

Stephen L. Rush



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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
(FILE SHOWING KEY ELEMENTS)**

Case No. CIVDS1613304

Stephen L. Rush,

)

Plaintiff,

)

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR SUMMARY**

)

JUDGMENT; POINTS AND

)

vs.

)

AUTHORITIES IN SUPPORT THEREOF;

)

[The President]; Recallees as UNKNOWN

)

[STATEMENT OF

CIVIL SERVANTS and ALL OTHER

)

UNDISPUTED FACTS AND

UNKNOWN PARTIES Governing From or

)

PROCEDURAL STIPULATIONS

Occupying a Disputed or Contested or

)

FILED CONCURRENTLY HEREWITH]

Recalled or Revoked FEDERAL OFFICE or

)

SEAT or POSITION or POWER, and Civil

)

Date: May 8, 2017

Servants as any and all FEDERAL

)

Time: 8:30 a.m.

OFFICIALS and OFFICERS and their

)

Dept: S24

Successors and Staff as JOE PUBLICS and

)

Trial Date:

JACKIE JOES and JOHN DOES and JANE

)

ROES UNKNOWN, et al, inclusive,

)

Contemnors as UNKNOWN THIRD

)

PARTIES and ALL OTHER UNKNOWN

)

PARTIES Exercising An Interest or Hold or

)

Role Against the Dispute or Contest or

)

Recall or Revocation of FEDERAL

)

OFFICIALS and OFFICERS,

)

Defendants

)

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I. INTRODUCTION

Predetermination

This operation of law is created for a contingency the founding fathers set forth in writing to which circumstance no party could otherwise plan. According to this operation of law as it is understood, intent of the parties to resolve such threat to the State of the Union and its Constitution by overstep of authority of several branches is predetermined by a public duty. That public duty is subject to the ultimate power of public accountability and compliance with founding principles and higher law when a grievance is brought, as the “fourth branch” of government (Letter to James Madison, Thomas Jefferson. December 20, 1787.). *Id.* This summary judgment and its motion effectively alters the course of law in these United States from destructive outcomes through Tenth Amendment powers first defined in the Declaration of Independence per the following summarized causes of action, having all authorities, exhibits, and testimonies included by reference:

1. failure of government to act created the liability upon demand to be made subject to proper delegation of constitutional authority,
2. existing powers of federal government were invalidated by revocation using consent powers of the people,
3. the parties to the Constitution still require the mechanism of a lien to reconstitute illegitimate powers acting in contempt to their public duty.

This circumstance is consistent with the operation of law for a lien (West’s Encyclopedia of American Law, edition 2. The Gale Group, Inc., 2008; John Bouvier, A Law Dictionary, Adapted to the Constitution and Laws of the United States. 1856.). *Id.*

II. STATEMENT OF UNDISPUTED MATERIAL FACT

Table of Undisputed Material Fact

The following table of Undisputed Material Facts and its statements contained therein are an oversimplification of the causes at issue, which may not be made to conform to “conventional law” (positive law) due to their nature, and are subject to the spirit of “higher law” (natural law) found only in the full motion and authorities to which this operation of law is owed, and would be cost prohibitive to the point of *ad absurdum* to correct. [See Lien for full text]

III. ARGUMENT – IMPROPER ACTIONS

Background

The improper action on the part of the Defendants are part of a much deeper problem and a series of misconduct to subvert the authority of the Constitution. It is necessary to prove, as the existence of such further establishes the [people's] prima facie case is not erroneous. At the heart of this case, no one is entitled to injure, harm, oppress, or cause detriment and damage. That is not ever negotiable. There exists the fundamental right of protecting and defending the Constitution from unjust powers that would permit these wrongs against humanity. For, this cause of action on the part of Defendants to act against the Constitution is the primary cause to bring such lien.

The federal government subjected the people to some very bad laws that attempted to get around Due Process (www.willofthepeople.agency/#!/hall-of-records/c1qye. Vol. 1, Pt. 2, § I(e)). *Id.* As testified in “Magna Carta: Symbol of Freedom Under Law”, Law Day 2015 by the American Bar Association, Due Process is in our Bill of Rights and comes from the Magna Charta (now 800 years old). *Id.* In effect, these series of laws collectively gave law enforcement the basis to be judge, jury and executioner and to punish wrongdoers on the spot – without cause or reason (www.willofthepeople.agency/#!/hall-of-records/c1qye. Vol. 1, Pt. 2, § I(e)). *Id.* This, among other issues, was protested by Occupiers and other groups in 2011, numbering in the millions (the99percentdeclaration.net, archive via googlesites.com. 2015.). *Id.* The argument this is somehow not supported by representative grassroots populace is ludicrous.

When our nation’s government refused the plea to change course, the people held a Continental Congress in 2012 (the99percentdeclaration.net). *Id.* The Congress was represented by over 800 participating delegates throughout the United States across the political spectrum, and a special committee finalized the people’s petition (the99percentdeclaration.net). *Id.* Every standard of representation had been met (Art. 1, § 2, ¶3). *Id.* But, the petition of the people imploring federal government for correction was rejected (www.willofthepeople.agency/#!/hallof-records/c1qye. Vol. 1, Pt. 2, § I(a)). *Id.* Courts rejected the case, government agencies refused its notices, and peace officers recanted assistance (www.willofthepeople.agency/#!/hallof-records/c1qye. Vol. 1, Pt. 2, § II(b)). *Id.* At that point, legitimate federal government ceased to exist and it became the responsibility of the people to correct it (“The Papers of Thomas Jefferson”, Volume 30: 1 January 1798 to 31 January 1799. Princeton University Press, Pgs. 536-43, Par. 8. 2003.). *Id.*

The entire process of protest, assembly, and petition is a First Amendment right and nothing can waive or excuse it (First Amd.). *Id.* The First Amendment had been exhausted, but federal government was still not subjecting to law of the Constitution. This is a conundrum of governance that the state should act against its own creation (www.willofthepeople.agency/#!hall-of-records/c1qye. Vol. 1, Pt. 1, § I.). *Id.*

The founding fathers have devised several possible methods of correction to this, but without the knowledge of the precise circumstance. Sam Adams, John Hancock, and Paul Revere's resistance movement that led to the American Revolution, provided some experience for what assaults on liberty by the U.S. government might look like. *Id.* The framers of this nation may have known some of the mechanics needed by such operation of law, but could not predict the outcome. The people have protested the following in their petitions:

Heads of State and rulers of Congress should know better. Leaders in the midst of Congress are greedy, swift to condemn the socially and politically ostracized while empowering the militarization of local police, and making laws that poison the air, waters, food, and homes to destroy this people, and to get dishonest gain from political manipulation. They have taken bribes, taking usury to increase their salaries while they profit from economic extortion, and have forgotten the people. The officials in Congress have made a two parent household not economically viable or desirable. They have excluded the working poor and under-privileged from economic advancement and immediate medical care.

Public servants of the land have used oppressions, both environmentally and economically, committed robbery by stealing homes and jobs, and mistreated veterans as well as seniors; and they wrongfully oppress the foreigner that we invited to pick our fields and run our equipment to keep our economy strong. They have coveted family farms and taken them by force in the name of big agriculture. They have also taken houses by devising schemes like adjustable rate mortgages offered to the poor and shuffled bank derivatives to devalue homeowner equity, and seized them. So they oppress a man and his inheritance. And, these acts were overwhelmingly protested. There have been false reports, and phony public notices suppressing constitutional accountability and cutting down anyone who dissents. They have lied to family and friends of protesters questioning one's physiological health and status. And, they have hid behind

bureaucracy and polarization of the political parties to shield themselves from incrimination and wrongdoing. (*Id.* (edited for clarity))

Since the beginning this has been declared to be the case, and summarizes the need for justice (www.willofthepeople.agency/#!hall-of-records/c1qye. Vol. 1, Pt. 2, § I.). *Id.*

The federal powers are only delegated to the federal government as long as the government acts with proper authority under the Constitution (Dec. of Indp., ¶2; Tenth Amd.; see authorities for wrongful acts, VI. ARGUMENT – LEGAL STANDARD, Premise, ¶3). *Id.* Federal acts against the Constitution for the government’s substitution of its own Articles and replacement of vital sections of the Constitution for erasure of protections of the people unto specific detriment, places federal powers at odds with their proper authority under the Constitution (www.willofthepeople.agency/#!hall-of-records/c1qye. Vol. 1, Pt. 1 § I, Pt. 2 § III.). *Id.*

Reasoning

The people have petitioned for correction (edited for clarity), the following:

By overwhelming petition on the part of the people, imperative for their protection, do return order to government, so as to attend to correcting the plethora of attempts to deny and abridge civil liberties by inexhaustible corporate influence and by some wealthy, having fabricated public danger for manipulation of laws that have granted monies of taxpayers as in crisis to bank executives and shareholders, turned on its citizens by surveillance of communications and restricting information, made it unlawful to peacefully assemble and dissent, authorized deployment of hostile forces on domestic soil in peacetime, instituted militaristic trials..., and have sheltered government officials from accessibility and wrongdoing, and other corrupt, reckless and egregious laws and measures. Over time, such have subverted due process..., and every right of this people, which have been used to marginalize the voice and income of the small business and middle-classes, through extreme loss and injury to livelihood, family, and health to preclude from equal inclusion and participation. Nor have Presidents taken up a Constitutional charge of responsibility for the faithful execution of law, to preserve both its faithfulness to the Constitution and to ensure its laws are made well. It is no

longer sufficient or satisfactory for government to govern in of itself, whereby such grievances have shown to contravene the spirit and letter of Articles I, § 2, Par. 3, § 8, Last Par.; II, § 1, Last Par.; III, § 2, Par. 1 and 2; V; VI, Last Par.; and Amendments I; II; III; IV; V; VI; X; XIII; XIV § 4. Given the right of this people to seek redress of grievances, the people so... *seek* corrective action *for such* (“Writ of Extraordinary Circumstance”, Will of the People Constitutional Authority. 2013.). (*Id.* (inclusive))

and,

When the government made laws that restrict the people from approaching government officials, such as in the National Special Security Event or Federal Restricted Buildings and Grounds Improvement Act (a.k.a., GRABIF), it could be considered... obstruction. When the government made laws that allows spying on citizens and taking electronic effects without warrant or probable cause, such as Foreign Intelligence Surveillance Act, Protect IP Act, or Stop Online Piracy Act, then the government could be acting with “redirection of civil liberty”. When the government made laws that orders military assistance in peacetime that may be used to enforce unwarranted killing of citizens, like the Anti-Terrorism and Death Penalty law or National Defense Resources Preparedness Authorization Act (a.k.a., DARPA), that may be considered “removal of rights by display of force”.

Each of these types are also included in various provisions of the USA Patriot Act, and each of them considered to be in use, as has been the subject of various leaks and protests, and each of them in some manner abridge civil liberties otherwise guaranteed by the First Amendment. GRABIF seriously restricts the right of citizens to hold government accountable and outlaws protests where government officials may be located. That law says, “Whoever knowingly enters or remains in any restricted building or grounds,... or within such proximity to,... with intent to impede or disrupt the orderly conduct of Government business or official functions,... or attempts or conspires to do so, shall be punished.” This undermines the right to assemble, and by extension, to peaceably protest. As is common knowledge, it has been used to arrest Occupiers in numerous cities across the nation. It abolishes verbal petition, and has been used to obstruct protesters from speaking to their Congressmen.

Surveillance in recent laws, such as FISA, PIPA, and SOPA, appear to have reasonable language in most instances, even in support of First, Fourth, and Fifth Amendment rights. However, as The Guardian and Wikileaks have revealed this past summer, the NSA has been collecting electronic information and property in secret without restraint, oversight, warrant, probable cause, or due process. Their actions are unconstitutional at best, and may have been used to restrict the people from resisting further action by an illegal government. Its purpose could include keeping quiet laws that are currently being made in secret, such as ECPA and TPP, as have also recently been leaked and made common knowledge.

In 1978, Congress enacted the Foreign Intelligence Surveillance Act (“FISA”) to govern surveillance conducted for foreign-intelligence purposes. The statute created the Foreign Intelligence Surveillance Court (“FISC”), a court composed of seven (now eleven) federal district court judges, and empowered the court to grant or deny government applications for surveillance orders in foreign-intelligence investigations.

Section 215 of the USA Patriot Act is often referred to as FISA’s “business records” provision. When originally enacted in 1998, this provision permitted the FBI to apply to the FISC for an order to obtain business records of hotels, motels, car and truck rental agencies, and storage rental facilities. Section 215 broadened this authority by eliminating any limitation on the types of businesses or entities whose records may be seized. In addition, Section 215 expanded the scope of the items that the FBI may obtain using this authority from “records” to “any tangible things (including books, records, papers, documents, and other items).”

Section 215 also relaxed the standard that the FBI is required to meet to obtain an order to seize these records. Previously, FISA required the FBI to present to the FISC “specific and articulable facts giving reason to believe that the person to whom the records pertain [was] a foreign power or an agent of a foreign power.” In its current form, Section 215 requires only that the records or things sought be “relevant” to an authorized investigation “to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities.”

For the past several years, members of Congress have been warning the public that the Executive Branch was exceeding the limits of the USA Patriot Act. In 2009, Senator Russ Feingold stated during a hearing that “there ... is information about the use of Section 215 orders that I believe Congress and the American people deserve to know,” adding later that “Section 215

has been misused.” In 2011, Senator Ron Wyden declared, “When the American people find out how their government has secretly interpreted the USA Patriot Act, they will be stunned and they will be angry.” Similarly, Senator Mark Udall protested that “Americans would be alarmed if they knew how this law is being carried out.”

The outcry of the people has increased sharply since the disclosure of leaked documents. Representative Jim Sensenbrenner, an author of the USA Patriot Act and chairman of the House Judiciary Committee at the time of Section 215’s passage, called the Section 215 surveillance program “an abuse of that law.” He wrote that, “based on the scope of the released order, both the administration and the FISA court are relying on an unbounded interpretation of the act that Congress never intended.”

President Barack Obama also commented publicly on the Section 215 order. The President acknowledged that the intelligence community is tracking personal electronic data. Members of the congressional intelligence committees have recently confirmed that the government has relied upon these interpretations of law to collect the electronic records of all Americans. Senator Dianne Feinstein has stated that “[this] is carried out by the [FISC] under the business records section of the USA Patriot Act.”

DARPA is written with such broad scope that it could also be used to enforce tyrannical government. That law says in Part 1, Section 103, “assess on an ongoing basis the [domestic] capability... to satisfy requirements in peacetime...; to take actions necessary to ensure the availability of adequate resources and production capability, including services and critical technology, for national defense requirements” As such, “domestic capability”, “peacetime requirements”, “actions necessary”, and “adequate services” for “national defense” can be made to enforce anything from ordering parts for equipment to enacting Marshall Law in peacetime. This Executive Order was signed into law following drone strikes on American citizens in Yemen in 2011.

Erosion, obstruction, and removal of constitutional rights of the people, and authorizing the use of military force and surveillance in peacetime, while enacting laws of corporate ills. *These are known to overstep the law, yet, no action to remove it has been taken following internal request, protest, petition, and notice.* These acts place Congress and the [White House] in contempt of the Constitution for being at odds with both the spirit and letter of

founding law. The body of such laws could be construed as an attack against democracy itself, the United States, and its people.

The government cannot permit or be authorized of the Constitution to destroy the work of the Constitution and the people for whom it was made. Either the government is acting with authorized powers, or it is not the government of the Constitution (Rush, et al. v United States, 1:14-cv-00077; 28 USC Rule 4.1(b)). (*Id.* (inclusive))

The impeachment court determined, in its words, in summary (edited for clarity), that:

According to discernable evidence, the questions answered by Impeachment are: a) that civil servants violated significant constitutional provisions to exceed their authority under the Constitution, b) that civil servants improperly interpreted the laws for inequitable benefit in bribery, c) that civil servants did not act to mitigate every threat to the Constitution or participated in its collusion, d) that civil servants' actions were a severe abuse of discretion and malfeasance, e) that civil servants suffered equitable rights *of the people* without remedy, and, f) that reasonings by civil servants to commit unlawful acts were supported by substantive and clear fraud to the public.

For, this Court finds evidence that civil servants did conspire for “the removal of constitutional protections for unjust aims to the detriment of the people and their consent authority” for passive overthrow, which is Subversion (to undermine), an impeachable offense in the eyes of this Court under the Constitution. Civil servants did approve laws that spy on U.S. citizens by measures the people protested as unreasonable (FISA, SOPA, PIPA). Civil servants did restrict the right to peacefully assemble and protest (ATDP, NSSE, GRABIF). Civil servants did sufficiently authorize use of militaristic force on U.S. citizens (US Patriot Act, DaRPA, NDAA). This Court affirms that civil servants have a public duty to mitigate threats to the U.S. Constitution by such acts and measures in which specifically reduce privacy, protest, and liberty. This Subversion, and other acts, by Congress, have shown to conflict with and erode provisions in Articles I, Section 2, Par. 3, Section 8, Last Par.; II, Section 1, Last Par.; III, Section 2, Par. 1 and 2; V; VI, Last Par.; Amendments I; II; III; IV; V; VI; X; XIII; XIV. This Court finds subversion of constitutional protections of the people is sufficient a criminal activity to justify Impeachment for high crimes (Rush, et al. v United States, 1:14-cv-00077; 28 USC Rule 4.1(b)). (*Id.* (inclusive))

Public servants cannot make laws to solidify a grievance, for, that is at odds with their public duty. The court of the people concluded that:

This Court finds these acts defined by due course, including the incidence of Collusion and Corruption, to be Impeachable, as follows: Conspiring to willfully aid and comfort an Enemy, to remove sanctions and restrictions of a country entreating known terrorists, is Treason for adhering to the wishes of an Enemy, of which, the whole of the nation and the world has witnessed the overt act. Creating laws that harm the people, their lives, livelihood and liberty by Corruption is Oppression. Conspiring to the benefit of corporate executives to advantage corporations to the expense and detriment of others is an act of Collusion and Bribery. Creating such laws that act against the Constitution for its erasure or erosion, placing in jeopardy the existence of the Constitution or its protections for the people, against proper law and due course through secrecy and suppression of such information, is an act of Treachery and failing to mitigate Subversion is Malfeasance. Other impeachable missteps, as Tyranny, include wrongful termination of the Bill of Rights, obstruction of will of the people, use of improper authority for malevolent intent, non-compliance with a federal recall, and challenge to contempt authority of a constitutional agency in an act to defraud the public.

For, while although [such persons] cannot be specifically named for each particular role in the invention and execution of particular legislation that led to constitutional jeopardy due to the nature of these circumstances, the conflict with their public duty does, in fact, compel every civil servant to be responsible for these conditions. In effect, their unwillingness to assist the recall, warrant, mediation, affirmation and investigation (and now lien) is contrary to their oath and duty, and in that failure to act with mitigation and cooperation, for malfeasance and collusion, requires criminal conviction. In that sense, although not exclusively, those civil servants that were notified are guilty by commission or omission. Likewise, those who were not notified should have known by the common knowledge when requested to “distribute to all others” or by common sense in relation to their public duty, and are guilty by omission or defrauding the public in acting for illegitimate purpose (*Rush, et al. v United States*, 1:14cv-00077; 28 USC Rule 4.1(b)). (*Id.* (inclusive))

Thus, when notified, Defendants were removed by recall, their powers revoked, sanctions imposed, and warrants were ordered (“Public Notice – People of the US Declared To Be Free of Corrupt Rule”, Beverly Hills Weekly: Is. 825, Pg 14. July 23-29, 2015; “Public Notice: The People Have Taken Back Constitution From Corrupt Rule”, City Weekly: Pg 63. July 30, 2015). *Id.*

IV. PROCEDURAL STIPULATIONS

History and Strategy

Constitutional powers of the people are guaranteed by the Tenth Amendment, these powers require government to be accountable, subject to the people as governed by consent, and may be altered or abolished (Dec. of Ind., ¶2). *Id.* Consent may be rescinded, revoked, and redelegated (Dec. of Ind., ¶2, Tenth Amd.). *Id.* That consent was rescinded by recall, revoked by public notice, and redelegated (Public Notices, Beverly Hills Weekly and City Weekly. 2015). *Id.*

Delegated federal powers were redelegated per Tenth Amendment powers of the people.

The Tenth Amendment says, whenever “powers are not delegated to the federal government, *they are* reserved to the people.” *Id.* In the words of the founding fathers, “delegated” is used as “an assignment”, whereas, it is attributed to George Washington that the Constitution’s “only keepers, are the people” (“The Constitution of the United States, with Index”, National Center for Constitutional Studies, 2010). *Id.* The implication is that the people can retract their “consent of the governed” and have the power and authority to do so (www.willofthepeople.agency/#!/hall-of-records/c1qye. Vol. 1, Pt. 2, § III.). *Id.*

Granted the further authority to compel government, Will of the People Constitutional Authority impeached all 3 branches by redelegated impeachment authority. Art. 1 § 3 ¶7, Tenth Amd., 3 USC (Ch4) § 301 et. seq. *Id.* However, authority and might are assumed to be mutually exclusive powers of the people, and it is believed it may not be possible to simultaneously alter and abolish government. As such, the authority to compel government does not include the means in of itself, for, the operation of law to compel government by revoking consent is incomplete without a lien (West’s Encyclopedia of American Law, edition 2. The Gale Group, Inc., 2008; John Bouvier, A Law Dictionary, Adapted to the Constitution and Laws of the United States. 1856; www.willofthepeople.agency/#!/hall-of-records/c1qye. Vol. 3, Pg. 64, ¶1). *Id.*

However, if not for such operation of law, revolt would be imminent. Thus, the writer of the Declaration of Independence, Thomas Jefferson, included the ability of a laborer to compel by claim against the land not merely the improvement value (blog.zlien.com, “A Short History of the Mechanic Lien”, Scott Wolfe, Jr. Nov. 15, 2010.). *Id.* This modification permits the people to require the full faith and credit of the United States if the recall is not recognized, for which, a revolt would accomplish the same only at great cost to life and limb and thereby cannot be the only option for a peaceful people under the Constitution.

When the federal government is no longer authorized of the Constitution, the people have a duty to restore constitutional government. The precedent for this, as is the basis for the American Revolution, is Lord Oliver Cromwell’s movement to restore the Magna Charta, and the assertion by the people for retraction of their consent of the governed according to noted English historian David Starkey (“Monarchy, U.K.” TV series; Episodes 1-3, 5, 6; 2006). *Id.*

The fact this method is untested outside of colonial American law and brought 240 years later is immaterial. The stance the founding fathers of this nation made in their Declaration was simply acting by higher law, when in fact, there was precedence in the Magna Carta, now passing 800 years (“Magna Carta: Symbol of Freedom Under Law”, Law Day, American Bar Association. 2015.). *Id.* And, the Magna Charta borrowed elements found in the courts of David and Esther according to biblical record, now in antiquity, 3,000 and 2,500 years respectively, for expelling perjurers and defending personal freedoms (Ps. 34, 109, 149, Is. 2, 22, 48, 59, Jer. 5, 21, 22, Ezk. 22, 28, 33, 39:24, Oba. 3-15, Mic. 1, 2, 3, 6, 7, Hag. 2, Zec. 4, 5:3, 6, 7, Luk. 3). *Id.* There is nothing like this to even make a comparison.

The notification process of a lien is preemptory, and its counterparts are included in this operation of law. A people-led Federal Recall was employed using George Washington's process (1787) and held January 14, 2014. *Id.* It was obstructed without cause by most of the states and the federal government, which they cannot do when the people assert their constitutional powers (Dec. Of Indp., ¶2). *Id.* The courts refused the case for frivolous reasons (Rush, et al. v United States, 1:14-cv-00077; 28 USC Rule 4.1(b)). *Id.* The push on the part of some to redefine corporate personhood and the Voting Rights Act of 1965 is a futile attempt to undermine the right of the people to elect, and with it, the recall (Rush, et al. v United States, 1:14-cv-00077; 28 USC Rule 4.1(b)). *Id.*

A Senate report indicates that a federal recall set by the states is determined to be a conflict of powers (“Recall of Legislators and the Removal of Members of Congress from Office”, Congressional Research Service, 2012). *Id.* However, a people-initiated federal recall offers substantially different

conclusions. An legal analysis in 2009 (Grossack, David C., “Recalling U.S. Senators And Congressmen”, U.S. Citizens Association.), considers a federal recall possible:

While ...large segments of the American population feel alienated from their politicians, political organizations ...[can] subsidize serious legal challenges to any recall.

The courts have precedents and complex ...arguments to prevent [recall] petitions from succeeding. However, [with different legal steps] different results are possible.

As this author reads this language [of the Tenth Amendment], it appears clear that ...“the people” ...should be recognized to have the right of [federal] recall. (*Id.* (edited for clarity))

This direction is supported by 99% Declaration’s legal counsel (Pollock, Michael S., “Reboot democracy with Continental Congress 2.0”. April 9, 2012, blog.). *Id.* George Washington said,

“The power under the [U.S.] Constitution will always be in the People. It is entrusted for certain defined purposes, and for a certain limited period, to representatives of their own *choosing*; and whenever it is executed contrary to their Interest, or not agreeable to their wishes, their [Civil] Servants can, and undoubtedly will be, recalled” (Letter To Bushrod, 1787). (*Id.* (edited for clarity))

And, a recall has constitutional application (Goodwin, Doris Kearns, “Team of Rivals: The Political Genius of Abraham Lincoln”, Simon and Schuster. 2006.) *Id.* A federal recall is possible, permissible, and applicable in this instance. The courts had no valid reason not to hear the case, and the unresolved public duty to mitigate a grievance placed the Constitution in jeopardy.

Support for Jurisdiction and Procedure

Although irregular and unprecedented since the founding of this nation, this operation of law is authoritative, befitting, clear, and can leave no doubt. This operation of law encompasses the right of

the people to recall federal officials according to Washington, an undisputed authority, as well as revocation of federal powers and impeachment per Declaration consent authority to remove illegitimate power and then alter federal government to deter its return. *Id.* This is entirely in the people's purview to protect, defend, and secure the Constitution against any threat or limitation. The Declaration is fixed and may not ever expire nor is it subject to change (Clarkson, Kenneth, et al, "What is Law?", West's Case Law, 7th Edition. West Educational Publishing, 1998. Pg. 3.). *Id.* Thereby, consent authority of the people never expires. So, powers of the people transcends federally delegated authority (Tenth Amd.). *Id.* The conditions that prompted this operation of law that resulted in the impeachment of all three branches of U.S. government, as stated in the words of the court, are as follows:

Whereas, it is an offense to the Constitution and the People of the United States that the protest, petition, and assembly of the people, by the people, should go unresolved and even suppressed for grievances against the federal government, and that civil servants of the federal government should act against the Constitution for its jeopardy, by erosion of protections for the people, even by legal means (supposedly), and other acts, in which, either lead to or include, acts against the state (United States under the Constitution) or the existence of the state (U.S. Constitution), by the state (acts of civil servants of the U.S. federal government). It is serious enough for the Declaration of Independence to acknowledge the right of the people to "alter or abolish" any government that commits such destructive acts. This Trial affirms that right to protect their nation after all other applicable rights and powers under the Constitution have been exhausted, as is every person's duty to the Constitution (George Washington, Letter To Bushrod, 1787).

Simply stated, civil servants of the U.S. government have acted against higher laws to destroy our form of government – a ruinous crime according to the Declaration (Par. 2). Acts against the state, for its destruction by high crimes (progressive destruction, such as, subversion) or treason (undermine unto overthrow), are impeachable offenses in the eyes of this nation (Art. II, § 4). (*Id.* (inclusive))

After exhausting all these acts, the people remain at an impasse and are not able to compel government by these methods. The people retain the method for laborer's lien to foreclose on the

federal government, as modified by Thomas Jefferson (blog.zlien.com, “A Short History of the Mechanic Lien”, Scott Wolfe, Jr. Nov. 15, 2010.). *Id.* As such, the people have revoked federal powers and have held a recall, making the current office holders(s) illegitimate and the Plaintiff the legitimately entitled public official. 3 USC (Ch4) § 301 et. seq.

In the performance of his duties, being entitled, and by the people’s authority, the Plaintiff has prescribed work of improvement and payment is authorized, owed, and now due. Cal. Civ. Proc. Code § 8042(f). The Plaintiff will continue to fulfill his duties within a 2 year “keeper” presidency in the “business of the debtor”, as those terms are generally understood, yet apply to this case, being resolved to the satisfaction of restoration to the Constitution and full restitution of the people. *Id.*

V. ARGUMENT – PROPER ACTIONS

In Evidence

[See Lien for full text]

Authority of Plaintiff in these matters includes, without limitation:

3 USC (Ch 4) § 301 et seq. (delegation of function),

6 USC Ch 1, Sub§ V, § 321a (a)(1) (emergency declared for man-made disaster),

6 USC Ch 1, Sub§ XIII, § 572 (a)(1) (emergency order guidelines),

10 USC § 123, 527, 2201(c) (suspension of officers and laws, exemptions),

14 USC § 331, 359, 367 (recall to duty, detain service),

15 USC Ch 1 § 6 (restrain trade),

28 USC § 4.1(b) (enforcement of civil contempt),

44 USC § 1505(a)(2) (documents authorized for printing),

50 USC § 201 et seq. (national defense against insurrection of any authority),

Art. II § 4 (grounds for impeachment under Tenth Amendment powers of the people),

Bill of Rights, Amd. I and X (rights to hold accountable, redelegate federal powers),

Dec. of Indp., ¶2 (rights to revoke federal authority, alter government).

(*Id.* (inclusive))

The Plaintiff does not *act* alone. As a delegate of the 2012 Continental Congress, the Plaintiff has been endowed with and has exercised irreducible proper authority to compel civil servants and enforce higher laws (www.willofthepeople.agency/#!/hall-of-records/c1qye. Vol. 1, Pt. 2, § II(a)). *Id.* That authority to alter government is without revocation, for, the Defendants cannot defend illegitimate powers for destruction of the Constitution unto detriment of the people. The Defendants are a threat, and that idea is a right of the people (Starkey, David. “Monarchy, U.K.” TV series; Episodes 1-3, 5, 6. 2006; Washington, George. National Center for Constitutional Studies, 2010). *Id.*

Through declarations, notices, petitions, suits, recall and media, the Plaintiff has asserted the people’s powers as given to do so (First Amd., www.willofthepeople.agency/#!/hall-of-records/c1qye. Vol. 1, Pt. 1, § II). *Id.* The legal path the people have chosen is passive. The people have chosen to evoke precedent involving the founding of the nation and uses reserved powers that, until now, were yet to be defined. The people have asserted their First Amendment rights and Tenth Amendment powers of the people by letting the government:

- refuse the petition of the people made in Continental Congress;
- ignore rules of the courts themselves; - impede the federal recall election, and; - skirt federal law.

The people have not consented to the overthrow of liberties, nor the cover-up for systematic removal of the Bill of Rights. For the people to keep silent when an enemy of the Constitution creeps in to carry away the rights of the people, the people must lift up a standard against it or it undermines their due diligence, as follows:

The people have shown to act intentionally, at times imperfectly, with: a) accordance for applicable and just law, b) bereavement upon grievance for remedy (suffering compounded), c) “clean hands”, d) due vigilance, e) equal claim, and, f) fair treatment. By such, the people have shown to appeal to higher laws, which are applicable to fundamental and common human rights for taking back their government from unjust rule, in accordance with the Constitution and Declaration of Independence and authorities that stem from higher sources, such as the Magna Charta and Court of Khisiarshu (Queen Esther), of which, there is certainty and applicability. (*Id.* (inclusive))

The impeachment proclaims the attempts to warn public servants, lest it be said, they "were not warned" (www.willofthepeople.agency/#!/hall-of-records/c1qye. Exhibits and Addendums). *Id.* For civil servants have a public duty to know that they would be punished severely, having transgressed against the very founding of this nation:

For, the people attempted to mitigate by every instrument of their communication, including numerous attempts and warnings at impending destructive effects caused by the acts of civil servants, whereas civil servants' only act was to placate. This Court does not recognize the sufficiency on the part of civil servants to mitigate jeopardy to the state by its conundrum of governance, which would have required highly significant and very visible acts to remove peril to the Constitution, but no known appropriate steps were taken by civil servants. While although circumstance permits this Trial to examine the criminal acts on the part of civil servants, without the means to sufficiently compel further cooperation, testimony, and evidence, this Court must favor the position of the people, as being sound. This Court affirms steps at mitigation of constitutional jeopardy by the people and the people's right and position for powers exercised by the people under Tenth Amendment proper authority. This Court concludes that the highest priority and first Public Duty of civil servants is being answerable to the people, and in not doing so is the first high crime of many, which led to subsequent and justified revocation and redelegation of federal powers for wrongful acts under the Constitution. Of which, the people are found to have uncontested default when exercising their powers for consent authority by Order of the Declaration of Independence when the Constitution failed upon civil servants' absence to mediate terms of relinquishment of illegitimately held authority. (*Id.* (inclusive))

Consequently, the defendant's acts fail when met by a lien. The people are entitled to such powers when government has failed to be accountable. The people have redelegated such authority to Plaintiff as an extension of the Recall with the duty to remove any grievances of the people by equitable acts (www.willofthepeople.agency/#!/hall-of-records/c1qye. Vol. 1, Pt. 2, § II(a)). *Id.* This stipulation is proof of endowment of proper authority.

VI. ARGUMENT – LEGAL STANDARD

Premise

Summary judgment is proper when no material fact is in dispute, and where the record establishes that no defense asserted against a party can prevail. Cal. Civ. Proc. Code § 437c. Summary judgment should be granted where the plaintiff has provided evidence to establish a cause of action, or where the defendant cannot provide a complete defense. *Id.* at § 437c(o)(2). A plaintiff moving for summary judgment needs to present evidence that “bears an initial burden of production to make a prima facie showing of the existence of a triable issue of material fact....” *Id.* at 850. The plaintiff “may not rely upon the mere allegations or denials of its pleadings... but, instead, [must] set forth the specific facts showing that a triable issue of material fact exists....” Cal. Civ. Proc. Code § 437c(p)(2). The moving party has presented prima facie evidence there is no issue of material fact involving the recording of the lien, its causes of action are not in dispute, and the defendant cannot provide adequate defense, where the facts are substantiated by testimony and exhibit showing a triable issue of material fact exists, and supported by references to law, included herein.

[See Lien for full text] As it applies to federal law, summary judgment is appropriate where there is no genuine dispute as to any material fact and the moving party is entitled to a judgment as a matter of law (Fed. 477 U.S. 317, 322). *Id.* Wrongful acts committed by public servants may be defined as or include: general malfeasance (USC A(5)), conspiracy to defraud the U.S., e.g., for economic benefit (18 USC § 371), contempts constituting crimes (18 USC § 402), obstruction of an agency (18 USC Part I, Ch. 73 § 1505), inciting unrest, display of force (18 USC § 2101, 18 USC Ch. 115 § 2381 – 2385, 28 USC § 631(i)), liable for bribery (18 USC § 201 (b)(1)(B) and (C)), ignoring duty of federal printing authority (44 USC § 1502), violation of Trading With The Enemy Act of 1917 (50 Appendix Ch 106, 40 Stat. 411 § 1 et seq.). (*Id.* (inclusive)) The moving party has demonstrated that there is no dispute as to the material facts of the case.

Usurpations violated by public servants in the course of non-compliance is as follows: illegally confiscating and withholding property, seat, seal, flag, vestments, of the authorized and legitimate federal government (2 USC Ch 29, Title 4), burden to present petitions (Art. “A” I § 2, ¶3), making of criminal laws (Art. I § 8, Last Par.), foregoing duties to the Constitution (Art. II § 1, Last Par.; Art. VI, Last Par.), court jurisdiction skirting regulation (Art. III § 2, ¶1-2), giving aid and comfort to enemies of US, levying war against citizenry (Art. III § 3, ¶1), modification of Constitution for protested erosion without mode of ratification (Art. V), trampling on rights, protections, and powers of the

people (Bill of Rights, Amd. I – X), devising economic enslavement and servitude (Amd. XIII), depriving due process and use of public funds for it (Amd. XIV §§ 1, 3, 4). Courts will focus on the facts that might affect the outcome and will disregard all “facts that are irrelevant or unnecessary.” (Fed. 477 U.S. 242, 248). (*Id.* (inclusive))

VII. CONCLUSION.

The federal government has attempted to restrain and quell protest, petition, congresses of the people, people-led elections, peaceful boycott (weaponless “sanctions”), notice of revocation of powers, and impeachment powers in the course of its erosions and manipulations of protections of the people in higher law for benefit. The people, on the other hand, have done nothing but uphold the law and seek restoration of constitutional protection and restitution for grievances in their protection and defense of the law.

Such use of powers not delegated to the United States are illegitimate and an act against the Constitution and the people of the United States and declared to be high crimes against the state. The public duty to correct the grievance under this Constitution is not invalidated by obstruction of recalls and false elections, nor the refusal to be subject to the Constitution and placating invalid and improper response. For, this matter precedes all other concerns, and all acts to the contrary and in obstruction of justice must be stopped immediately regardless of any outcome.

The Defendants refused grievances of the people, correction of an oversight agency of the people, and submission to the Constitution and its order of law. Defendants have altogether broken their duty to perform a public trust and rebelled against the Constitution and will of the people. *Id.* Defendants have fallaciously ignored the rule of law, as evidenced by the inauguration of Donald Trump which must be terminated on the merits. *Id.*

The reputed owner is not the object of this suit, justice is. The new owner is not bona fide, has in fact received notice of the dispute and contested authority, and the claim of lien is not deficient. Dismissal of the claim of lien for being erroneous is not applicable, supported, or justified in any instance, as this suit is an absolute right of the people, unchallengeable. There is no statute of limitations on foundational law, nor may this nation exist without it. Any argument of the Defendants in support of such limits on the people negates themselves, and is not permissible.

There is no dispute of fact Plaintiff is entitled to summary judgment on each cause of action, for his post as a matter of such operation of law. Thus it is requested, as amended, with all jurisprudence

and right standing before the court in such matters, having all sufficiency for prima facie and no dispute, as in default, let the flaws and deficiencies of this case be made immaterial and let its legal course and cause be declared proper or sufficient in the eyes of the court.

THEREFORE,

This effectively places a lien against the full faith and credit of the United States until its obligation to [the people], is met. There is no other reasonable means by which to have a rebellious and corrupt government comply with an order of the Constitution by will of the people, except to place a demand for the surrender of the United States into the hands of the people for failure to comply with submission to the petition and powers of the people for correction unto restitution and restoration.

[See Lien for full text]

As provided in Cal. Civ. Proc. Code § 437 and Rule 3.1350, this motion contains and is supported by a notice of motion for summary judgment, memorandum and evidence in support, separate undisputed material facts in support, and request for judicial notice in support of Stephen L. Rush's motion for summary judgment.

Dated: *Feb. 10, 2017*

Respectfully submitted,

/s Stephen L. Rush

