natural human when the
23 police officer unconstitutionally violated my rights to enforce his institutional corporate prejudice against
24 drivers. My remedy is dismissal. Do it.

25 “Our” Illinois constitution forbids unwarranted searches.

26 Illinois constitution. Section 6. Searches, Seizures, Privacy, and
27 Interceptions: The people shall have the right to be secure in their
28 persons, houses, papers and other possessions against unreasonable
searches, seizures, invasions of privacy or interceptions of
communications by eavesdropping devices or other means. No warrant
shall issue without probable cause, supported by affidavit particularly
describing the place to be searched and the persons or things to be
seized.

I have addressed the search issue in a concurrent motion listed at another section in this brief.

**The clerk and judge have usurped the prosecutorial function; that is wrong. Dismissal is the
remedy.**

1 This argument is based on the **Due Process Clause** of the U.S. constitution.

2 This argument is based on independent state grounds. The **Illinois constitution** makes it sound
3 as though we created the government to serve us, not to govern us:

4 Illinois Constitution: Section 2. Due Process and Equal Protection. No
5 person shall be deprived of life, liberty or property without due process of
6 law nor be denied the equal protection of the laws.

7 By stealthy encroachment over the course of generations, all governments and other corporations
8 encroach upon the personal freedoms of humans. The human lives only 75 years. The father fails to
9 warn the grandchild of the lies of the corporation. The lie remains unchallenged generations later due to
10 human ignorance and mortality. The immortality of the corporation gives the government opportunity to
11 encroach as such a speed as to be imperceptible by a single generation of humans.

12 The summons was originally a document issued by a civil court only after the civil prosecutor had
13 made a decision to prosecute. As the court corporations became fatter they ordered the litigants: "write
14 our summonses and bring them to use for signature". Their fellow government minions in the legislature
15 wrote the corresponding rules.

16 Then the courts saw the money flow and realized that they should promote the traffic ticket game
17 by processing the tickets without a prosecutor.

18 The court recognized the power it wields in criminal case. If they converted a civil action into a
19 criminal action they could then change their posture to an inquisitorial posture.

20 This is unconstitutional. The remedy is dismissal. Only a prosecutor can prosecute a criminal
21 offense. This is not an administrative tribunal. If it were, there would be a hearing officer or administrative
22 law judge.

23 The prosecution may or may not constitutionally be done without any prosecutor - depending on
24 the actual facts of the case. **People v Carlucci** 1979 <http://www.lawyerdude.8k.com/Carlucci.htm>
25 <http://www.lawyerdude.netfirms.com/carlucc.html> **People v Dragomir** Feb 14, 2006
26 <http://www.lawyerdude.netfirms.com/Dragomir.html>

27 **A defendant may appear by motion.**

28 I need not appear in person but may appear by motion. I have appeared as agreed by my
signature on the notice to appear by entering this motion to quash.

The ticket is no kind of summons. To call it a summons is to redefine fundamental terms in the
middle of the game. This denies me due process. Changing the terms is a common instrument of
oppression. See the entire list of *Modern Day Instruments of Oppression* at:

<http://www.lawyerdude.8k.com/5724.html>

Permitting Police to Summon me to court denies Equal Protection Under the Law

When I want to sue the police I must jump through the hoops of a summons and complaint and
filing fee. Conversely when he wants to "sue" me he uses his ticket book. Then the clerk prosecutes for

1 him. Wouldst that my lawsuits against the police were that quick and easy. That difference denies me
2 equal protection under the law. Your process violates the **equal protection clause of the state**
3 **constitution and the 14th amendment**. My remedy is dismissal. Do it.

4 **The Legislature may not give Police the Power to Summon and may not give Clerks the power to**
5 **prosecute.**

6 Penal Code§ 740 states as follows:

7 Except as otherwise provided by law, all misdemeanors and infractions
8 must be prosecuted by written complaint under oath subscribed by the
9 complainant.

10 PC § 949 states as follows:

11 The first pleading on the part of the people in a misdemeanor or infraction
12 case is the complaint except as otherwise provided by law. - PC 949

13 All criminal law follows the ancient common law. The statute merely codifies and distills what is
14 already the law.

15 **You are Equitably Estopped from Presuming a Waiver of Jurisdictional Challenge.**

16 You have no jurisdiction over me until a prosecutor files a complaint. There is no controversy. The police
17 and clerk may not prosecute.

18 **Pleadings of Pro Se Litigants must be given some leeway**

19 Pleadings of Pro Se litigants are entitled to some leeway. *Haines v Kerner* (1972) 404 U.S. 519
20 (1972) <http://www.lawyerdude.netfirms.com/haines.html> This ruling is consistent with statutes in nearly all
21 jurisdictions. The law is not a trap for the unwary. For every wrong there is a remedy.

22 **Special Scrutiny and Prosecution for those who know the law denies equal protection.**

23 You may not now subject me (and only me) to prosecution by a prosecutor. To do so would
24 punish me with special scrutiny for having performed this public service as a Private Attorney General.
25 Though your purpose be masked as efficiency it is in truth mere corruption and fraud. You must dismiss
26 my case now.

27 Signed _____ Robert Grafton. Monday, June 18, 2007.

28 **Proof of Service**

I, Robert Grafton, served this document at the criminal filing window. No service on the
prosecutor is necessary because no prosecutor has appeared in writing in this case. I served the clerk at
the filing window by hand delivery in court on this day.

Signed _____ Robert Grafton. Monday, June 18, 2007

Appendix: Brief Biography of Attorney Douglas Palaschak

This subdocument is <http://www.lawyerdude.netfirms.com/bio33.html>

I, Douglas Palaschak, declare the following under penalty of perjury: I have enjoyed a charmed
life. I grew up on the perfect farm. My brother Greg farms it now. I am an Engineering Graduate of the
University of Illinois, Urbana, the best engineering school in the world - home of the Hal9000 of 2001, A
Space Odyssey. There I was an honors student. I marched in "The Marching Illini", the world's undisputed
Premiere Marching Band. John Philip Sousa said that we were the best. I began my career as a
Registered Professional Engineer. I consulted for the U.S. Navy, Mobil, and Exxon. My expert testimony
resolved a personal injury case where my calculations proved that a hydraulic accumulator could not
contain sufficient oxygen for combustion to have overloaded the failed bolts. This tended to prove that the
cause of the explosion was a failed hydraulic safety valve.

1 I conceived and designed subsea machinery for the U.S. Navy. I performed the buckling
2 analysis for the riser tubes and contributed to the design of the giant seafloor template for a quarter mile
tall oil rig presently in service in the North Sea.

3 I have been a licensed lawyer for nearly a quarter century. I passed the California bar exam in
1983. I have my J.D. from Ventura College of Law. I publish approximately 1200 legal articles on the
internet. My areas of expertise are:

4 Licenses, Rights, and Privileges, and their use as Instruments of Oppression,
5 Criminal Defense,
6 Internet-driven Improvements in the Efficiency of Litigation,
Empowerment of Pro Se Litigants,
7 Bankruptcy.

I wrote only one appeal in my career and it won.

8 My most recent book is on the subject of Pre-trial Criminal Litigation of Malum Prohibitum Crimes. It
is available by mail order via the internet. My proudest accomplishment is having found a mistake in the
sheet music for Debussy's Clair De Lune. Warner Brothers republished their Debussy book. Here is their
letter in that matter: <http://lawyerdude.8m.com/Warnerletter.jpg> I have been feature on *The Love*
9 *Connection*, *Hard Copy*, and *Inside Edition*.

10 My heroes are Williams Kunstler <http://www.lawyerdude.netfirms.com/kunstler.html> Stephen
Yagman <http://www.circuitlawyer.8m.com/yagman.html> , and Melvin Belli. Kunstler was sentenced to 4
11 years and 13 days in jail for his zealous advocacy. He won on appeal. Yagman was suspended for 2 years
for having accused Judge Real of being a drunk. He won on appeal. Belli was whacked by the California
bar for having done a TV spot for his favorite wine.

12 **Appendix: Sample state Bill of Rights. Excerpts from the Florida Bill of Rights.**
13 http://en.wikipedia.org/wiki/Florida_Constitution

14 SECTION 1. Political power.--All political power is inherent in the people. The enunciation herein of
15 certain rights shall not be construed to deny or impair others retained by the people.

16 SECTION 2. Basic rights.--All natural persons, female and male alike, are equal before the law and have
inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to
17 be rewarded for industry, and to acquire, possess and protect property; except that the ownership,
inheritance, disposition and possession of real property by aliens ineligible for citizenship may be
18 regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national
origin, or physical disability.

19 History.--Am. S.J.R. 917, 1974; adopted 1974; Am. proposed by Constitution Revision Commission,
Revision No. 9, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

20 SECTION 5. Right to assemble.--The people shall have the right peaceably to assemble, to instruct their
21 representatives, and to petition for redress of grievances.

22 SECTION 9. Due process.--No person shall be deprived of life, liberty or property without due process of
23 law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a
witness against oneself.

24 History.--Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the
Secretary of State May 5, 1998; adopted 1998.

25 SECTION 10. Prohibited laws.--No bill of attainder, ex post facto law or law impairing the obligation of
26 contracts shall be passed.

27 SECTION 11. Imprisonment for debt.--No person shall be imprisoned for debt, except in cases of fraud.

28 SECTION 12. Searches and seizures.--The right of the people to be secure in their persons, houses,

1 papers and effects against unreasonable searches and seizures, and against the unreasonable
2 interception of private communications by any means, shall not be violated. No warrant shall be issued
3 except upon probable cause, supported by affidavit, particularly describing the place or places to be
4 searched, the person or persons, thing or things to be seized, the communication to be intercepted, and
5 the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment
6 to the United States Constitution, as interpreted by the United States Supreme Court. Articles or
7 information obtained in violation of this right shall not be admissible in evidence if such articles or
8 information would be inadmissible under decisions of the United States Supreme Court construing the 4th
9 Amendment to the United States Constitution.

10 History.--Am. H.J.R. 31-H, 1982; adopted 1982.

11 SECTION 13. Habeas corpus.--The writ of habeas corpus shall be grantable of right, freely and without
12 cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or
13 invasion, suspension is essential to the public safety.

14 SECTION 14. Pretrial release and detention.--Unless charged with a capital offense or an offense
15 punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person
16 charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on
17 reasonable conditions. If no conditions of release can reasonably protect the community from risk of
18 physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial
19 process, the accused may be detained.

20 History.--Am. H.J.R. 43-H, 1982; adopted 1982.

21 SECTION 15. Prosecution for crime; offenses committed by children.--

22 (a) No person shall be tried for capital crime without presentment or indictment by a grand jury, or for
23 other felony without such presentment or indictment or an information under oath filed by the prosecuting
24 officer of the court, except persons on active duty in the militia when tried by courts martial.

25 (b) When authorized by law, a child as therein defined may be charged with a violation of law as an act of
26 delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases.
27 Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding,
28 be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by
law.

SECTION 16. Rights of accused and of victims.--

(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of
the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory
process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both,
and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the
county is not known, the indictment or information may charge venue in two or more counties
conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading
the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes
committed beyond the boundaries of the state shall be fixed by law.

(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are
entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of
criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the
accused.

History.--Am. S.J.R. 135, 1987; adopted 1988; Am. proposed by Constitution Revision Commission,
Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

SECTION 17. Excessive punishments.--**Excessive fines**, cruel and unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. The death penalty is an authorized punishment for capital crimes designated by the legislature. The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.

History.--Am. H.J.R. 3505, 1998; adopted 1998; Am. H.J.R. 951, 2001; adopted 2002.

SECTION 18. Administrative penalties.--No administrative agency, except the Department of Military Affairs in an appropriately convened court-martial action as provided by law, shall impose a sentence of imprisonment, nor shall it impose any other penalty except as provided by law.

History.--Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

SECTION 19. Costs.--No person charged with crime shall be compelled to pay costs before a judgment of conviction has become final.

SECTION 21. Access to courts.--The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

SECTION 22. Trial by jury.--The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

SECTION 23. Right of privacy.--Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

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