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7 Related documents:

- 8 Google for keyword right2drive
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- 11 Boilerplate brief re Right 2 drive 23 Jan 09: <http://www.lawyerdude.netfirms.com/9470dave.html>
- 12 Response by pros. cites 0 cases. 4 Feb 2009: [Http://www.lawyerdude.netfirms.com/9473.html](http://www.lawyerdude.netfirms.com/9473.html)
- 13 Interrogatories, Requests for Admissions, and Critique of Non-responsive prosecution brief
14 entitled "2nd demurrer" by David Christensen:
15 [Http://www.lawyerdude.netfirms.com/9475.html](http://www.lawyerdude.netfirms.com/9475.html)
- 16 Notice of sentencing on 15 Apr 09: [Http://www.lawyerdude.netfirms.com/9474.jpg](http://www.lawyerdude.netfirms.com/9474.jpg)
- 17 **Demand to Quash. By Lawyerdude. 14 Mar 09:** <http://www.lawyerdude.netfirms.com/9471.pdf>
18 <http://www.lawyerdude.netfirms.com/9471.wpd> and
19 <http://www.lawyerdude.netfirms.com/9471.html>

20 **Justice Court of Hurricane, Utah, in Washington County**

21 147 North 870 West , Hurricane, Utah 84737
22 http://www.cityofhurricane.com/email_us.main.html
23 435-635-2811 ext.124 sandi@cityofhurricane.com

24 They have no ability to scan the ticket. 3/13/09. They will move into a new building in 3 months using the
25 money that they have criminally extracted from drivers that they stopped pretextually on the highway
26 passing near their town. This is random taxation, an impermissible burden on interstate commerce.

27 Judge Karlin S. Myer_ and clerk ,
28 v
Dave Christensen

Case No. 08 5 306 741 Ticket# UTO270300.
Speeding 65 in a 55.
Client #745.
Document #9470 Version 1.002. 18 pages.

**Motion written by Pro Se driver. Tables added by
lawyerdude.**

**Brief on the Right to Drive. Approximately 80 cases
cited.**

Motion to Dismiss / Demurrer for Lack of Subject Matter
Jurisdiction; Lack of Administrative Due Process; Failure
to State a Claim upon Which Relief Can Be Granted; Lack
of State's Verified Complaint; Statement of Facts.

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	List of Clauses from the Kansas Constitution cited herein:	-5-
	List of Clauses from the Florida Constitution cited herein:	-5-

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	List of U.S. Supreme Court cases cited herein:.....	<u>-5-</u>
2	Treaties cited herein:.....	<u>-5-</u>
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	List of Connecticut cases cited herein:.....	<u>-6-</u>
5	Federal Rules cited herein:.....	<u>-6-</u>
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8	Failure to State a Claim upon Which Relief Can Be Granted; Lack of State's Verified Complaint;	
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9	Argument. Memorandum of Cases and other Law supporting the hegemony of my right to drive compared	
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15	does not apply to me when I am driving a pickup; similarly it does not pertain to people in	
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	The state of Utah must use the federal definition of "motor vehicle" [a specious PNJ	
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19	pass.....	<u>-11-</u>
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20	citizens to unhindered interstate travel and that both the existence of this right and	
	its fundamental importance in America has been long been established beyond	
21	question.....	<u>-11-</u>
	The rule is firmly established that the right of a citizen of one state to pass into any state of	
22	the Union . . . without molestation [restriction] is secured and protected by the	
	United States Constitution.....	<u>-11-</u>
23	the right to personal liberty did not depend on any express statute, but "it was the	
	birthright of every freeman.....	<u>-12-</u>
24	by endowment of the Creator [Lawyerdude says: this is unprovable stupid religious fiction;	
	rights are TAKEN, not given].....	<u>-15-</u>
25	The people who adopted the Constitution certainly did not "surrender" their liberty to	
	freely travel. In fact they made sure that the Constitution would "secure the same	
26	to ourselves and our posterity.".....	<u>-16-</u>
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1	House-Wives League v. City of Indianapolis, 204 Ind. 685, 688-89..	-11-
2	Indiana Springs Co. v. Brown, 165 Ind. 465, 468..	-13-
3	Joseph v. Randolph, 71 Ala. 499, 504-505..	-12-
4	Liebrecht v. Crandall, 126 N.W. 69, 110 Minn. 454, 456.	-13-
5	Light & Coke v. City of Chicago, N.E.2d 777, 781; 413 Ill. 457 (1952)..	-9-
6	Matson v. Dawson, 178 N.W. 2d 588, 591..	-13-
7	Michelson v. Dwyer , 63 N.W.2d 513, 517; 158 Neb. 427 (1954)..	-9-
8	Ohio, Indiana, & W. Ry. Co. v. People, 39 Ill. App. 473.	-10-
9	People v Nothaus, 363 P.2d 180, 182 (Colo.-1961)..	-11-
10	Pugh v. City, 176 Iowa 593, 599, 156 N.W. 892, 894..	-9-
11	Schechter v. Killingsworth , 380 P.2d 136, 140; 93 Ariz. 273 (1963).	-14-
12	Schlesinger v. City of Atlanta, 129 S.E. 861, 867, 161 Ga. 148, 159..	-14-
13	Shactman v Dulles, 225 F.2d 938, 941 (1955)	-10-
14	Shelby County Com'rs v. Castetter, 33 N.E. 986, 987, 7 Ind. App. 309..	-9-
15	Shell Oil Co. v Jackson County , 193 S.W. 2d 268, 271 (Tex. Civ. App.-1946)..	-11-
16	Shinkle v. McCullough, 116 Ky. 960..	-13-
17	Simeone v. Lindsay, 65 Atl. 778, 779.	-14-
18	Skinner v. Town of Weathersfield, 63 A. 142, 143; 78 Vt. 410..	-11-
19	Smiley v. East St. Louis Ry. Co., 100 N.E. 157, 158..	-14-
20	Smith v. Turner, 48 U.S. 283, 12 L Ed. 702.	-11-
21	Spindler v. Toomey, 111 N.E/2d 715, 716 (Ind.-1963)..	-9-
22	<i>State v. Perry</i> , 269 Minn. 204, 206..	-9-
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24	State v. Quigg, 114 So. 859, 862 (Fla.-1927)..	-10-
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1 Swift v. City of Topeka, 23 Pac. 1075,1076, 43 Kansas 671, 674.. -10-

2 **Teche Lines v. Danforth**, 12 So.2d 784, 787 (Miss. 1943). -14-

3 Thompson v. Smith, 154 S.E. 579, 583 (Va.-1930). "The right of the citizen to travel upon the public
 4 highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege
 5 which a city may prohibit at will, but a common right which he has under the right to life, liberty, and the
 6 pursuit of happiness." -10-

7 Wild v. Deig, 43 Ind. 455, 458; 13 Am. Rep. 399.. -10-

7 **U.S. Constitutional Clauses and Constitutional Concepts Cited herein:**

8 Amendment VI of the United States Constitution states: "In all criminal prosecutions, the accused shall
 9 enjoy the right . . . , to be informed of the nature and cause of the accusation . . ." -8-

9 *The Declaration of Independence*. -15-

10 **List of Clauses from the Washington Constitution cited herein:**

11 **List of Clauses from the Colorado Constitution cited herein:**

12 **List of Clauses from the Kansas Constitution cited herein:**

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

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

15 *Constitution of Wisconsin* -12-

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

17 **Bell v Burson** (1971) <http://www.circuitlawyer.8m.com/Burson.html> 402 US 535, 29 L Ed 2d 90, 91 S Ct
 18 1586 (Holding: They can't take your driver license without notice and opportunity to be heard - a hearing.)
 19 -14-

20 **Dunn v. Blumstein**, 405 U.S. 330, 31 Lawyer's Edition 2nd 272, 92 S.Ct. 995, 56 Columbia L. Rev. 47.
 21 -11-

22 **Miranda V Arizona** (1966) www.lawyerdude.netfirms.com/miranda.html 384 U.S. 436, 86 S. Ct. 1602, 16
 23 L. Ed. 2d 694, 10 ALR 3rd 974 and 59 other ALR treatises -15-

24 **Oregon v. Mitchell**, 400 U.S. 112, 27 L.Ed.2d 272, 92 S.Ct. 260 for more than a century, the Supreme
 25 Court has recognized the constitutional right of all citizens to unhindered interstate travel and that both the
 26 existence of this right and its fundamental importance in America has been long been established beyond
 27 question. -11-

28 **Treaties cited herein:**

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

Table of California Statutes cited herein:

1 California Vehicle Code § 40500. -7-

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

3 Escobedo v. State Dept. of Motor Vehicles (1950), 222 Pac. 2d 1, 5, 35 Cal.2d 870 (1950)... -10-

4 **Kripp v. Curtis**, 11 P. 879; 71 Cal. 62... -9-

5 Whyte v. City of Sacramento, 65 Cal. App. 534, 547, 224 Pac. 1008, 1013 (1924). -10-

6 **List of Illinois state cases cited herein:**

7 *Central Ill. Coal Mining Co. v. Illinois Power Co.*, 249 Ill. App.199.. . . . -9-

8 *Chicago Coach Co. v. City of Chicago*, 337 Ill. 200. -13-

9 *Christy v. Elliot*, 216 Ill. 31. -13-

10 *Molway v. City of Chicago*, 88 N.E. 485, 486, 239 Ill. 486. -14-

11 *Ward v. Meredith*, 202 Ill. 66. -13-

13 **List of Connecticut cases cited herein:**

14 *Yale University v. City of New Haven*... -9-

15 **Federal Rules cited herein:**

16 Federal Rules of Civil Procedure 4 (b)... -7-

17 **Federal Statutes cited herein:**

18 18 United State Code section 31 : (6) Motor vehicle.— The term "motor vehicle" means every description
19 of carriage or other contrivance propelled or drawn by mechanical power and used for commercial
20 purposes on the highways in the transportation of passengers, passengers and property, or property or
21 cargo. (10) Used for commercial purposes.— The term "used for commercial purposes" means the
22 carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly
23 in connection with any business, or other undertaking intended for profit.

24 -8-

23 **Treatises and “Fundamental Things” cited herein:**

24 http://en.wikipedia.org/wiki/Norman_Conquest Story of the Norman Conquest
25 *American Jurisprudence 2d* Volume 16A 607 Page 550-6, **Freedom to travel**. The rule is firmly
26 established that the right of a citizen of one state to pass into any state of the Union . . . without
27 molestation [restriction] is secured and protected by the United States Constitution... -11-

28 **American Jurisprudence, 2nd** Ed., Vol. 16, ' 321. -16-

Blackstone’s Commentaries on the Laws of England 1765-69 Volume 1, page 134... -12-

Columbia Law Review 56:47 for more than a century, the Supreme Court has recognized the constitutional right of all citizens to unhindered interstate travel and that both the existence of this right and

1 its fundamental importance in America has been long been established beyond question. [-11-](#)

2 Cooley, Thomas M. http://en.wikipedia.org/wiki/Thomas_M._Cooley , *A Treatise on the Constitutional*
 3 *Limitations Which Rest upon the Legislative Power of the States of the American Union.* 1908. Available
 online from Amazon books. [-12-](#), [-15-](#)

4 *Cumberland Telephone. & Telegraph Co. v Yeiser*, 141 Ky. 15. [-13-](#)

5 Kent, Commentaries 3:432. [-12-](#)

6

7 **Motion to Dismiss / Demurrer for Lack of Subject Matter Jurisdiction; Lack of**
 8 **Administrative Due Process; Failure to State a Claim upon Which Relief Can Be**
 9 **Granted; Lack of State's Verified Complaint; Statement of Facts, Points and**
 10 **Authorities in Support Thereof.**

11 The above-named Accused/Defendant, David Christensen (hereinafter referred to as "the accused"),
 12 demands a verified complaint on the above entitled action. The following Statement of Facts / Points and
 13 authorities are submitted in support of this motion:

14 **Argument. Memorandum of Cases and other Law supporting the hegemony of**
 15 **my right to drive compared to other competing societal goals on a feeder to the**
 16 **interstate highway system.**

17 I. a "Notice to Appear" Is a Civil Procedure

18 The accused signed a "Notice to Appear", as referenced in **Vehicle Code § 40500**. Notice to Appear is
 19 defined in Blacks Law Dictionary (6th) as:

20 "Notice to appear. Shorthand expression for the form of summons or order of notice in which the
 21 defendant is ordered to appear and show cause why judgement should not be entered against him.

22 **Federal Rules of Civil Procedure 4 (b)."**

23 Thus a Notice to Appear is a civil procedure. Nowhere on the instant "Notice to Appear" does the "People
 24 of the state of Utah" appear, which would indicate a public offense.

25 According to Utah Civil Procedure, the Plaintiff's Complaint reads, "A lawsuit begins when the plaintiff files
 26 a complaint with the proper court. The complaint identifies all parties involved in the case and describes, in
 27 short and plain sentences, the nature of the grievance and the remedy which is sought. "

28 And,

Complaint and Summons, served on defendant: A copy of the complaint is served on each of the
 defendants along with a summons. The summons states that the defendant must respond to the
 complaint, generally within 20 days

I have never received and /or been served with a 'verified complaint'.

ii. A Verified "Complaint" must State Whether it Is Civil or Criminal And, If Criminal, must Be
Prosecuted in the Name of the People of the State of Utah.

Only a verified complaint, listing the action and parties involved, can clarify:

- a. Whether this is a criminal or civil action.
- b. The name of the plaintiff in this action.
- c. The nature of the proceeding.

1 **Amendment VI of the United States Constitution states:**

2 **"In all criminal prosecutions, the accused shall enjoy the right . . . , to be informed of the nature**
3 **and cause of the accusation . . ."**

3 **iii. A "Notice to Appear" Is Not a Verified Complaint**

4 The Notice to Appear is not verified; the accused has the right to ask that a verified complaint be filed. The
5 signing of a notice by the peace officer on the date in question under penalty of perjury that the offense
6 occurred does not constitute a "verified Notice to Appear" to be used as a verified complaint.

6 Black's Law Dictionary,(6th) edition, defines verify (verified):

7 "Verify. To confirm or substantiate by oath or affidavit. Particularly used of making formal oath to accounts,
8 petitions, pleadings, and other papers. The word "verified," when used in a statute, ordinarily imports a
9 verify attested by the sanctity of an oath. It is frequently used interchangeably with "sworn"."

9 To use the Notice to Appear as a complaint it must have the same qualifications as a verified complaint:

10 "Verification. Confirmation of correctness, truth or authenticity, by affidavit, oath or deposition . . . For
11 example, a verified complaint typically has an attached affidavit of plaintiff to the effect that the complaint
12 is true." (ibid, Black's Law Dictionary 6th Edition) The certified notice to appear with the officer's
13 "signature" under penalty of law constitutes only certification, and only "certifies" to what was written.

13 **IV. My pickup truck that I was driving is not a motor vehicle and therefore the motor vehicle code**
14 **does not apply to me when I am driving a pickup; similarly it does not pertain to people in cars.**

14 Utah's Multistate Highway Transportation Agreement

15 Title 41, Chapter 23 of the Utah Motor Vehicle code reads:

16 (c) "Jurisdiction" means a state of the United States or the District of Columbia."

17 And, according 41-1a-102 of the Utah Motor Vehicle Act titled 'definitions' reads:

18 (26) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the
19 United States or any foreign country.

19 **The state of Utah must use the federal definition of "motor vehicle" [a specious PNJ argument]**
20 **which definition pertains only to commercial vehicles; my pickup is not a commercial vehicle.**

21 Both definitions list a possession of the United States, (the territory of the District Columbia) and its
22 possessions. According to the definitions listed in the motor vehicle codes of the United States at title 18,
23 section 31 it reads:

23 (6) Motor vehicle.— The term "motor vehicle" means every description of carriage or other contrivance
24 propelled or drawn by mechanical power and used for commercial purposes on the highways in the
25 transportation of passengers, passengers and property, or property or cargo.

25 (10) Used for commercial purposes.— The term "used for commercial purposes" means the carriage of
26 persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in
27 connection with any business, or other undertaking intended for profit.

27 And according to Utah's Constitution Article 1, Section 3, it reads, " The State of Utah is an inseparable
28 part of the Federal Union and the Constitution of the United States is the supreme law of the land."

1 If the Constitution of the United States is the supreme law of the land, then the United States Codes must
2 also be the law of the land. This is only logical, since it's a fundamental rule of law that the definitions
3 listed in Utah's Motor Vehicle Act must be uniform within all the entities listed under its jurisdiction. And
4 Utah listed the United States in their definition of 'jurisdiction'. According to the supreme law of the land's
5 own definition, I was not 'operating' a 'motor vehicle' on the day in question.

6 V. Right to Use Roads and Highways.

7 A) It is a well-settled fact in law that Americans or Sovereign common law Citizens visiting America have
8 the fundamental Right to Travel. The first issue that must be established is what is the nature of a public
9 road or highway, and what are the rights of the defendant thereon. All of your authorities agree that the
10 use of roadways for ordinary travel is a basic and fundamental right:

11 A highway is a way over which the public have a free right of passage. **Yale University v. City of New
12 Haven**, 104 Conn. 610; 134 Atl. 268, 271.

13 The essential features of a highway is that it is a way over which the public at large has he right to pass.
14 **State v. Pierson**, 2 Conn. Cir. 660; 204 A.2d 838.

15 This right pf the people is in the street and highways of the state, whether inside or outside the
16 municipalities thereof, is a paramount right. **Light & Coke v. City of Chicago**, N.E.2d 777, 781; 413 Ill.
17 457 (1952).

18 It is well settled that the public are entitled to a free passage along the highway. **Michelson v. Dwyer**, 63
19 N.W.2d 513, 517; 158 Neb. 427 (1954).

20 Our society is built in part upon free passage of men and goods, and the public streets and highways
21 may rightfully be used for travel by everyone. **Hanson v. Hall**, 202 Minn. 381, 383.

22 Public ways, as applied to ways by land, are usually termed "highways" or "public roads," are such ways
23 as every citizen has a right to use. **Kripp v. Curtis**, 11 P. 879; 71 Cal. 62

24 A highway includes all public ways which the public generally has a right to use for passage and traffic,
25 and includes streets in cities, sidewalks, turnpikes and bridges. **Central Ill. Coal Mining Co. v. Illinois
26 Power Co.**, 249 Ill. App.199.

27 Our courts has stressed he basic right of the transient public and abutting property owners to the free
28 passage of vehicles on public highways and the paramount function of travel as overriding all other
subordinate uses of our streets. **State v. Perry**, 269 Minn. 204, 206

A highway is a public road, which every citizen of the state has a right to use for the purpose of travel.
Shelby County Com'rs v. Castetter, 33 N.E. 986, 987, 7 Ind. App. 309; **Spindler v. Toomey**, 111
N.E./2d 715, 716 (Ind.-1963).

The public have a right of free and unobstructed transit over streets, sidewalks and alleys, and this is the
primary appropriate use to which they are generally dedicated. **Pugh v. City**, 176 Iowa 593, 599, 156
N.W. 892, 894.

It is well settled law that every member of the public has a right to use the public roads in a reasonable
manner for the promotion of his health and happiness. **Sumner v. County v. Interurban Transp. Co.**,

1 141 Tenn. 493 500.

2 A highway is a road or way upon which all persons have a right to travel at pleasure. It is the right of all
3 persons to travel upon a road. **Gulf & S.I.R. Co. v Adkinson**, 77 So. 954, 955; 117 Miss. 118.

4 HIGHWAY.-A free and public road, way, or street; one which every person has the right to use. Black's
5 Law Dictionary, 2d Ed. (1910), p. 571

6 The right to travel over a street or highway is a **primary absolute right** of everyone. **Foster's Inc. v.**
7 **Boise City**, 118 P.2d 721, 728

8 A right is a passage, road or street which every citizen has a right to use. **Ohio, Indiana, & W. Ry. Co. v.**
9 **People**, 39 Ill. App. 473.

10 Highways are public roads, which every citizen has a right to use. **Wild v. Deig**, 43 Ind. 455, 458; 13 Am.
11 Rep. 399.

12 The courts of this land have repeatedly and consistently concurred on the fact that the people have a
13 right to travel on the public roads and highways of this country. But the nature of this right must be
14 determined. What type of right is it questioned here? It is only a statutory right or an inherent right? The
15 cases cited indicate that it is a fundamental, inalienable, inherent and constitutional right. Other authorities
16 verify this to be true:

17 It is settled that the streets of a city belong to the people of a state and the use thereof is an inalienable
18 right of every citizen of the state. **Whyte v. City of Sacramento**, 65 Cal. App. 534, 547, 224 Pac. 1008,
19 1013 (1924); **Escobedo v. State Dept. of Motor Vehicles** (1950), 222 Pac. 2d 1, 5, 35 Cal.2d 870
20 (1950).

21 The right of a citizen to travel upon the public highways and to transport his property thereon in the
22 ordinary course of life and business is a common right which he has under his right to enjoy life and
23 liberty, to acquire and possess property, and to pursue happiness and safety. **Thompson v. Smith**, 154
24 S.E. 579, 583 (Va.-1930).

25 This right of the people to the use of the public streets of a city is so well established and so universally
26 recognized in this country, that it has become a part of the alphabet of fundamental rights of the citizen.
27 **Swift v. City of Topeka**, 23 Pac. 1075,1076, 43 Kansas 671, 674.

28 The right of a citizen to use the highways, include the streets of the city or town, for travel and to
transport his goods, is an inherent right which cannot be taken from him. **Florida Motor Lines v. Ward**,
137 So. 163, 167. **Also: State v. Quigg**, 114 So. 859, 862 (Fla.-1927); **Davis v. City of Houston**, 264
S.W. 625, 629 (Tex. Civ. App., 1924).

The right to travel, to go from place to place as the means of transportation permit, is a natural right
subject to the rights of others and to reasonable regulation under law. **Shactman v Dulles**, 225 F.2d 938,
941 (1955)

The right of the citizen to travel upon the public highways and to transport his property thereon either by
carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but, a common
right. See **Thompson v Smith**, 154 SE 579 (Virginia).

1 "All citizens of the United States of America have a right to pass and re-pass through every part of it
2 without interruption, as freely as in their own state." See **Smith v. Turner**, 48 U.S. 283, 12 L Ed. 702.

3 Every citizen has an inalienable right to make use of the public highways of the state; every citizen has
4 full freedom to travel from place to place in the enjoyment of life and liberty. **People v Nothaus**, 363 P.2d
5 180, 182 (Colo.-1961).

6 Definition of "Passenger: "One who is traveling, as in a public coach, or in a ship, or on foot. This is the
7 usual, through corrupt orthography." See American Dictionary Of The English Language By Noah
8 Webster, 1828.

9 It is thus well established that the right to travel by an American/ citizen on the public roads is a
10 fundamental and constitutional right and, in fact, inalienable and natural right, one inherent in an
11 American/ citizen and secured by the Organic Law of the Land.

12 **B) The Common Law Right to Travel**

13 The concept that traveling upon the roads is a basis fundamental right of every common-law citizen, in the
14 land is not a new concept in law. The right of every person to freely travel on public ways is well grounded
15 in the ancient common law:

16 **A highway according to the common law, is a place in which all the people have a right to pass.** A
17 common street and public highway are the same, and any way which is common to all the people may be
18 called a highway. **Skinner v. Town of Weathersfield**, 63 A. 142, 143; 78 Vt. 410.

19 At common law every member of the public has a right to use, in a reasonable manner and with due
20 care, public roads, inclusive of public bridges. **Shell Oil Co. v Jackson County** , 193 S.W. 2d 268, 271
21 (Tex. Civ. App.-1946).

22 "In **Oregon v. Mitchell**, 400 U.S. 112, 27 L.Ed.2d 272, 92 S.Ct. 260, Brennan, joined by White and
23 Marshall stated that **for more than a century, the Supreme Court has recognized the constitutional
24 right of all citizens to unhindered interstate travel and that both the existence of this right and its
25 fundamental importance in America has been long been established beyond question.**" Also see
26 **Dunn v. Blumstein**, 405 U.S. 330, 31 Lawyer's Edition 2nd 272, 92 S.Ct. 995, 56 Columbia L. Rev. 47.

27 "The rule is firmly established that the right of a citizen of one state to pass into any state of the
28 Union . . . without molestation [restriction] is secured and protected by the United States
29 Constitution." See **American Jurisprudence 2d** Volume 16A 607 Page 550-6, **Freedom to travel**.

30 It has been held directly in a number of cases that at common law a driver of a vehicle has the right to
31 drive upon any part of the highway. **Boyer v North End Drayage Co.**, 67 S.W.2d 769, 770 (Mo.
32 App.-1934).

33 The common law rule was that a public highway was a "way common and free to all the king's subjects
34 to pass and repass at liberty," and this court recognized that the "right to travel a highway belongs to
35 everybody in the state,. . .that a highway belongs to the public, and is free and common as a way to every
36 citizen on the land." **House-Wives League v. City of Indianapolis**, 204 Ind. 685, 688-89.

37 In quoting from some old English law books on the common law, the Tennessee Chancery Appeals

1 Court stated the following:

2 Under the general law a public street is a public highway, and, if a highway, it is a "road which every
3 citizen has a right to use." The right of the citizen to pass and repass on it is limited to no particular part of
4 it for, as said in the books, "the public are entitled not only to a free passage along the highway, but to a
5 free passage along any portion of it not in the actual use of some other traveler." 1 Hawk. P.C. 22; Ang. &
6 D. Highways, ' 226. *** Under the common law a public highway was "a way common and free to all the
king's subjects to pass and repass at liberty." **State v. Stroud** 52 S.W. 697, 698 (Tenn.-1899); Also see,
Kent, Commentaries 3:432

7 The complete freedom and common right to travel on the highways is so old and well established that it
8 has never been questioned, until this century. The general recognition of this right is due to its
9 fundamental importance in our civilized society. It thus is a fundamental right that was secured by both
Federal and State constitutions.

10 There can be no denial of the general proposition that every citizen of the United States, and every citizen
11 of each state of the Union, as an attribute of personal liberty, has the right ordinarily, of free transit from, or
12 through the territory of any State. This freedom of egress or ingress is guaranteed to all by the clearest
13 implications of the Federal, as well as of the State constitution. It has been said that even in England,
14 whence our system of jurisprudence was derived, **the right to personal liberty did not depend on any
express statute, but "it was the birthright of every freeman."**-**Cooley's Const. Lim.** 342.

15 This right was said by Sir William Blackstone to consist in "the power of locomotion, of changing
16 situation, or of moving one's person to whatever place one's inclination may direct, without imprisonment
17 or restraint, unless by due process of law." **Blackstone's Commentaries on the Laws of England 1765-**
69 Volume 1, page 134; **Joseph v. Randolph**, 71 Ala. 499, 504-505.

18 The use of roads for travel is a very ancient practice. The right to travel upon them has been recognized
19 since the early Roman Empire. This right to freely travel as an attribute of personal liberty was so basic
20 and fundamental in early America that it never became the subject matter of colonial legislation. Not even
21 under the tyranny of King George III was the right to travel suppressed. Liberty was recognized and
22 secured by all of the original state constitutions. Before Wisconsin became a state and also thereafter, its
citizens possessed this liberty and right to travel. The **Constitution of Wisconsin** when adopted secured
this inalienable right to liberty, locomotion, or travel on the public ways.

23 That the lower court/tribunal and Appellee should then ignore and trample over the meaning and original
24 intent of the State Constitution and recognize only current statutes set by quasi legislation, is not only
25 being legally nearsighted but is a gross violation of their oath of office. As a result the trial court/tribunal
26 gravely erred in its decision. The liberty to travel and to move from place to place, which existed under the
27 common law, and which existed in colonial America, also exists under the State Constitutions. The
"liberty" in the Constitution secures the same rights it included at common law and meaning the same
thing to wit: a **right to travel**"

28 Freedom of locomotion, although subject to proper restrictions, is included in the 'liberty' guaranteed by

1 State Constitution. **Commonwealth v. Doe**, 167 A. 241, 242: 109 Pa. Super. 187.

2 C) Automobiles and the Right to Travel.

3 This inalienable and constitutionally guaranteed right to travel on public roads includes the use of an
4 automobile as a means of conveyance. Since the invention of the automobile the courts of this land have
5 universally recognized the automobile not only as a lawful means of conveyance, but one that has equal
6 rights with other modes of travel using public ways:

7 The law does not denounce motor carriages, as such, on public ways.* * * they have an equal right with
8 other vehicles in common use to occupy the streets and roads.* * * It is improper to say that the driver of
9 the horse has rights in the roads superior to the driver of the automobile. Both have the right to use the
10 easement. **Indiana Springs Co. v. Brown**, 165 Ind. 465, 468.

11 The right to make use of an automobile as a vehicle of travel long the highways of the state, is no longer
12 an open question. The owners thereof have the same rights in the roads and streets as the drivers of
13 horses or those riding a bicycle or traveling in some other vehicle. **House v. Cramer**, 112 N.W. 3; 134
14 Iowa 374; **Farnsworth v. Tampa Electric Co.** 57 So. 233, 237, 62 Fla. 166.

15 Automobiles have the right to use the highways of the State on an equal footing with other vehicles.
16 **Cumberland Telephone. & Telegraph Co. v Yeiser** 141 Kentucky 15.

17 Each citizen has the absolute right to choose for himself the mode of conveyance he desires, whether it
18 be by wagon or carriage, by horse, motor or electric car, or by bicycle, or astride of a horse, subject to the
19 sole condition that he will observe all those requirements that are known as the law of the road. **Swift v**
20 **City of Topeka**, 43 Kansas 671, 674.

21 A farmer has the same right to the use of the highways of the state, whether on foot or in a motor
22 vehicle, as any other citizen. **Draffin v. Massey**, 92 S.E.2d 38, 42.

23 There can be no question of the right of automobile owners to occupy and use the public streets of cities,
24 or highways in the rural districts. **Liebrecht v. Crandall**, 126 N.W. 69, 110 Minn. 454, 456.

25 The automobile may be used with safety to others users of the highway, and in its proper use upon the
26 highways there is an equal right with the users of other vehicles properly upon the highways. The law
27 recognizes such right of use upon general principles. **Brinkman v Pacholike**, 84 N.E. 762, 764, 41 Ind.
28 App. 662, 666.

Automotive vehicles are lawful means of conveyance and have equal rights upon the streets with horses
and carriages. **Chicago Coach Co. v. City of Chicago**, 337 Ill. 200, 205; See also: **Christy v. Elliot**, 216
Ill. 31; **Ward v. Meredith**, 202 Ill. 66; **Shinkle v. McCullough**, 116 Ky. 960; **Butler v. Cabe**, 116 Ark. 26,
28-29.

Though, as we have said, automobiles are lawful vehicles and have equal rights on the highways with
horses and carriages. **Daily v. Maxwell**, 133 S.W. 351, 354. **Matson v. Dawson**, 178 N.W. 2d 588, 591.

A traveler has an equal right to employ an automobile as a means of transportation and to occupy the
public highways with other vehicles in common use. **Campbell v. Walker**, 78 Atl. 601, 603, 2 Boyce (Del.)
41.

1 There is no distinction made by these authorities (and many others) in the mode of travel a citizen
2 chooses to use on a public way. A citizen has the same inalienable right to travel on a public road by use
3 of an automobile as another citizen does traveling on foot or bicycle thereon:

4 A highway is a public way open and free to any one who has occasion to pass along it on foot or with any
5 kind of vehicle. **Schlesinger v. City of Atlanta**, 129 S.E. 861, 867, 161 Ga. 148, 159; **Holland v.**
6 **Shackelford**, 137 S.E. 2d 298, 304, 220 Ga. 104; **Stavola v. Palmer**, 73 A.2d 831, 838, 136 Conn. 670
7 Persons may lawfully ride in automobiles, as they may lawfully ride on bicycles. **Doherty v. Ayer**, 83 N.E.
8 677, 197 Mass. 241, 246; **Molway v. City of Chicago**, 88 N.E. 485, 486, 239 Ill. 486; **Smiley v. East St.**
9 **Louis Ry. Co.**, 100 N.E. 157, 158.

10 The owner of an automobile has the same right as the owner of other vehicles to use the highway,* * * A
11 traveler on foot has the same right to the use of the public highways as an automobile or any other
12 vehicle. **Simeone v. Lindsay**, 65 Atl. 778, 779; **Hannigan v. Wright**, 63 Atl. 234, 236.

13 A traveler on foot has the same right to use of the public highway as an automobile or any other vehicle.
14 **Cecchi v. Lindsay**, 75 Atl. 376, 377, 1 Boyce (Del.) 185.

15 To further qualify the right to travel on the public roads by way of an automobile, several courts have
16 made the obvious connection between its use and that of a constitutional liberty or as an individual right.
17 This could only be the natural conclusion: If traveling per se is an inalienable and constitutional right, and if
18 the automobiles has "equal rights" with the older forms of travel such as on foot or horseback, the logical
19 deduction here is that traveling by way of an automobile on a public way is a constitutional, inalienable,
20 and fundamental right:

21 The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us
22 in the interest of realism to conclude that the right to use an automobile on the public highways partakes of
23 the nature of a liberty within the meaning of the constitutional guarantees of which the citizen not be
24 deprived without due process of law. **Bell v Burson** (1971) <http://www.circuitlawyer.8m.com/Burson.html>
25 402 US 535, 29 L Ed 2d 90, 91 S Ct 1586 (Holding: They can't take your driver license without notice and
26 opportunity to be heard - a hearing.) **Berberian v. Lussier**, 139 A.2d 869, 872; 87 R.I. 226, 231 (1958).
27 See also: **Schechter v. Killingsworth**, 380 P.2d 136, 140; 93 Ariz. 273 (1963).

28 The right to operate a motor vehicle [an automobile] upon the public streets and highways is not a mere
privilege. It is a right of liberty, the enjoyment of which is protected by the guarantees of the federal and
state constitutions. **Adams v. City of Pocatello**, 416 P.2d 46, 48; 91 Idaho 99 (1966).

The right of a citizen to travel upon the public highways* * *includes the right in so doing to use the
ordinary and usual conveyances of the day; and under the existing modes of travel includes the right to
drive a horse-drawn carriage or wagon thereon, or to operate an automobile thereon, for the usual and
ordinary purposes of life and business.* * *The rights aforesaid, being fundamental, are constitutional
rights. **Teche Lines v. Danforth**, 12 So.2d 784, 787 (Miss. 1943). See also Thompson v. Smith, supra.

Thus, there can be no question that the defendant has an inherent, constitutional, and inalienable right to
travel in his automobile on the public roads and streets, whether in Utah or anywhere else in the several

1 states in Union. Will This court/tribunal admit that the defendant has a constitutional right to travel in his
2 automobile or state that the defendant has not a right to use the streets and highways for travel without a
3 driver's license (not for gain)? Will it become obvious that this lower court/tribunal avoided the facts and
4 preferred not to recognize the true nature of the defendant's vested and constitutional rights in this case?

5 The liberty to travel in this land is interwoven into the fabric of the Organic Law of the United States of
6 America and Utah. It is one of our most sacred and fundamental rights. It thus is one that can never be
7 attacked, violated, suppressed, or destroyed by any level or branch of government. This would be in total
8 defiance and contradiction to the very purpose our form of government was established, that being to
9 secure such inherent and natural rights:

10 We hold these truths to be self-evident, that all men are created equal; that they are endowed by their
11 Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of
12 Happiness-That to secure these rights, Governments are instituted among Men, deriving their just powers
13 from the consent of the governed... *The Declaration of Independence-1776*.

14 It is apparent the lower court has grossly underestimated the broad spectrum of rights that are
15 encompassed in the terms "inalienable rights" or Constitutionally protected Rights," along with their
16 meaning and origin. These rights, were won at the point of a sword in 1215. There were deemed
17 unalienable by our forefathers. They cannot be abrogated by legislative fiat.

18 " Where rights secured by the Constitution are involved, there can be no rule making or
19 legislation which would abrogate them. " - U.S. Supreme Court in *Miranda V Arizona*
20 (1966) www.lawyerdude.netfirms.com/miranda.html 384 U.S. 436, 86 S. Ct. 1602, 16 L.
21 Ed. 2d 694, 10 ALR 3rd 974 and 59 other ALR treatises .

22 Every inherent and inalienable right exists as part of our common law heritage. Ours is a system
23 of limited government. The office and purpose of the constitution is to shape and fix the limits of
24 government activity. It thus proclaims, safeguards and preserves in basic form the pre-existing laws,
25 rights, mores, habits and modes of thought and life of the people as developed under the common law
26 and as existing at the time of its adoption to the extent and as therein stated. *Dean v. Paolicelli*, 72 S.E.
27 2d 506, 510; 194 Va. 219 (1952).

28 Hence, it may be said with great propriety, that a constitution "measures the powers of the rules, but it
does not measure the rights of the governed;" that is not the origin of rights, nor the fountain of law-but it is
the "framework of the political government, and necessarily based upon the pre-existing condition of laws,
rights, habits, modes of thought." Cooley, Thomas M. http://en.wikipedia.org/wiki/Thomas_M._Cooley , A
Treatise on the Constitutional Limitations Which Rest upon the Legislative Power of the States of the
American Union. 1908. Available from Amazon books; 37 *Atchison & Nebraska R.R. Co. v. Baty*, 6
Neb. 37, 41.

The rights of the individual are not derived from governmental agencies, either municipal, state, or
federal, or even from the Constitution. They exist inherently in every man, **by endowment of the Creator**
[Lawyerdude says: this is unprovable stupid religious fiction; rights are TAKEN, not given], and

1 are merely reaffirmed in the Constitution, and restricted only to the extent that they have been voluntarily
2 surrendered by the citizenship to the agencies of government. The people's rights are not derived from the
3 government, but the government's authority comes from the people. The Constitution but states again
4 these rights already existing, and when legislative encroachment by the nation, state, or municipality
5 invade these original and preserved rights, it is the duty of the courts to so declare, and to afford the
6 necessary relief. **City of Dallas et al. v. Mitchell**, 245 S.W. 944, 945-46 (Texas 1922).

7 There is nothing primitive about a State Constitution. It is based upon the pre-existing laws, rights habits,
8 and modes of thought of the people who ordained it, * * *and must be construed in the light of this fact.
9 **Commonwealth v City of Newport News**, 164 S.E. 689, 696 (1932).

10 The purpose and intent of a written constitution is to preserve the ancient rights held at common law, and
11 constitutional provisions are to be so interpreted (See, **American Jurisprudence, 2nd Ed.**, Vol. 16, ' 321).
12 It thus becomes plain that all rights that the people inherently possessed when the original colonies were
13 founded, were secured by the Constitution of Wisconsin when adopted. The right to freely travel, by what
14 ever means available, on public ways is an ancient right. **The people who adopted the Constitution**
15 **certainly did not "surrender" their liberty to freely travel. In fact they made sure that the**
16 **Constitution would "secure the same to ourselves and our posterity."** This is the main reason why
17 the Constitution was ordained and established.

18 It should be quite obvious from the forgoing authorities that a citizen does have an inalienable and
19 constitutionally protected right to travel on the public highways, which includes the use of an automobile as
20 a means of conveyance. The State Legislature has no authority to impair or suspend this Constitutional
21 right or prohibit the Defendant from exercising it. Statutes to the contrary are void ab initio.

22 We realize that the policy is elastic to meet changing conditions and changing needs, yet it cannot be
23 used to abrogate or limit personal liberty or property rights contrary to constitutional sanction. **City of**
24 **Cincinnati v. Correll**, 49 N.E. 2d 412, 414; 141 Ohio St. 535.

25 By the expression "constitutional right," as just used, we mean a right guaranteed to the citizen by the
26 Constitution and so guaranteed as to prevent legislative interference with that right. **Delaney v. Plunkett**,
27 91 S.E. 561; 146 Ga. 547.

28 The right to travel on the land was an inherent right, which had existed before the adoption of Utah's
Constitution. This right includes all modes of travel, whether by horse, wagon, or carriage, or by walking,
and also includes automobiles since they have "equal rights" with other modes of travel. Thus, the
defendant is here again claiming and asserting his inalienable and constitutional right to travel on the
public roads of this land, whether on foot, or by bicycle, or automobile or other means of conveyance
existing or yet to be discovered. This is a right under the Constitution of Utah and every state, which this
court is bound to uphold and protect.

WHEREFORE, I MOVE Judge Ingle and this honorable Court, to Dismiss/ Demurrer Citation # 01252JT
for Lack of Subject Matter Jurisdiction; Lack of Administrative Due Process of Law; Failure To State A
Claim Upon Which Relief Can Be Granted; Lack Of State's Verified Misdemeanor Complaint.

1 **Conclusion:**

2 For all the above reasons, but not limited to, it is abundantly clear to any Sovereign Citizen with average
3 intelligence that:

4 A) I have the fundamental Right to use the public highways to travel which is given to me by my Creator;
5 and that,

6 B) It is a well-settled fact in law that an automobile and a 'motor vehicle' are different modes of
7 conveyance; and that,

8 C) In the day in question, I was exercising my unalienable right to Travel; and that,

9 D) I simply 'traveling' in an 'automobile' (not for profit or gain); and that,

10 E) I was not 'driving' a 'motor vehicle' in 'traffic' subject to the Utah Administrative Codes; and that,

11 F) No one was injured on the date in question; and that,

12 G) I never received a "Verified Misdemeanor Complaint".

13 **Verification including standard PNJ (patriot nut job) drivel disparaging the 14th amendment.**

14 I, David Christensen, sovereign common law Citizen (not 14th Amendment citizen) hereby verify, under
15 penalty of perjury, under the laws of Utah state, that the above Statement of Facts / Points and Authorities
16 In Support, and laws are true and correct, according to the best of my current information, knowledge,
17 and belief, so help me God, pursuant to 28 U.S.C. 1746 (1). [Lawyerdude addes: I wonder how you can
18 swear that the cases are true. You have never even read them. You have never held the books that
19 contain these cases. You don't even know if the citations are accurate.]

20 Signed: _____ David Christensen. Wednesday, March 18, 2009

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