

In the Supreme Court of the State of North Dakota

Terry Kemmet,

Court Docket no. 20190189

Plaintiff, Appellant

V

Jeanne M Steiner

Rosellen M Sand

Governor Doug Burgum

AG Wayne Stenehjem

WSI Director Brian Klipfel

WSI Worker Barry Schumacher

Others Unknown At Present

APPELLANT'S BRIEF

ORAL ARUGMENT REQUESTED

Terry Kemmet

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Oral Argument requested per Bill of Rights of North Dakota, Article 1, Section 1, says that “*All individuals are by nature equally free and independent and have certain inalienable right among which are enjoying and defending life and liberty, acquiring, possessing and protecting property and reputation...*” and so forth. He wants to be able to defend his reputation and himself..

Statement of the Case

1. Attorney General Wayne Stenehjem appointed Jeanne M. Steiner to the office of Assistant Attorney General on November 19th, 2008. She was also appointed to be the Assistant Law Judge for the WSI case numbered 20170058. She never was sworn in, and did not take an oath of office. This is a violation of the North Dakota laws and also of the requirements of the U.S. Constitution Appointment Clause by not following the proper procedures in which she was appointed her position as Assistant Attorney General. In this case her seat would be vacant from the beginning of the supposed tenure. This caused the plaintiff to file for a motion of dismissal, but in total absence of jurisdiction, Rosalynn M Sand was appointed in her place though the motion of dismissal was ignored. The main issue with that is one cannot continue an action that was never legally, and properly conducted.

2. NDCC 65-09-01 is the statute cited that creates statutory authority for the organization to determine whether a person is an employer. A search in the definitions of WSI concerning employer and employee confirmed that K & K Well Drilling was not an employer, nor had any employees. After a search for the enabling clause required by the Executive Branch to place this title or any part of it into positive law, none could be found. A search for the enacting clause in NDCC, which is required to be on the face of all law by Article 2, Section 59 of the original North Dakota Constitution, produced no enacting clause. No implementing regulations were brought forth that could show that any regulations of Title 65, Workforce Safety, applies to Terry Kemmet. Without these required constitutional mandates there is no law, no authority, or no subject matter jurisdiction. In total absence of jurisdiction, Plaintiff was accused of violating laws that were taken out of North Dakota Century Code.

4. The NDCC is a copyrighted set of books. LexisNexis is the owner of the words in the NDCC. The copyright symbol is on the copyright page of all volumes of NDCC followed by the name, Matthew Bender & Company, Inc. The words following are "*Copyright assigned to the State of North Dakota for official use, subject to reservation of contractual rights by Matthew Bender & Company, Inc., a member of LexisNexis Group.*" No other exceptions or exclusions were listed. Terry Kemmet, as one of the people is not the state of North Dakota, is not contracted to the state of North Dakota, nor is he allowed to do anything in official capacity for the state of North Dakota. The state of North Dakota is guilty of copyright infringement when i

t attempts to contract private people and in NDCC 12.1-14-05 “*Preventing the exercise of civil rights*”... “*is guilty of criminal trespass and has no jurisdiction over the people in their private capacity.*”

5. Chapter 28-32 of the NDCC gives the definition of Administrative Agency and the rules it must follow and observe. Workforce Safety Insurance fits under the definition of Administrative Agency. It also clearly defines the procedures for all administrative agencies and states that the “*administrative agencies shall comply with the following procedures in all adjudicative hearings*”. It also states that “*a complainant shall file a clear and concise statement of the claims or charges upon which the complaint relies, including reference to the statute or rule alleged to be in violation*”. This procedure was not followed and due process was not afforded. According to NDCC rules of civil procedure it was an illegal search. All of the procedural errors that WSI enacted was a direct violation of the Plaintiffs rights, and furthermore was a direct and blatant disrespect for the rules and regulations of the state of North Dakota and our United States Constitution. In total absence the Plaintiff was served with an unverified complaint by WSI.

6. Terry Kemmet attempted to buy worker’s compensation insurance from his regular insurance company, which is out of state. He was denied the policy because he was told that WSI in North Dakota is a monopoly and their insurance company was prohibited from selling workers comp insurance in this state. U.S. Code Title 15, Section 2, states: “*Every person who shall monopolize or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several states, or with foreign nations shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine not exceeding \$100,000,000 if a corporation*”. In the hearing, two WSI employees admitted under oath, that WSI does, in fact, have a monopolizing policy. Clearly this is a violation of NDCC Chapter 9-08-06 and a violation of ND Constitution Article 1, Section 18. Plaintiff Terry Kemmet, argues that WSI is, in fact an illegal monopoly which bars his constitutional right to contract for services offered by the private sector.

7. Official oppression according to NDCC, is described as *a person acting in an official capacity who subjects another to search, seizure, dispossession, assessment, lien or other infringement of personal property rights; or who denies or impedes another in the exercise of personal or property rights.*

8. It has been determined that “*When governments enter the world of commerce, they are subject to the same burdens as any private firm or corporation.*” U.S. Vs Burr. 309 U.S. 242...Absent contract there is no jurisdiction. By entering into the world of commerce, particularly as a monopoly, the government and WSI, as an agent, has forfeited any immunity it would otherwise possess.

9. NDCC 9-08-06 states, “*Every contract by which anyone is restrained from exercising a lawful possession, trade, or business of any kind is to that extent void...*” North Dakota Workforce Safety has violated this rule every day of its existence for 100 years. My insurance company failed to provide me workers compensation insurance because this rule was violated and I was damaged. “*When the government becomes the lawbreaker, it breeds contempt for the law.*” I am not responsible to contract with an illegal entity which violates the NDCC and U.S. Constitutional law.

10. On November 15, 2016 Terry Kemmet made an offer, in honor, to pay the total amount based on a verified bill, sworn by an authorized agent of WSI as received by the date stamp of the document. WSI was given 30 days to comply with the offer and the matter would be resolved. The offer came into dishonor after the 30 days by lack of response. It has now been over two years and I have never received a verified bill. All laws under UCC-3, part 5 sub-section 3-505 have been complied with as to offer and acceptance. Tender of payment was made by a notary in honor and was dishonored by the WSI by lack of response, period. According to UCC law this bill has been discharged. Documents stand as proof, and a valid contract is one in which both parties knowingly enter into an agreement willingly and without coercion. Where there is no standing there can be no jurisdiction.

Law and Argument

Terry Kemmet was never served personally, nor his name used

11. Terry Kemmet was never served a summons and therefore never gave personal jurisdiction to the courts. The DBA name of K&K Well Drilling was the name on the summons. Plaintiff was never served a valid summons per rule 3 of ND Rules of Civil Procedure and Rule 28 of NDCC for Agencies. The summons Rule 4, NDPC was not properly followed either: It did not contain the title of action, and was not in Terry Kemmet's name. In *Roe v New York* (1970, SD NY) 49 FRD 279, 14 FR Serv 2nd 437, 8 ALR

Fed 670. *“Complaint must identify at least one plaintiff by true name; otherwise no action has been commenced”*. Bouvier’s Law Dictionary, 8th edition, page 2287: *“The pmissionof the Christian name by either plaintiff or defendant in a legal process prevents the court from acquiring jurisdiction...”* Again, Gregg’s Manual of English also confirms: *“A name spelled in all capital letters or a name initialed, is not a proper noun denoting a specific person, but is a fictitious name, or a name of a dead person, or a nom de guerre.”* Therefore an accused person must be identified by his proper name, so as to single them out from any other. Even the name K & K Well Drilling implies more than one person.

12. WSI obtained an illegal subpoena for a search conducted in September 2015. Three attempts were made to search bank records of K&K Well Drilling and signed by various attorneys. The attorneys were employed by WSI and represented themselves as Assistant Law Judges who are on staff with WSI, and whose address was also the same as WSI. In clear violation of ND Rules of Civil Procedure, Rule 45: The subpoena did not: state the title of the action; was not served under a proper name but rather a business name; gathered records in addition to the name that was served; did not comply with mandatory notice before service; was not served on each party whose records were searched in the subpoena; and was served before an official action had commenced. Rule 4 (d) WSI exceeded its authority as concerning the Uniform Preservation of Private Business Records Act, NDCC 31-08.1.02 Period of Preservation. *“Unless a specific period is designated by law for preservation, any business record that state law requires a person to keep or preserve may be destroyed after the expiration of three years from the making of the record without constituting an offense under state law.”* Article 1, Section 8, of ND Constitution states: *“The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.”* Hale vs Henkel, 201 US 43 at 47 (1905) *“The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no such duty [to submit his books and papers for examination] to the State, since he receives nothing there from beyond the protection of his life and property. His rights are such as existed by the law of the land [Common Law] long antecedent to the organization of the state, and can only be taken from him by due process of the law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the*

immunity of himself and his property from arrest or seizure except under warrant of law. He owes nothing to the public so long as he does not trespass upon their rights.” This case law has been used in 1600 federal cases and has yet to be overturned.

13. To make a “*Conclusion of the law*” unilaterally, based on digging through a checkbook and picking names at random, is a clear violation of substantive rights. Terry Kemmet never received notice that his records and bank statements were accessed by WSI. This is a violation of procedural rights, because there was no notification as required by law. It is a violation of the 4th Amendment Right in the US Constitution. In *Kastager v United States*, 406 US 441, 92 S Ct. 1653, 32 L. Ed 212 (1972) “*We recently reaffirmed the principle that the privilege against self incrimination can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory, or adjudicatory.*” Id. At 444, 92 S Ct. At 1656 [*Lefkowitz v Trully*, 414 US 70, 94 S Ct. 3116, 322 L. Ed 274 (1973) A rule published as a result of the rulemaking action is unconstitutional on the face of the language adopted.

14. According to the Rules of Evidence in NDCC 28-32-24, “*the admissibility of evidence in any adjudicative proceeding before an administrative agency shall be determined in accordance with North Dakota Rules of Evidence. An administrative agency, or any other person conducting proceedings for it, may waive application of the North Dakota Rules of Evidence if a waiver is necessary to ascertain the substantial rights of a party to the proceeding, but only relevant evidence may be admitted. The waiver may be specifically stated, orally or in writing, either prior to or at a hearing or other proceeding.*” A verified complaint was never filed in this manner. To obtain subject matter jurisdiction, a verified complaint must be filed and must be made under penalty of perjury. If perjury cannot reach the accused, then there is no accuser, therefore there could be no valid complaint. Otherwise any one may accuse another falsely without risk. “*Without a valid complaint any judgement or sentence rendered is ‘Void ab initio’*” *Ralph v Police Court of El Cerrito*, 190 P. 2d. 632, 634, 84 Cal. App. 2d 257 (1948) “*A formal accusation is essential for every trial of a crime. Without it the courts acquire no jurisdiction to proceed, even with the consent of the parties, and where the indictment or information is invalid, the court is without jurisdiction.*” *Ex parte Carlson*, 186 N.W. 722, 725, 176 Wis.538 (1922)

WSI Filed An Unverified Complaint

15. 5 USC 556 (d) Except as otherwise provided by statute, the proponent of a rule or order has burden of proof. Title 5 of the US Code 556 is the federal law for administrative hearings. It complies with the 14th amendment of The Bill Of Rights due process clause: That, “*No state shall make or enforce any law which shall abridge the privileges or immunities of the United States; nor shall any state deprive a person of life, liberty, or property without due process of the law; nor deny to any person within its jurisdiction the equal protection of the laws.*” The “Due Process Clause” of the fourteenth amendment of the United States Constitution, has also been interpreted by the US Supreme Court (in the twentieth century) to incorporate the protections of the Bill of Rights so that those protections apply to the States as well as Federal Government. Thus, the “Due Process Clause” serves as the means whereby the Bill of Rights has also become binding on State and Federal Governments too.

Attny. General allowed a person with no oath of office to officiate a law proceeding

16. NDCC Chapters 65-02-02: “*Before commencing to perform the duties of the organization, the director shall file an oath of office in the usual form.*” Except for the director of WSI, the only people required to take an oath of office in the corporation are certain employees because their jobs require it, such as lawyers and ex-military. **The oath of office is not just a mere formality, it is so very important because it is the signature by which a public employee signs his allegiance to the contract of the constitution and promises the people to do them no harm.** Some employees of WSI, the numbers are yet to be determined, did not have the required Oath Of Office. Judicial Notice of Error was made in the matter regarding Special Assistant Attorney General, Jeanne M Steiner, concerning the oath of office. WSI’s contention that no oath of office is required for ALJ’s is based on a job description. An oath of office can not be taken after appointed to that same office. NDCC 44-01-05 “**The term Civil Officer includes every elected official and any individual appointed by such selected official.**” The term “*any individual appointed by an elected official is all inclusive. Only two exceptions are made: 1) To fill a vacancy in the Legislative assembly. 2) any individual receiving a Legislative appointment.*” This appointment was executive and had nothing to do with any exemption listed. Jeanne M Steiner was required to take an oath of office and she did not and therefore failed to qualify for the office that she filled. According to Chapter 44 of NDC

C 44-02-10-6 *“Failed to qualify as provided by law, which includes taking the designated oath of office prescribed by law.”* The office was vacant, and a person not qualified for the office of Special Assistant Attorney General cannot schedule a hearing or anything else for that matter. This was not in accordance with the law. The provisions in the NDCC Chapter 44 have completely and unlawfully been ignored. Numerous procedural errors have been not in compliance with the State of North Dakota, and/or the United States Constitution, they are as follows:

NDCC 44-05-04: The appointment of any civil officer may be rescinded by the appointing authority if the appointed civil officer fails to file an oath of office at the place of filing required by Section 44-05-04.

NDCC 44-01-05: Unless otherwise provided by law, any civil or public officer required by Section 44-01-05 or any other provision of law to take an oath of office must file the oath as follows: If a state official or member of a state board, with the secretary of state.

Article XI, NDC, Section 4 states: Members of the legislative assembly and the executive and judicial branches, except such inferior offices shall take and subscribe the following oath or affirmation, “ I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of x _____ (state which office accordingly) according to the best of my ability, so help me God.” If an oath: under pains and penalty of perjury; if an affirmation, and any other oath, declaration or test may not be required as a qualification for any office or public trust.

NDCC 44-02-02 Refusal to take an oath of office as required by this section shall also be deemed a refusal to serve and therefore a failure to qualify for office.

17. Terry Kemmet tried numerous times to obtain the oath of Jeanne M Steiner. They were all unsuccessful attempts to acquire the oath, because it was never done before she obtained the office of Special Assistant Attorney General. I went to the Secretary of State’s office to try to obtain them, in person and her search resulted in a statement that the named person above, Jeanne M Steiner could not be located with the associated oath. I then asked her to compile the results of that search and send them to me for proof of my visit but she did not.

18. In North Dakota there are no penalties or statutes that directly apply to an absence of oath of office. However, there are criminal elements that do apply according to state and federal laws for not taking the oath of office

First: NDCC 12-1-14.01: Official Oppression. A person acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity is guilty of a class A misdemeanor if, knowing that his conduct is illegal he (1) subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of personal or property rights; or (2) Denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity.

Second: Federal Law, Title 18 USC, Part 1-Crimes, Chapter 43-False Personation; Head: Sec. 912 Officer or employee of the United States...STATUTE: *“Whoever falsely assumes or pretends to be an officer acting under authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.”* In the instance described, the requirement to take an oath of office to the Constitution of the United States, as well as the Constitution of North Dakota, ties this oath to federal law and also penalties. [citing Ginsberg v City of Long Beach, 286 N.Y. 400, 36 NE2d 637; and also People ex rel. Walton v Hicks, infra.] *“the appointment was vitiated and the office became vacant.”*

19. *In regards to protecting oneself from “abusive public servants”: as well as “neglect to protect” provisions in state law see Title 18 USC, Section 1621; also for persons under oath see Title 42 USC Section 1986. These say wherein a person having “knowledge of the law”, “the power to stop a wrong” and the “duty to prevent a wrong from being done” is liable for any failure to act. Should they fail to prevent a wrong, having had knowledge of the law, the power to prevent, or a legal or moral duty to prevent the wrong, which can cause deprivation of your religious and/or civil rights or liberties, then suit can be brought for violations.* Terry Kemmet was injured by a person purporting to be an ALJ (administrative law judge) and hired a lawyer for legal protection and advice. Proceedings were void from the beginning and could not be rectified by merely continuing a void action.

Kemmet was charged with violating laws that do not exist

20. This unverified complaint alleges that K&K Well Drilling is an employer subject to the provisions of Section 65-01-05 of the NDCC and is liable for workers' compensation premiums. The wording of this code is as follows; "Employment of those unprotected by insurance unlawful. Effect of failure to secure compensation-Penalty_Injunction. Repealed by SL 2001, chapter 558, paragraph 17. "Where the offense charged does not exist the trial court lacks jurisdiction." State v Christianson, 329 N.W. 2d 382, 383, 110 Wis. 2d 538 (1983) Also the subject matter is absent.

The Laws Referenced In The Complaint Contain No Titles

21. Article 2, Section 61: No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed. All laws are required to have titles indicating the subject matter of the law, as required by the Constitution of the State North Dakota.

22. This type of constitutional provision "makes the title an essential part of every law." thus the title is as much a part of the act as a part of the body itself." Leineinger v. Alger, 26 N.W. 2d, 348, 351, 316 Mich. 644 (1947) For an act to be a triable offense, it must be declared to be a crime. Charges must negate any exception forming part of the statutory definition of an offense by affirmative non-applicability. "The title to a legislative act is a part of and must clearly express the subject of legislation." State v. Burlington & M.R.R. Co, 60 Neb 741, 84 N.W. 254 (1900)

23. The Supreme Court of North Dakota, in speaking on its constitutional provision requiring titles on laws stated that, "This provision is intended to prevent all mishaps or surprises on the part of the public." State v. McEnroe 283, N.W.57, 61 (N.D. 1938)

WSI did not follow Guidelines of NDCC 28-32

24. NDCC 28-32; and North Dakota Rules of Civil Procedure: To comply with the foregoing elements, for the accusation to be valid, the accused must be accorded Due Process. This includes the compliance of

procedures and processes necessary to bring forth charges. Also, this includes court determined probable cause and summons and court procedure.

25. Under the definitions, in the NDCC, Title 28-32-01 of the administrative agency: “Administrative agency” or “agency” means each board, bureau, commission, department, or other administrative unit of the executive branch of the state government including one or more officers, employees, or other persons directly or purporting to act on behalf or under the agency...” There were exceptions listed but WSI was not one of them. Therefore, WSI is an administrative agency under the definition in Chapter 28 and must abide by the rules in this Chapter. WSI made up their own rules under Title 65 and made the assumption of “Finding of Facts” and “conclusion of Law” unilaterally without any semblance of due process, a direct violation of civil rights and procedural and substantive rights based on US Title 42-Section 1983.

26. Procedures for all Adjudicative proceedings are specified in NDCC Rule 28-32-21-: Adjudicative Proceedings- Procedures. Administrative agencies shall comply with the following procedures in all adjudicative proceedings: *“For adjudicative proceedings involving a hearing on a complaint against a specific-named respondent, a complainant shall prepare and file a clear and concise complaint with the agency having subject matter jurisdiction of the proceeding. The complaint shall contain a concise statement of the claims or charges upon which the complainant relies, including reference to the statute or rule that was alleged to be violated and the relief sought.”*

27. There was no complaint, at least it was never represented as a complaint. It never was against someone specific. The “complaint” was called a “Finding of Fact”, and was never clear or concise. It was intentionally meant to slander my name and my reputation, and to throw mud at a wall and see how much would stick, so to speak. There are many proven facts showing clear disregard for the procedures and the laws of the State of North Dakota and also The US Constitution. Procedural errors lead to constitutional errors, which leads to many other administrative, legislative, and executive errors that occur. These errors are not to be tolerated, because it strips all “Due Process” from the common man and then burden of proof lies with the defendant to prove himself right as assumptions and paperwork is made without verification.

28. Another conclusion of law states that K&K Well Drilling is an employer subject to the provisions of NDCC 65-01-05. Again, NDCC 65-01-05 has been repealed. Supposedly, this “conclusion of law” holds K&K Well Drilling liable for workers compensation premium pursuant to NDCC 65-04-04 which states: “*Each employer subject to this title shall pay into the fund annually the amount of premiums determined and fixed by the organization...*” This is a false statement made on a law that does not exist.

Definitions in NDCC are arbitrary and Capricious

29. NDCC 65-01-02, under the heading “Definitions”, paragraph 16 defines an “employee”. In part, “*Employee means an individual who performs hazardous employment for another for remuneration unless the individual is an independent contractor under the common law test.*” It then goes on to define and limit the term employee further. “*The term includes (1) All elected and appointed officials of this state and its political subdivisions, including members of the legislative assembly, all elective officials of any county, and all elective peace officers of any city. (2) Aliens. (3) County general assistance workers, except those who are engaged in repaying to counties monies the counties have been compelled by statute to expend for county general assistance. (4) minors, whether or not they are lawfully or unlawfully employed...*” That’s it. All “employees” work for the State, are Aliens, or are Minors. Please note that the term is also defined and limited by the word “includes”. The definition “includes” like things, which is all government workers, elected and not, aliens, and minors. Notably missing are THE PEOPLE. According to the definition of “employee”, K&K Well Drilling never had any employees ever.

30. “Employer” means a person who engages or receives the services of another for remuneration unless the person performing the services is an independent contractor under the common-law test. The term includes: (a) the state and all the political subdivisions thereof; (b) all public and quasi-public corporation in this state; (c) Every person, partnership, limited liability company, association, or corporation either p

private or public service; (d) the legal representative of any deceased employer; (e) the receiver or trustee of any person, partnership, limited liability company, association, or corporation having one or more employees herein defined; (f) the president, vice presidents, secretary, or treasurer of a business corporation, but not members of the board of directors of a business corporation who are not also officers of the corporation; (g) the managers of a limited liability company; (h) the president, vice president, secretary, treasurer, or board of directors of an association or cooperative organized under chapter 6-06, 10-13, 10-15, 36-08, or 49-21; (i) the clerk, assessor, treasurer or any member of the board of supervisors of an organized township, if the person is not employed by the township in any other capacity; (j) a multi-jurisdictional special education unit; (k) an area career and technology center; (l) a regional education association. Obviously this term is meant as to confuse and distract the common people from a true understanding of the word “employer”. Since all of the terms following “includes” are similar in nature the term person must mean either a corporation, which was defined as a person, or it is everyone. In that case it is just absurd. This definition published as a result of the rulemaking action is on the face of the language adopted both an arbitrary and capricious application of authority granted by statute.

31. Those who make the definitions control the argument. To have agriculture listed as non-hazardous employment and almost all other professions listed as hazardous defies all logic and statistical references. Stats prove that agricultural is among one of the top hazardous professions of all. But, it shows who is in charge of making the laws and the controlling definitions.

The NDCC is a book comprised of private law not public law

32. The complaint in question alleges that the accused has violated statutes found in North Dakota Century Code as follows: NDCC 65.04-04; 65.01-03; 65.01-04; 65.01-05; 65.04-33. Upon looking these laws up I found that they do not adhere to several constitutional provisions of the North Dakota Constitution and North Dakota Legislative Manual.

33. **North Dakota Century Code is published under the direction of the North Dakota Legislature, but is copyrighted by the publisher: © 2017 Matthew Bender & Company, Inc. A member of LexisNexis Group.**

All rights reserved-701 E. Water St., Charlotte, VA 22902-Copyright is assigned to the state of North Dakota for official use, subject to reservation of contractual rights by Matthew Bender & Company, Inc. A member of the LexisNexis Group.” The reader of this has no idea what the “contractual rights” of the state of North Dakota are, leaving confusion on the part of the people. No true public documents are copyrighted. Public documents are in public domain. A copyright infers a private right over the contents of the book suggesting that the laws that are contained therein are derived from a private source, and are not the true laws of the state of North Dakota. Another question that arises is from the words “for official use only”. Does this mean that Official Use Only is not for the people to use? Since the state of North Dakota is distinctly separated from the people of the state of North Dakota, it cannot be assigned to the people of the state without having an arbitrary and binding agreement with the People. Since there is no such contract between the people of North Dakota and the LexisNexis Group, Inc. Then is it true to say that the laws described within that book the NDCC, are null and voided for the people of the state of North Dakota?

34. Dunn and Bradstreet describe North Dakota South Central District Court (NDSCDC) as being a branch of ND Supreme Court, which is incorporated under the laws of the state of North Dakota being traded as North Dakota Supreme Court. (Dunns # 360704761)

35. Manta describes NDSCDC as being a branch of ND Supreme Court which is incorporated under the laws of the state of North Dakota. It states that the South Central District Court is a privately held company whose manager is Bennie Graff.

36. That being the case, the North Dakota Supreme Court has to be contracted with the state of North Dakota to conduct judicial business of the state of North Dakota, making all judges mere employees of the North Dakota Supreme Court.

37. The contract binding the state of N.D. And the N.D. Supreme Court, . . . To the knowledge of the accused, has never been disclosed to the people of the state of North Dakota, but would require an assignment of rights received from LexisNexis Group, Inc. For the court or any such entity as Workforce Safety Insurance, Inc. To use North Dakota Century Code. If no assignments exist, there is violation of the copyright laws by WSI.

Laws Published in NDCC have no Enacting Clause

“...shall bear upon their face the authority by which they are enacted, so that the people who are to obey them need not search legislative and other records to ascertain authority.” By constitutional mandate, all laws must have an enacting clause. Article 2, The Legislative Department, Sec. 25: **The Legislative power shall be vested in a Senate and House of Representatives (1889).** This article also describes certain procedures, orders they must be done in and followed to a T, for a valid law to exist under the Constitution. One of the forms that all laws in the state of North Dakota require is that it must have an enacting clause to be legal. The provision in Article 2, Sec. 59 states: **“The enacting clause of every law shall be as follows: Be it enacted by the Legislative Assembly of the State of North Dakota”**

38. None of the laws cited in the complaint against the accused, as found in the North Dakota Century Code © 2017, contain any enacting clauses! Thus, the enacting clause is regarded as part of the law, and must appear directly with the law, on its face, so that one charged with said law knows the authority in which it exists.

Government runs a business of common right

39. WSI, by admittance of two employees, under oath in a hearing, has a **“Monopoly Policy”**. I tried to obtain Workers Liability Insurance through several private insurers. They all told me the same thing, that the State of North Dakota has a “monopoly policy” and they are refused to sell their insurance here in this State of North Dakota due to this. By their own admittance WSI has violated US Code, Title 15, Section 2: ***“Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade of the commerce among the several states, or with foreign nations shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fines not exceeding \$100,000,000 if a corporation.”*** Again, this is clearly a violation of NDCC Chapter 9-08-06 and also of ND Constitution Article 1, Section 18.

40. When I sought to buy worker liability insurance from my normal insurance company, which is out of state, I was told they were not allowed to sell their insurance because WSI has a monopoly in this State of North Dakota. I was denied my right to purchase insurance from whomever I choose. The insurance agents were also deprived of their right to sell their wares, which is insurance. I was told that I had to buy insurance from the state only. This is definitely an unfair and demeaning thing, and it forces people to purchase insurance from the only one around which is the state. This is unlawful, illegal, and immoral. It bars the rights of people to contract for services offered by the private sector.

41. NDCC 9-08-06 In restraint of business voids-Exceptions. “Every contract by which anyone is restrained from exercising a lawful profession, trade, or business of any kind is to that extent void...”

42, *Allgeyer v Louisiana* 165 U.S. 578 In a Supreme Court opinion concerning a similar subject of insurance bought outside of the state of Louisiana on pg 164 “*We think the statute is a violation of the fourteenth amendment of the federal constitution in that it deprives the defendants of their liberty without due process of the law. The statute forbids such act does not become due process of law because it is inconsistent with the provisions of the Constitution of The Union. It is natural that the state court should have remarked that there is in this statute an apparent interference with the liberty of defendants in restricting their rights to place insurance on their property of their own whenever and in what company desired.*”

43. “*No state shall abridge the privileges and immunities of the citizens of the United States.*” Justice Washington, *Slaughter House Cases*, 16 Wall. 36.57

44. In *Butcher’s Union v Crescent City*, 111 US 746, The Supreme Court of the United States, Justice Field stated, “It has been well said that the property that every man has is his own labor, as it is the original foundation of all other property, so it is most sacred and unviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing his strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty, both of the workman

an and those who might be disposed to employ him...As it hinders the one from working at what he thinks proper, so it hinders the others from employing whom they think proper. Smith, Wealth of Nations. Bk. 1c 10 Butchers Union Co V Crescent City Co., 111 US 764 (1884) “In this country it has seldom been said that so odious a form as a monopoly is here claimed, that an entire trade and business could be taken from citizens and vested in a single corporation. Such legislation has been regarded everywhere else as inconsistent with civil liberty.” (speaking of a monopoly granted by the state of Louisiana) “The principle if not sole purpose of its prohibitions, is to prevent any arbitrary invasion by state authority of the rights of person and property, and to secure to everyone the right to pursue happiness unrestrained except by just, equal and impartial laws.”

45. Another such example is this: Justice Bradley on New Orleans, Louisiana case above, “*I hold it to be an incontrovertible proposition of both English and American public law, that all monopolies are odious and against common right. And if a man’s right of his calling is property, as many maintain, then those who had already adopted the prohibited pursuits in New Orleans, were deprived by the law in question, of their property, as well as their liberty, without due process of the law. But still more apparent is the violation by this monopoly law of the clause-no State shall deny to any person the equal protection of the law. Monopolies are the bane of our body politic. If by legislative enactment they can be carried into the common vocations and callings of life, so as to cut off the right of the citizen to choose his own avocation, the right to earn his bread by the trade which he has learned; and if there is no constitutional means of putting a check to such an enormity, I can only say that it is time the Constitution was still further amended. In my judgement, the present Constitution is amply sufficient for the protection of the people if it is fairly interpreted and faithfully enforced.*”

Judicial Immunity

46. *Olmstead v United States (1928) 277 US 438- “ Crime is contagious. If the government becomes the lawbreaker, it breeds contempt for the law, it invites every man to become a law unto himself; it invites anarchy. As use of private corporate commercial paper [federal reserve notes], debt currency or securities [checks] is concerned, removes the sovereignty status*

of the government of “we the People” and reduces it to an entity rather than a government in the area of finance and commerce as a corporation or person. Governments descend to the level of a mere private corporation and take on the characteristics of a mere private citizen. This entity cannot compel performance upon its corporate statutes or rules unless it, like any other corporation, or person, is the holder in the course of some due contract or commercial agreement between it and the one upon whom payment and performance are made and are willing to produce said documents and place the same evidence before trying to enforce its demands and statutes. For purposes of suit, such corporations and individuals are regarded as entities entirely separate from the government.” Clearfield Trust Co v United States, 318 US 363-371 *“When governments enter the world of commerce, they are subject to the same burdens as any private firm or corporation.”* US v Burr. 309 US 242. By excluding themselves from this rule, WSI has committed fraud by omission.. In Cooper v Aaron, 358 US 78 S Ct., 1401 (1958) *“The Constitution of The United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law.”*

47. On or about November 15, 2016 I , Terry Kemmet, made an offer in honor to pay WSI the total amount based on a verified bill, sworn by an authorized agent of WSI as received by the date stamp on the document. I gave them thirty days in which to produce a bill and after the thirty days that became null and void. I gave them thirty days in which to give me a corrected bill or I would consider the matter resolved. I was met with a lack of response. That was over two years ago, and I have yet to get one. Under UCC Article 3-part5-subsection 3-505 “evidence of Dishonor (a) the following are admissible as evidence and create a presumption of dishonor and any notice of dishonor stated: (1) A document regular in form as provided by subsection (b) of this section which purports to be a protest. (3) A book of record of the drawee kept in normal course of business which shows dishonor, even if there is no evidence of who made the entry.” Record was kept and UCC law was ignored. Payment was tendered and dishonored.

Judicial Error In Order For Dismissal

48. In the Order for Dismissal of Judgement, 08-2019-CV-00693, [Paragraph 2] **“the court construes Plaintiff’s complaint as a complaint against the state, not the individually named State defendants”.** Kemmet disagrees since a major actor in the proceedings, Jeanne M Steiner, was not officially a civil officer as is claimed. In Paragraph 5, Judge Borg

en in his decision states, “The State and Administrative Law Judges Steiner and Sand are immune from Plaintiff’s claims due to the doctrine of judicial immunity, which applies to administrative law judges for their “discretionary acts not done in the clear absence of all jurisdiction.” And he states that, “Administrative law judges are not required under North Dakota law to take an oath of office or to file an oath with the secretary of state.” “Plaintiff argues that NDCC Chapter 44-01-05 require civil officers to take an oath of office. However, administrative law judges do not fall under any of the categories defined as “civil officers” in NDCC 44-01-05. I beg to differ. Judge Borgen’s contention that no oath of office is required for ALJ is base on job description. NDCC 44-01-05 “The term civil officers include every elected official and any individual appointed by such elected official.” This term is all inclusive. The only two exceptions are 1: to fill a vacancy existing in the legislative assembly. And 2) any individual receiving legislative appointment.” This appointment was executive and had nothing to do with the exemptions listed. Jeanne M Steiner was required to take an oath of office and did not therefore failed to qualify for the office that she filled, according to NDCC 44-02-10-6 “Failed to qualify as provided by law, which includes taking the designated oath of office prescribed by law.” Jeanne M Steiner fits every definition of civil officer above, most pertinent that she was appointed by an elected official..

49. Judge Borgen in his decision states, “after review of Plaintiff’s claims, it is clear that all of his claims were known or should have been known to him for more than 180 days before he submitted his notice of claim to the director of the Office of Management and Budget. Thus, the Plaintiff has not complied with NDCC 32-12.2-04 (1) and this court lacks subject matter jurisdiction.” Kemmet claims that since there was no damage until after the notice of hearing and judgement, that the claim stems from that time of damage to him, which was the judgement rendered on Nov. 7, 2018. And that would make Kemmet in compliance with the 180 days. A further point Kemmet has brought up is that since he has brought a complaint against Jeanne M Steiner in her individual capacity, the statute is moot since she was not a public official. The office was vacant according to law since she failed to qualify for the office and was merely impersonating an officer of the court.

50. Judge Borgen states, (paragraph 7) ‘in addition Plaintiff failed to comply with NDCC 2-12.2-04 by failing to deliver pleadings in this lawsuit to the Director of the office of management and Budget “at the time the summons, complaint, or other legal pleading is served in the action.” Kemmet claims th

at not only is he within the time limit of 180 days but according to the statute stated, the notice of claim can be included in the terms of the statute “or other legal pleading is served in this action”. A maxim of law states that “The law respects form less than substance.”

51. Kemmet claims that he is not seeking to void an order by OAH, but that the order is already void because of numerous mistakes and violations of civil

Certificate Of Compliance: I, Terry Kemmet certify that I am in compliance with the rules and regulations of the State of North Dakota, to the best of my knowledge. I also am sending this via email only to

drphillips@nd.gov

and also to supclerkofcourt@ndcourts.gov

This is my certificate and proof of service.

Terry Kemmet

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IN THE SUPREME COURT OF THE STATE OF NORTH DAKOTA

Terry Kemmet (CERTIFICATE OF SERVICE
Plaintiff (AND COMPLIANCE
(
V (Civil No. 08-2019-CV-00693
(
Jeanne M Steiner (This is to certify that I, Terry Kemmet,
Rosellen M Sand (am in compliance by serving this document
Governor Doug Burgum (via email only to:
A G Wayne Stenehjem (drphillips@nd.gov
WSI Director Brian Klipfel (supclerkofcourts@ndcourts.gov
WSI Worker Barry Schumacher (
Others, presently unknown (
Defendants (

TO THE ABOVE NAMED DEFENDANTS AND THEIR ATTORNEY OF RECORD:

David R. Phillips
Assistant Attorney General
Office of Attorney General
500 North 9th Street
Bismarck, N.D. 58501-4509

To: drphillips@nd.gov

Also to : Supclerkofcourts@ndcourts.gov

This is proof of service via email only. Dated this August 28th, 2019 in North Dakota.

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