

# UNLICENSED PRACTICE OF LAW

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1 **1. Introduction**

2 Those who have read the materials and information on our website frequently find themselves in the position of using them  
3 to litigate in a court of law in defense of the rights of their friends and family members. This can cause problems for them,  
4 because:

- 5 1. Information and resources on how to practice law without a license are not readily available.
- 6 2. Judges will try to unlawfully and frequently interfere with their ability to represent or assist others in legal matters.
- 7 3. The government-sanctioned corporate monopoly on law called the American Bar Association (ABA) may attempt to  
8 prosecute them for practicing law without a license.
- 9 4. Other members of the legal profession may look down upon them or discriminate against them based mainly upon the  
10 ignorance, prejudice, and false presumption generated in them by law schools that don't give them an adequate  
11 knowledge of law, legislative intent, or history.

12 This document will therefore provide copious authorities which allow freedom lovers everywhere to engage in the  
13 unlicensed RIGHT to practice law as "counsellors at law", and to enjoy constitutional protections in said exercise that no  
14 state or federal court can lawfully interfere with. It will end with a series of questions for the government that you can  
15 present in court to the judge whenever he tries to argue that you are wrong. These questions are designed to silence the  
16 ignorance of foolish men about the subjects covered in this memorandum of law.

17 **2. Licensing of Attorneys Generally**

18 Lawyers are not a popular group among the general public, and the high price of legal services in part accounts for their  
19 poor reputation. A principal reason for those high prices is the lawyer's monopoly on providing legal services. Every state  
20 except Arizona has an "unauthorized practice of law" (UPL) statute that makes it illegal for anyone who does not meet the  
21 requirements set by state bars to render legal assistance. Lawyers invariably argue that UPL statutes serve the public  
22 interest. Wrote F. M. Apicella, J. A. Hallbauer, and R. H. Gillespy II in the American Bar Association Journal (1995),  
23 repealing UPL statutes "would result in the most unwary, guileless members of the public being incompetently represented  
24 and advised, if not victimized and defrauded."

25 But the notion that the best or only way to protect consumers of legal services is to prevent them from hiring people without  
26 bar membership is based on fundamental fallacies. First, it assumes that only governments can protect consumers. Second,  
27 it assumes that a government-sustained monopoly has no adverse effects that might offset purported benefits. And third, it  
28 ignores the mechanism that best protects the interests of all consumers—the free market.

29 All UPL statutes prohibit individuals from legally practicing law without bar membership. Bar membership, in turn, has  
30 four prerequisites for aspiring legal practitioners:

- 31 1. they must earn a college degree;
- 32 2. they must graduate from an approved law school;
- 33 3. they must pass the state's bar exam; and
- 34 4. they must convince the bar that they are "of good moral character."

35 Such criteria, however, did not always hold. According to Dietrich Rueschemeyer in *Lawyers and Their Society*, as late as  
36 1951, 20 percent of American lawyers had not graduated from law school and 50 percent had not graduated from college.

37 Of licenses to practice law, the U.S. Supreme Court has said:

38 *A State cannot exclude a person from the practice of law or from any other occupation in a manner or for*  
39 *reasons that contravene the Due Process or Equal Protection\*239 Clause of the Fourteenth Amendment.* <sup>FNS</sup>  
40 *Dent v. State of West Virginia, 129 U.S. 114, 9 S.Ct. 231, 32 L.Ed. 623. Cf. Slochower v. Board of Higher*  
41 *Education, 350 U.S. 551, 76 S.Ct. 637, 100 L.Ed. 692; Wieman v. Updegraff, 344 U.S. 183, 73 S.Ct. 215, 97*  
42 *L.Ed. 216. And see Ex parte Secombe, 19 How. 9, 13, 15 L.Ed. 565. A State can require high standards of*  
43 *qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar,*  
44 *but any qualification must have a rational connection with the applicant's fitness or capacity to practice law.*  
45 *Douglas v. Noble, 261 U.S. 165, 43 S.Ct. 303, 67 L.Ed. 590; Cummings v. State of Missouri, 4 Wall. 277, 319-*

1 [320, 18 L.Ed. 356](#). Cf. [Nebbia v. People of State of New York, 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940](#).  
2 Obviously an applicant could not be excluded merely because he was a Republican or a Negro or a member of  
3 a particular church. Even in applying permissible standards, officers of a State cannot exclude an applicant  
4 when there is no basis for their finding that he fails to meet these standards, or when their action is invidiously  
5 discriminatory. Cf. [Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220](#).

6 [FNS](#). We need not enter into a discussion whether the practice of law is a 'right' or 'privilege.' **Regardless of**  
7 **how the State's grant of permission to engage in this occupation is characterized, it is sufficient to say that a**  
8 **person cannot be prevented from practicing except for valid reasons.** Certainly the practice of law is not a  
9 matter of the State's grace. Ex parte [Garland, 4 Wall. 333, 379, 18 L.Ed. 366](#).  
10 [*Schwartz v. Board of Bar Exam of the State of New Mexico, 353 U.S. 232, 77 S.Ct. 752 (1957)*]

## 11 **2.1 Occupational licensing is a Title of Nobility Prohibited by the United States Constitution** 12 **that Violates Equal Protection**<sup>1</sup>

13 Occupational licensing upon attorneys acts as the equivalent of a Title of Nobility, which is prohibited by the Constitution  
14 of the United States of America. One of the truly "sacred cows" of our society and a matter of great importance to all of us  
15 is occupational licensing. You may not have previously thought about this issue in terms of the law of equality, but an  
16 equality analysis is extremely relevant, even though a liberty of contract analysis would lead to the same conclusions. In  
17 short, occupational licensing violates the unalienable right of equality.

18 The principles and concepts which are examined here apply to every kind of occupational licensing. In our nation today,  
19 occupational licensing takes many forms, and is called by many names, such as certification, qualification, approval and  
20 registration. Many kinds of professions, trades and occupations are licensed or regulated, including lawyers, physicians,  
21 truck drivers, contractors and teachers.

22 Occupations are regulated or licensed at both the state and federal level. However, it does not really matter which level  
23 applies for our purposes. The reason for that is two-fold. First, the law of the nature of equality applies to both state and  
24 federal law. The Declaration of Independence establishes the legal context both for the nation and for every state. Both as a  
25 matter of law, and as a matter of historical record, every state in the Union has bound itself to the legal framework  
26 established by the Declaration. Second, the United States Constitution contains express language prohibiting both the  
27 federal government and the states from granting any title of nobility.

28 Let us examine whether occupational licensing is a violation of the law of equality and is a form of title of nobility.  
29 Consider the occupation most familiar to many of us, the legal profession. I submit that the present system of law school  
30 accreditation and compulsory bar memberships, as well as the licensing of attorneys in general, is contrary to the law of  
31 nature and is also unconstitutional.

32 This subject requires that we review the history of monopolies under the English common law. We generally have a wrong  
33 view of monopolies today, which is evident by the way Congress has defined the law of antitrust. For example, the  
34 Sherman Anti-Trust Act states:

35 *"Every contract, combination . . . or conspiracy, in restraint of trade or commerce . . . is declared to be*  
36 *illegal."*<sup>2</sup>

37 Similarly, the Clayton Anti-Trust Act makes it illegal for businesses to charge different customers different prices for the  
38 same goods or services, or to acquire another business whenever the effect is to lessen competition or to create a  
39 monopoly.<sup>3</sup> Essentially, these laws prohibit certain business contracts entered into by private parties.

40 But, in Blackstone's day, and in the world view of our American forefathers, a monopoly meant only one thing: an  
41 exclusive privilege to engage in business which was granted by the king. In other words, every monopoly was created by  
42 the civil ruler. A monopoly was not a private contract, or even a contractual issue, but a civil privilege, and therefore, an  
43 equality issue. Thus, private parties could "corner the market," but they could never create a monopoly.

<sup>1</sup> Adapted from <http://www.lonang.com/conlaw/6/c67.htm>

<sup>2</sup> 15 U.S.C. §1 (1982).

<sup>3</sup> 15 U.S.C. §§12-14 (1982).

1 The distinction between law and fact is also relevant here. Modern scholars define a monopoly based upon economic facts,  
2 that is, the perceivable practice of market participants. However, our forefathers understood a monopoly as a question of  
3 law, that is, whether a person was legally entitled to enter the marketplace. If, in fact, only one seller brought his wares to  
4 the market, that was acceptable, so long as other sellers were able to act similarly, but simply chose not to do so. If,  
5 however, only one seller had the exclusive right to sell his wares at the market, even if no one else wanted to sell their  
6 wares in the same market at the same time, a monopoly existed, and was unlawful. Thus, the definition of a monopoly was  
7 legally based, not factually based.

8 Pursuant to this historical definition, the licensing of attorneys creates a monopoly and violates the law of equality. After  
9 all, a lawyer's license is nothing other than a privilege to render legal services, a privilege which is granted by the state.  
10 And, the privilege is made exclusive by the enactment of statutes outlawing the unauthorized practice of law which  
11 restricting the right of other persons to render legal services. In this way, the licensing of attorneys creates a monopoly  
12 contrary to the law of equality.

13 Attorney licensing is completely predicated on a presumed state's right to be a respecter of persons. The function of a  
14 statute prohibiting the unauthorized practice of law is not to distinguish between people on the basis of what they do, but  
15 who they are. By definition, a person engaged in the unauthorized practice of law is engaging in the same activity as a  
16 licensed lawyer. The only distinguishing characteristic is that he is not licensed. Licensing statutes similarly distinguish  
17 between people on the basis of where they attended school, by whom it was accredited, and in what states they previously  
18 practiced law. In short, whether you become licensed depends on your identity, not your competency.

19 Attorney licensing is also legally equivalent to a title of nobility. Licensing, like some of the English titles of nobility, is  
20 obtained by special grant from the state. And, licensing confers special privileges peculiar to the profession. Only licensed  
21 attorneys can appear before a judge on behalf of another person and are regarded as "officers of the court." Only licensed  
22 attorneys have the benefit of an attorney-client privilege, and the name says it all. It is not called the "attorney-client right,"  
23 because it is not a right. Legally-enforced confidentiality is a privilege usually denied even to other licensed professionals.  
24 In essence, licensed attorneys are state established, just as a state religion could be established.

25 W. Clark Durant, chairman of the Legal Services Corporation's board of governors, stated at the mid-winter meeting of the  
26 American Bar Association (A.B.A.) in February 1987:

27 *The greatest barrier to widely dispersed low-cost dispute resolution services for the poor, and for all people,*  
28 *could very well be the laws protecting our profession. They make it a cartel. Like any such laws, they limit or*  
29 *distort supply; they increase prices; and they create dislocations in the marketplace.*

30 *The legal monopoly rests on two major pillars. The first are laws that set aside specific work exclusively for*  
31 *lawyers. Anyone else who performs "lawyer's work" may be prosecuted for the unauthorized practice of law*  
32 *[UPL statutes]. The second is a series of restrictions on how one may become a lawyer. These restrictions are*  
33 *really barriers to competition, not guardians of competence.<sup>4</sup>*

34 Speaking of the A.B.A. accreditation of law schools, Durant said:

35 *"This is not a quality control issue. It is an issue of control under the pretext of quality."*

36 And finally, he concluded:

37 *"State bars should be voluntary . . . State unauthorized practice of law statutes simply should be repealed."<sup>5</sup>*

38 These conclusions are also supported by an examination of the same issues in the light of the law of contract liberty and the  
39 Constitution's Obligation of Contracts clause.<sup>6</sup> In a contracts context, occupational licensing is nothing other than a  
40 restriction on the kinds of contracts people would otherwise be at liberty to make. It says that certain people can enter into  
41 contracts to furnish legal services, but all other persons cannot. In essence, it declares all contracts for the furnishing of

<sup>4</sup> Address by Clark Durant entitled Maximizing Access to Justice: A Challenge to the Legal Profession, American Bar Association Mid-Winter Meeting  
(Feb. 12, 1987), New Orleans.

<sup>5</sup> Id.

<sup>6</sup> U.S. Const. art. I, §10, cl. 1.

1 legal services to be illegal, unless one of the parties has special permission from the state. Consequently, licensing violates  
2 the unalienable right of contract within our right of liberty as much as it violates the unalienable right of equality.

3 The foregoing general analysis of attorney licensing also applies to the American Bar Association in particular. The A.B.A.  
4 is a group of self-appointed guardians of the purity of legal doctrine, who have obtained a grant of monopoly from most of  
5 the states, to determine how all lawyers must think, and what the law ought to be. The A.B.A. is not created or governed by  
6 any civil government, yet it wields legislative, executive and judicial power. It is not accountable to the people, yet it rules  
7 over them as a lord and benefactor, supposedly acting in the public interest.

8 If ever there was a privileged nobility in America, the A.B.A. is one. It has been given the exclusive right by most states to  
9 engage in the business of accrediting law schools as it sees fit. We should not wonder why it resists the accreditation of any  
10 law school which teaches God-given rights. By definition, the A.B.A. has arrogated unto itself a monopoly in violation of  
11 the law of the nature of equality and the constitutional prohibitions against titles of nobility. By the very nature of its  
12 activities, the A.B.A. denies that equality is an unalienable, or God-given right.

13 **2.2 The Fictitious “License to Practice Law”**

14 There is in fact no such document issued by any state or federal or private agency specifically called a “license to practice  
15 law”. If you do discovery upon any attorney who challenges your RIGHT to practice of law without a license by asking  
16 them for his “license to practice law”, then there is no evidence they can provide in response to such a discovery request.

17 In practice, what commonly passes for a “license” instead is an admission by the state supreme court to practice before that  
18 court. Ironically, no constitution of any state of the Union delegates the authority to any court in the state of the Union to  
19 issue such an “admission”, and consequently the act is null and void because violative of the Ninth and Tenth Articles to  
20 the Constitution, which some mistakenly call the Ninth and Tenth “Amendments” so the Constitution.

21 **2.3 “Admissions” to Practice in Federal District Court<sup>7</sup>**

22 Below you will find a scanned image of the card which attorneys must fill out to apply to be admitted to practice before  
23 federal district courts in San Diego, California. This card was current as of 9/6/03.

24 **Figure 1: Front of Petition for Admission to Practice Card**

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<sup>7</sup> Adapted from Petition for Admission to Practice, <http://famguardian.org/Subjects/LawAndGovt/LegalEthics/PetForAdmToPractice-USDC.pdf>

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Petition for  
Admission to Practice

1. \_\_\_\_\_  
(PLEASE TYPE OR PRINT NAME OF PETITIONER) CALIFORNIA STATE BAR NUMBER \_\_\_\_\_

hereby petition to be admitted to practice before said court, and in support of petition state,  
on \_\_\_\_\_ I was admitted to practice before the Supreme  
Court of the State of California, and I am a member in good standing of the Bar of the State of California.  
I have also been admitted to practice in the following court:

Date: \_\_\_\_\_ Court \_\_\_\_\_

My residence address is: \_\_\_\_\_  
\_\_\_\_\_ Phone \_\_\_\_\_

My Business Firm is: \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_ Phone \_\_\_\_\_

AUTHORIZATION TO SEND NOTICES BY FACSIMILE TRANSMISSION Fax: \_\_\_\_\_  
By entering your fax number, the Clerk of Court for the Southern District of California is authorized to  
transmit notice of entry of judgment or orders under Fed.R.Civ.P. 77 and Fed.R.Crim.P.49 by facsimile  
transmission in any case where the undersigned appears as attorney in charge. I understand that this  
electronic notice will be in lieu of notice by mail.

NOTIFY THIS COURT OF ANY CHANGES

SIGNATURE REQUIRED ON REVERSE

1

2 Figure 2: Back of Petition for Admission to Practice Card

**OATH**

I do solemnly swear or affirm to support the constitution of the United States. That I will bear true faith  
and allegiance to the government of the United States. That I will maintain respect due to the courts of  
justice, and judicial officers, and that I will demean myself as an attorney proctor, advocate, solicitor  
and counselor of this court uprightly. (So help me God.)

I certify that I am a member in good standing of the Bar of the State of California.

Dated \_\_\_\_\_  
\_\_\_\_\_  
(SIGNATURE OF PETITIONER)

Admission May be Upon Oral Motion or Without Appearance

Fee Paid: \_\_\_\_\_

Date: \_\_\_\_\_

Certificate Issued: \_\_\_\_\_

3

4

5

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7

After you see this card, you will understand why attorneys who practice in federal courts have both a conflict of allegiance  
and a conflict of interest for all the clients they represent before said court.

1 The oath on the card says the following:

2 *"I do solemnly swear or affirm to support the Constitution of the United States. That **I will bear true faith and***  
3 ***allegiance to the government** of the United States. That I will maintain respect due to the courts of justice, and*  
4 *judicial officers, and that **I will demean myself** as an attorney proctor, advocate, solicitor, and counselor of this*  
5 *court uprightly. (So help me God)*

6 *"I certify that I am a member in good standing of the Bar of the State of California."*

7 Notice some oddities about this card:

8  
9 1. The allegiance of the attorney is to the "**government** of the United States" instead of the "**people** of the United States",  
10 who are the *only* sovereigns that make up the "state" within our republican form of government.

11 *"The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly*  
12 *belonged to the King by his prerogative. Through the medium of their Legislature they may exercise all the*  
13 *powers which previous to the Revolution could have been exercised either by the King alone, or by him in*  
14 *conjunction with his Parliament; subject only to those restrictions which have been imposed by the Constitution*  
15 *of this State or of the U.S."*  
16 [*Lansing v. Smith, 21 D. 89., 4 Wendel 9 (1829) (New York)*]

17  
18 2. The attorney says he will "**demean** myself". Here is the definition of "demean" as a transitive verb, from the 1983  
19 edition of Webster's Ninth Collegiate Dictionary, p. 337<sup>8</sup>:

20 *"**demean.** Degrade. Debase"*  
21 [*Webster's Ninth Collegiate Dictionary, 1983, p. 337*]

22  
23 Anyone who signs that card is degraded and debased and subservient to the judges and the government, and not the  
24 people either collectively or individually.

25 3. The document talks about maintaining "*respect due to the courts of justice, and judicial officers*" but mentions **nothing**  
26 about respect for the natural and constitutional rights of clients or the proper relation of that respect to respect for the  
27 courts and judges. If "the people" are the sovereigns in our republican form of government, respect for judges and  
28 courts and the government *must* be exceeded by the allegiance of the attorney to the true sovereigns, the citizens of the  
29 states, who collectively are called the "state" in our system of government.

30 A "citizen", according to the Supreme Court, is someone who is a member of a "nation".

31 *"There cannot be a nation without a people. The very idea of a political community, such as a nation is, implies*  
32 *an [88 U.S. 162, 166] association of persons for the promotion of their general welfare. Each one of the*  
33 *persons associated becomes a member of the nation formed by the association. **He owes it allegiance and is***  
34 ***entitled to its protection. Allegiance and protection are, in this connection, reciprocal obligations. The one is***  
35 ***a compensation for the other; allegiance for protection and protection for allegiance.***

36 *"For convenience it has been found necessary to give a name to this membership. The object is to designate by*  
37 *a title the person and the relation he bears to the nation. For this purpose the words 'subject,' 'inhabitant,' and*  
38 *'citizen' have been used, and the choice between them is sometimes made to depend upon the form of the*  
39 *government. **Citizen is now more commonly employed, however, and as it has been considered better suited to***  
40 ***the description of one living under a republican government, it was adopted by nearly all of the States upon***  
41 ***their separation from Great Britain, and was afterwards adopted in the Articles of Confederation and in the***  
42 ***Constitution of the United States. When used in this sense it is understood as conveying the idea of***  
43 ***membership of a nation, and nothing more."***  
44 [*Minor v. Happersett, 88 U.S. 162 (1874)*]

45 In Title 8 of the U.S. Code entitled Aliens and Nationality, the concept of membership in the "nation" consisting of the  
46 confederation of states called the "United States" is described as a "national". 8 U.S.C. §1101(a)(21) identifies a "national"  
47 of as follows:

48 [8 U.S.C. §1101](#) Definitions

49 (a) (21) The term "national" means a person **owing permanent allegiance to a state.**

<sup>8</sup> Webster's Ninth Collegiate Dictionary, Merriam Webster, ISBN 0-87779-510-X, p. 337.

1 The definition of the term “citizen” under federal statutes is different from that in its constitutional sense. Nowhere in  
2 federal statutes is the term “citizen” described including “allegiance”. “National” is the only term that includes the concept  
3 of “allegiance” in 8 U.S.C. §1101(a)(22)(B). The term “state”, which is the object of that allegiance is then defined as  
4 follows:

5 *“State. A people permanently occupying a fixed territory bound together by common-law habits and custom*  
6 *into one body politic exercising, through the medium of an organized government, independent sovereignty and*  
7 *control over all persons and things within its boundaries, capable of making war and peace and of entering into*  
8 *international relations with other communities of the globe. United States v. Kusche, D.C.Cal., 56 F.Supp. 201*  
9 *207, 208. The organization of social life which exercises sovereign power in behalf of the people. Delany v.*  
10 *Moralitis, C.C.A.Md., 136 F.2d 129, 130. In its largest sense, a “state” is a body politic or a society of men.*  
11 *Beagle v. Motor Vehicle Acc. Indemnification Corp., 44 Misc.2d 636, 254 N.Y.S.2d 763, 765. A body of people*  
12 *occupying a definite territory and politically organized under one government. State ex re. Maisano v.*  
13 *Mitchell, 155 Conn. 256, 231 A.2d 539, 542. A territorial unit with a distinct general body of law.*  
14 *Restatement, Second, Conflicts, §3. Term may refer either to body politic of a nation (e.g. United States) or to*  
15 *an individual government unit of such nation (e.g. California).*

16 [...]

17 *The people of a state, in their collective capacity, considered as the party wronged by a criminal deed; the*  
18 *public; as in the title of a cause, “The State vs. A.B.”*  
19 *[Black’s Law Dictionary, Sixth Edition, p. 1407]*

20 To have “allegiance” to a “state” as a “national” is to have allegiance to the sovereign within the government, which in a  
21 republican government is the people collectively and individually and not necessarily the government or anyone serving in  
22 government. This is especially true when the government, such as the one we have now, has gone bad and is not  
23 representing the sovereign will of the people documented in the Constitution. When we have a rebellious government that  
24 has strayed from the Constitution, which is its only “de jure” foundation, to become a wicked “de facto” government, then  
25 the allegiance we as citizens have to the Constitution and the people who ordained it must supersede our allegiance to the  
26 government that has violated its charter to execute and protect the Constitution and the people who ordained it. The people,  
27 not the government, must always be regarded as the ultimate sovereigns within republican systems of governance, and our  
28 allegiance to them individually and collectively as “nationals”, or members of the political union, should never be  
29 superseded by our allegiance to the government or anyone in the government. Consequently, the attorney who signs the  
30 Petition for Admission to Practice has a conflict of interest because:

- 31 1. His allegiance to the “government” and the “judges” exceeds his allegiance to the “state”, which is the people.
- 32 2. If that government is violating the Constitution, as ours presently is, then he will have to put allegiance to the people of  
33 the “state” above that to the government as a citizen, in which case, he thereby risks losing his admission to practice  
34 law before the court. When federal attorneys admitted to practice are up against corrupt judges, here are the kind of  
35 things that such judges say, as a matter of fact, from an actual case of a tax honesty advocate:

36 232. At sidebar, the Court tells the defense counsel, “... This is the most improper-- this is the worst  
37 conduct I’ve ever seen of a lawyer, Mr. Stilley. ...” “... (W)e’re going to visit this further at length, Mr. Stilley.  
38 **The practice of law, sir, is a privilege, especially in Federal**  
39 **Court. You’re close to losing that privilege in this court, Mr.**  
40 **Stilley.**” P685, 5-11  
41 [SOURCE: Case of Phil Roberts, found in the transcript for the case posted on our website at:  
42 <http://famguardian.org/Subjects/Taxes/CaseStudies/PhilRoberts/PhilRoberts.htm>]

- 43 3. The constitutional rights of the people are nowhere mentioned in the oath, and therefore are subordinate to allegiance  
44 to the government. Constitutional rights take a back seat to all federal attorneys. As a matter of fact, according to the  
45 Supreme Court, there are no constitutional rights on federal property.<sup>9</sup> It’s more important for the federal attorney to  
46 “demean” himself to the court and the judge so that the judge is, in effect, an imperial “monarch”. Our federal  
47 judiciary is an imperial monarch. They “legislate from the bench” using “judge-made law” in the context of income  
48 taxes. This relationship is shown graphically in the article on the website below:

**[How Scoundrels Corrupted Our Republican Form of Government](#)**

<sup>9</sup> *Downes v. Bidwell*, 182 U.S. 244 (1901).

1 Attorneys who are admitted to practice before federal courts, are simply officers and agents of the government. They are  
2 not there to protect your rights. Their allegiance is to the government, not to you as a member of the body politic. They  
3 have a conflict of interest. Here are their priorities, in descending order, based on their oath:

- 4 1. **Looking good.** Morality and religion used to be the foundation of our laws and the legal profession. In the  
5 original universities founded in the American colonies such as Princeton and Yale, you had to major in religious  
6 subjects in order to become a lawyer. Now, the main focus of law schools is rhetoric, debate, marketing, and  
7 English composition and law schools no longer care about morality or the religious background of their students.  
8 As long as students pay the \$30,000/year tuition, the schools simply don't care what kind of ethics their students  
9 have. Money is the new God. Consequently, our law schools have transitioned from teaching Natural Law  
10 concepts to becoming etiquette schools that disdain morality, promote homosexuality, and graduate people like  
11 President Clinton. They teach future lawyers how to look good without being good. Here is what Jesus said on  
12 this very subject:

13 *"Woe to you, scribes and Pharisees [lawyers], hypocrites! For you cleanse the outside of the cup and dish, but*  
14 *inside they are full of extortion and self-indulgence."<sup>11</sup> <sup>26</sup>*Blind Pharisee, first cleanse the inside of the cup and*  
15 *dish, that the outside of them may be clean also.**

16 *"Woe to you, scribes and Pharisees, hypocrites! For you are like whitewashed tombs which indeed appear*  
17 *beautiful outwardly, but inside are full of dead men's bones and all uncleanness.*

18 *"Even so, you also outwardly appear righteous to men, but inside you are full of hypocrisy and lawlessness."<sup>11</sup>*  
19 *[Matt. 23:25-27, Bible, NKJV]*

20 Attorneys may wear suits and look civilized, but underneath they are savages and cannibals who only appear  
21 civilized. The thin veneer covering this hypocrisy is obvious to any religious or moral person, which explains why  
22 attorneys are so predominantly held in contempt by our society. Get one of these cannibals mad and find out what  
23 *really* makes them tick: greed, arrogance, and power. The legal profession motto is:

24 *"The secret of success is sincerity. If you can fake that, you've got it made and can laugh all the way to the*  
25 *bank with your stolen loot."*

- 26 2. **The judge.** If you piss off a judge, you'll lose your admission to practice. Always keep the judge happy, no  
27 matter what.
- 28 3. **The government.** The oath says that. By "government", we mean the "de facto" government, which is the  
29 assembly of corrupt men in power at the moment and how they actually behave, as opposed to how the law says  
30 they are supposed to behave. The "de jure" government as described in the Constitution defines how these corrupt  
31 men are supposed to behave, but they don't do so because of financial and personal conflicts of interest, sin, and  
32 arrogance.
- 33 4. **The almighty dollar.** You can't earn a living unless you can practice before the court, which means never saying  
34 anything that would embarrass or undermine the financial interests of the judge first, or the government second.  
35 After you have brown nosed the judge and the government, the only way to maximize profits is to prolong and  
36 extend conflict and the resolution of conflict. Therefore, it is not in the best interests of any attorney to settle a  
37 case or dispute as quickly as possible. He will instead try to maximize conflict to extend the litigation and enlarge  
38 his personal profits. This is the only way he can pay off his student loans and make his Mercedes/BMW  
39 payments.
- 40 5. **His fellow bar members and golf buddies.** He works with these people every day and he needs their help in  
41 prolonging litigation and thereby outsmarting the clients. Sharks look out for each other and don't take more than  
42 their fair share during their endless feeding frenzy on ignorant clients.
- 43 6. **His client.** Do or say anything necessary to please the client, provided that doing so doesn't conflict with the  
44 above higher priorities and is "politically correct".
- 45 7. **Censoring the truth as a defendant.** The cardinal rule as a defendant is never let the truth into the courtroom.  
46 The weapon in this process is the abuse of the rules of evidence to keep the jury and the judge from hearing the  
47 truth about your client.

8. **Slandering your opponent.** Try to get as much derogatory information into evidence about your opponent as you can. The best defense is a good offense, and there is nothing more offensive or injurious than the lies that lawyers tell to juries and judges about their opponent in order to prejudice their opponent and win the case. Win at all costs is the motto.
9. **The Constitution.** After all the above priorities have been met, do whatever you can to satisfy the Constitution, but only as an afterthought.
10. **The citizens and people of the state, collectively and individually.**

In conclusion, then, federal attorneys are financial mercenaries and intellectual whores of the court. Only a fool would hire an attorney who would sign the Petition for Admission to Practice, because they can't provide representation without conflicting and bad priorities.

The judges these corrupted lawyers work for are no different. First of all, all of them at one time or another used to be lawyers. Secondly, instead of being whores of the court, they are whores of the democratic majority, a corrupted legislature, and they are coerced debt collectors for the Federal Reserve and the IRS. The Great IRS Hoax sections 2.8.10, 7.1.3, and 7.1.4 establishes that neither the Federal Reserve nor the IRS are a part of the U.S. Government, and therefore these corrupted federal judges are acting as "foreign principals" in regards to income taxes. The Federal Reserve, in fact, is a private consortium of banks, while the IRS is a federal corporation out of Puerto Rico in which the U.S. Government owns more than 51% of the capital stock. The law requires these judges who are acting as such "agents of foreign principals", to register under 18 U.S.C. §219:

TITLE 18 > PART I > CHAPTER 11 > Sec. 219.  
Sec. 219. - Officers and employees acting as agents of foreign principals

(a) Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938 or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(6) of that Act shall be fined under this title or imprisoned for not more than two years, or both.

(b) *Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.*

(c) *For the purpose of this section "public official" means Member of Congress, Delegate , or Resident Commissioner [IRS Commissioner!], either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government*

None of the judges are so registered, to our knowledge and therefore are criminals. Would you want a criminal ruling on your case? Worst yet, these judges are subject to extortion by these foreign organizations by being required to file income tax returns. As officers of the federal government, they are in fact among the few who actually have an obligation to file tax returns and pay federal income taxes. Read Chapter 5 of our Great IRS Hoax book for confirmation of this fact. All income taxes are on activities associated with a "trade or business in the United States", and "trade or business" is defined in 26 U.S.C. §7701(a)(26) as follows:

26 U.S.C. Sec. 7701(a)(26)

*"The term 'trade or business' includes the performance of the functions of a public office."*

For those concerned citizens who want to inquire about the allegiance of their judges, you can write to the Article III Judges Division of the Administrative Office of the U.S. Courts at:

Administrative Office of the Federal Courts  
Article III Judges Division

1 Washington, D.C. 20544  
2 Phone: 202-502-1860

3 The Article III Judges Division keeps the oaths of all federal judges on file. They told us on the phone that they don't give  
4 out copies of judges oaths and that the federal judiciary is not covered under FOIA, but they could not give us the authority  
5 for this. We asked what we would get if we did a FOIA for the oath of a federal judge, and they said they would send out a  
6 certificate that the oath is on file, but would not provide a copy of the original oath. We asked the clerk in the above office  
7 to read us one of the judge's oaths. The judge oath is prescribed in [28 U.S.C. §453](#) and [5 U.S.C. §3331](#). The oath that all  
8 judges take is a combination of these two code sections and reads as follows, according to the clerk:

9 "I, \_\_\_\_\_, do solemnly swear and affirm that I will administer justice without regard to persons and do equal  
10 right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all of the duties  
11 incumbent upon me as \_\_\_\_\_ under the Constitution and laws of the United States, and that I will  
12 support and defend the Constitution of the United States against all enemies foreign and domestic, that I will  
13 bear true faith and allegiance to the same, and that I take this obligation freely without any mental reservation  
14 or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about  
15 to enter. So help me God."

16 Apparently, your judges in your courts don't want you to know where their allegiances are. Does this surprise you, that  
17 they want you accountable to them but don't want to be equally accountable to the public at large? If you would like to see  
18 the oath of office of one of our current Chief Justices of the Supreme Court, see the last few pages of the link below:

*Petition for Admission to Practice*  
<http://famguardian.org/Subjects/LawAndGovt/LegalEthics/PetForAdmToPractice-USDC.pdf>

19 In closing, if you would like to learn more about why Federal Courts are far too corrupted to hear cases involving income  
20 taxes, consult the article on our website about this subject at:

*Why the federal courts can't properly address these questions*  
<http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/WhyCourtsCantAddressQuestions.htm>

## 21 **2.4 Why You Don't Want to Hire A Licensed Attorney**

22 *Should I hire an attorney?*

23 That is a question that each must answer for themselves. However, before making that decision, you might wish to  
24 consider the following questions and answers:

- 25 1. To what or whom is an attorney's first duty? We consult the latest Corpus Juris Secundum (C.J.S.) legal encyclopedia,  
26 volume 7, section 4 for the answer below:

### § 4 ATTORNEY & CLIENT

7 C. J. S.

→ His first duty is to the courts and the public, not to the client,<sup>55</sup> and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter.<sup>56</sup>

The office of attorney is indispensable to the administration of justice and is intimate and

peculiar in its relation to, and vital to the well-being of, the court.<sup>57</sup> An attorney has a duty to aid the court in seeing that actions and proceedings in which he is engaged as counsel are conducted in a dignified and orderly manner, free from passion and personal animosities, and that all causes brought to an issue are tried and decided on their merits only;<sup>58</sup> to aid the court

- 27  
28 2. What is the legal relationship between an attorney and his/her client?

and the term is synonymous with "attorney."<sup>14</sup> Therefore, anyone advertising himself as a lawyer holds himself out to be an attorney, an attorney at law, or counselor at law.<sup>15</sup>

If one appears before any court in the interest of another and moves the court to action with respect to any matter before it of a legal nature, such person appears as an "advocate", as that term is generally understood.<sup>16</sup> The phrase "as an advocate in a representative capacity," as used in the statute regulating the practice of law, implies a representation distinct from officer or other regular administrative corporate employee representation.<sup>17</sup>

In England and her colonies a "barrister" is a person entitled to practice as an advocate or counsel in the superior courts.<sup>18</sup> A "solicitor" is a person whose business it is to be employed in the care and management of suits depending in courts of chancery.<sup>19</sup> In the great majority of the states of the Union, where law and equity are both administered by the same court, it has naturally come about that the two offices of attorney at law and solicitor in chancery have practically been consolidated, although in the federal equity practice the term "solicitor" is in

general use; but in some states the office of solicitor in chancery is a distinct and separate office from that of attorney at law.<sup>20</sup>

→ A client is one who applies to a lawyer or counselor for advice and direction in a question of law, or commits his cause to his management in prosecuting a claim or defending against a suit in a court of justice;<sup>21</sup> one who retains the attorney, is responsible to him for his fees, and to whom the attorney is responsible for the management of the suit;<sup>22</sup> one who communicates facts to an attorney expecting professional advice.<sup>23</sup> Clients are also called "wards of the court" in regard to their relationship with their attorneys.<sup>24</sup>

← ward of court

§ 3. Nature of Right to Practice

While it has been broadly stated that the right to practice law is not a natural or constitutional right, but is in the nature of a privilege or franchise, the practice of law is not a matter of grace but of right for one who is qualified by his learning and moral character.

Library References

Attorney and Client ⇔ 14.

The right to practice law is not a natural or constitutional right.<sup>25</sup> Nor is the right to practice

1

2 3. What is a ward of the court?

→ **Wards of court.** Infants and persons of unsound mind placed by the court under the care of a guardian. *Davis' Committee v. Loney*, 290 Ky. 644, 162 S.W.2d 189, 190. Their rights must be guarded jealously. *Montgomery v. Erie R. Co.*, C.C.A.N.J., 97 F.2d 289, 292. See *Guardianship*.

(Are you an infant or person of unsound mind?)

3

4

5 4. Do you need to challenge jurisdiction? Better read the following, particularly "...because if pleaded by an attorney...."

→ **In propria persona** /in prɔwpriə pɔrsɔwnə/. In one's own proper person. It was formerly a rule in pleading that pleas to the jurisdiction of the court must be plead *in propria persona*, because if pleaded by attorney they admit the jurisdiction, as an attorney is an officer of the court, and he is presumed to plead after having obtained leave, which admits the jurisdiction. See *Pro se*.

6

7 Conclusions of law:

- 8 1. When you hire an attorney, you become a ward of the court and a second class citizen and you admit the jurisdiction of
- 9 the court in the matter at hand.
- 10 2. You can't hire an attorney if you want to challenge jurisdiction.
- 11 3. If you want to challenge jurisdiction, the only way you can do it is as a "sui juris" and/or "in propria persona".

12 Should you hire an attorney? What do you think?

# ABSOLUTELY NOT!

## 3. The Inalienable Right to unlicensed “assistance of Counsel”

As in the doctrine of the 9th Amendment, the fact that the 10th Amendment secures a right to counsel in all civil matters, cannot be construed to deny that right, to say nothing of the right to peaceably assemble, and to petition the Government, and to defend one's life, liberty, and property in the courts. Any rule of procedure, for the court, is there precisely to guarantee due process of law to the private Citizen as a matter of right.

What is a counsel? What is an attorney? The terms "attorney" and "counsel" are Common Law terms.

*"It has been held, and is undoubtedly the law, that, where common law phrases are used in an indictment or information, such phrases must have common law interpretation."*  
[Chapman vs People, 39 Mich. 357-359; in re richter (D.C.) 100 Fed. 295-297 ]

The meaning of the Common Law terms is quite clear and the term "Assistance of Counsel" does not necessarily mean that "Counsel" will be a licensed attorney.

*COUNSEL. 1. In practice. An advocate, counsellor, or pleader. 3 Bl.Comm. 26; 1 Kent, Comm. 307. One who assists his client with advice, and pleads for him in open court. One who has been admitted as an attorney and counsellor at law. Baker v. State, 9 Okl.Cr. 62, 130 P. 820, 821. See Counsellor. Counsellors who are associated with those regularly retained in a cause, either for the purpose of advising as to the points of law involved, or preparing the case on its legal side, or arguing questions of law to the court, or preparing or conducting the case on its appearance before an appellate tribunal, are said to be "of counsel." 2. Knowledge. A grand jury is sworn to keep secret "the commonwealth's counsel, their fellows', and their own." 3. Advice given by one person to another in regard to a proposed line of conduct, claim, or contention. State v. Russell, 83 Wis. 330, 53 N.W. 441. The words "counsel" and "advise" may be, and frequently are, used in criminal law to describe the offense of a Person who, not actually doing the felonious act, by his will contributed to it or procured it to be done. Omer v. Cam., 95 Ky. 353, 25 S.W. 594.  
[Black's Law Dictionary, Fourth Edition, p. 418]*

The word "Counsel" is also defined from Bouvier Dictionary, 3rd Ed.: COUNSELLOR AT LAW, offices:

*COUNSEL. 1. An officer in the supreme court of the United States, and in some other courts, who is employed by a party in a cause, to conduct the same on its trial on his behalf. He differs from an attorney at law. (q. v.) (emph. added)*

*2. In the supreme court of the United States, the two degrees of attorney and counsel are kept separate, and no person is permitted to practice both. It is the duty of the counsel to draft or review and correct the special pleadings, to manage the cause on trial, and, during the whole course of the suit, to apply established principles of law to the exigencies of the case. 1 Kent, Com. 307. (emph. added)*

*"Attorneys are responsible to their clients for negligence or unskillfulness; but no action lies against the counsel for his acts, if done bona fide for his client. In this respect therefore, the counsel stands in a different position from the attorney." Swinfen v. Swinfen, 1 C. B. N. S. 364, 403*

*"English attorneys-at-law (called solicitors since the judicature act of 1873 took effect) were not members of the bar, and were not heard in the superior courts, and the power of admitting them to practice and striking them off the roll had not been given to the inns of the court. That part of the profession which is carried on by attorneys is liberal and reputable, as well as useful to the public,...and they ought to be protected where they act to the best of their skill and knowledge. But every man is liable to error...A counsel may mistake, as well as an attorney. Yet no one will say that a counsel who has been mistaken shall be charged with the debt. The counsel, indeed, is honorary in his advice, and does not demand a fee: The attorney may demand a compensation, but neither of them ought to be charged with the debt for a mistake." Pitt v. Yalden, 4 Burr. 2,060, 2,061*

*"An attorney-at-law ...is one who is put in the place, stead, or turn of another, to manage his matters of law.  
[Bouvier Dictionary, 3rd Ed.]*

Certainly a licensed attorney may be a "counsellor", but all counsellors are not necessarily licensed attorneys. This is confirmed by the definition of "Counsellor" in Black's Law Dictionary:

1 COUNSELLOR. An advocate or barrister. A member of the legal profession whose special function is to give  
2 counsel or advice as to the legal aspects of judicial controversies, or their preparation and management, and to  
3 appear in court for the conduct of trials, or the argument of causes, or presentation of motions, or any other  
4 legal business that takes him into the presence of the court. In some of the states, the two words "counsellor"  
5 and "attorney" are used interchangeably to designate all lawyers. In others, the latter term alone is used,  
6 "counsellor" not being recognized as a technical name. In still others, the two are associated together as the  
7 full legal title of any person who has been admitted to practice in the courts; while in a few they denote  
8 different grades, it being prescribed that no one can become a counsellor until he has been an attorney for a  
9 specified time and has passed a second examination. In the practice of the United States supreme court, the  
10 term denotes an officer who is employed by a party in a cause to conduct the same on its trial on his behalf. He  
11 differs from an attorney at law. In the supreme court of the United States, the two degrees of attorney and  
12 counsel were at first kept separate, and no person was permitted to practice in both capacities, but the present  
13 practice is otherwise. Weeks, Attys. at Law. 54. It is the duty of the counsel to draft or review and correct the  
14 special pleadings, to manage the cause on trial, and, during the whole course of the suit, to apply established  
15 principles of law to the exigencies of the case. L Kent, Comm. 307.  
16 [Black's Law Dictionary, Fourth Edition, p. 418]

17 The intent of the founding fathers was pretty clear and it is also axiomatic in Law that it is the intent of lawmakers that is  
18 law; not the interpretations of others.

19 "The intention of the lawmaker constitutes the law."  
20 [Stewart v Kahn, 11 Wall, 78 U. S. 493, 504]

21 "As the meaning of the lawmaker is the law, so the meaning of the contracting parties is the agreement."  
22 [Whitney v Wyman, 11 Otto, 101 U.S.]

23 It has been repeatedly upheld in the courts that:

24 "The framers of the statute are presumed to know and understand the meaning of the words used, and where the  
25 language used is clear and free from ambiguity, and not in conflict with other parts of the same act, the courts  
26 must assume the legislative intent to be what the plain meaning of the words used import."  
27 [First National Bank vs United States, 38 F (2nd) 925 at 931 (March 3, 1930)]

28 "A legislative act is to be interpreted according to the intention of the legislature, apparent upon its face. Every  
29 technical rule, as to the construction or force of particular terms, must yield to the clear expression of the  
30 paramount will of the legislature."  
31 [2 Pet. 662]

32 "The intention of the legislature, when discovered, must prevail, any rule of construction declared by previous  
33 acts to the contrary notwithstanding." 4 Dall 144 "The intention of the law maker constitutes the law."  
34 [U.S. v Freeman, 3 How. 565; U.S. v Babbitt, 1 Black 61; Slater v Cave, 3 Ohio State 80]

35 Then what was the intent of the founding fathers in relation to "assistance of counsel"? The founding fathers wrote the  
36 Constitution in plain simple language and used words that every one of that day could understand.

37 "And the Constitution itself is in every real sense a law-the lawmakers being the people themselves, in whom  
38 under our system all political power and sovereignty primarily resides, and through whom such power and  
39 sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial  
40 agencies which it created exercise such political authority as they have been permitted to possess. The  
41 Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible. 'We  
42 the People of the United States,' it says, 'do ordain and establish this Constitution.' Ordain and establish! These  
43 are definite words of enactment, and without more would stamp what follows with the dignity and character of  
44 law. The framers of the Constitution, however, were not content to let the matter rest here, but provided  
45 explicitly-'This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; ...  
46 shall be the supreme Law of the Land.' (Const. art. 6, cl. 2.) The supremacy of the Constitution as law is thus  
47 declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress  
48 is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal,  
49 clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power,  
50 required to ascertain and apply the law to the facts in every case or proceeding properly brought for  
51 adjudication, must apply the supreme law and reject the inferior stat- [298 U.S. 238, 297] ute whenever  
52 the two conflict. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is  
53 valid must be given great weight, Adkins v. Children's Hospital, 261 U.S. 525, 544, 43 S.Ct. 394, 24 A.L.R.  
54 1238; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is  
55 wholly irrelevant to the inquiry. Schechter Poultry Corp. v. United States, 295 U.S. 495, 549, 550 S., 55 S.Ct.  
56 837, 97 A.L.R. 947."  
57 [Carter v. Carter Coal Co., 298 U.S. 238 (1936)]

1 The Constitution was written that way to insure all the people could understand its meaning, otherwise, there was no way  
2 the people would submit themselves to it. Hadn't they just rid themselves of a tyrant King? Therefore, each word was  
3 chosen very carefully and we need only understand the meaning of the words used in those days. In referring to the  
4 American Dictionary of the English Language, First Edition, Noah Webster, 1825, we find the following Definitions:

5 *"COUNSEL, n...which is probably from the Hebrew...Those who give counsel in law; any counselor or*  
6 *advocate, or any number of counselors, barristers, or servants; as the plaintiff's counsel, or the defendant's*  
7 *counsel..."*  
8 *[American Dictionary of the English Language, First Edition, Noah Webster, 1825]*

9 We all need to remember that many of the authors of the Constitution were members of the legal profession, and isn't it  
10 interesting that Webster's definition clearly omits any reference to "lawyer" or "attorney" as being counsel? Whatever  
11 "COUNSEL" is, counsel can represent both a plaintiff and a defendant.

12 The word "advocate" was defined as:

13 *"ADVOCATE, n...To call for, to plead for;...In English and American courts, advocates are the same as*  
14 *counsel, or counselors..."*  
15 *[American Dictionary of the English Language, First Edition, Noah Webster, 1825]*

16 The word "barrister" was defined as:

17 *"BARRISTER, n. (from bar) A counselor, learned in the laws, qualified and admitted to plead at the bar, and to*  
18 *take upon him the defense of clients;..."*  
19 *[American Dictionary of the English Language, First Edition, Noah Webster, 1825]*

20 In neither definition are there any references to "lawyers" or "attorneys," nor is anything specifically mentioned about  
21 qualifications other than "learned in the laws," and "qualified." Nothing is mentioned about being approved by the  
22 Supreme Court nor any other agency or entity. The word attorney was similarly defined as:

23 *"ATTORNEY, n. One who takes the turn or place of another...One who is appointed or admitted in the place of*  
24 *another, to manage his matters in law. The word formerly signified any person who did business for another;*  
25 *...The word answers to the procurator, (proctor) of the civilians..."*  
26 *"Attorneys are not admitted to practice in courts, until examined, approved, licensed and sworn by direction of*  
27 *some court; after which they are proper officers of the court."*  
28 *[American Dictionary of the English Language, First Edition, Noah Webster, 1825]*

29 It is important to notice that an attorney could act **"FOR"** or **"IN PLACE OF"** an individual, whereas counselors were  
30 restricted to **"PLEADING FOR"** and **"GIVING"** of **"ADVICE AND COUNSEL"** in the presence of the Plaintiff or  
31 client. Counselors had no authority to **"ACT FOR"** or **"IN PLACE OF"** any client.

32 In those days it was commonplace to handle one's own case, thereby, acting in Proper Party on one's own behalf in court.  
33 However the court room is an awesome and lonely place when everyone else in the room is a member of the court.  
34 Whenever desired, the Plaintiff or the plaintiff could have a friend in the court--A counselor. A friendly person who could  
35 and would **"SPEAK FOR HIM"** or **"ADVISE HIM"** in court proceedings and matters of law.

36 "Counselors" were persons who took pride in their knowledge of the law and used it to the good of the people. They were  
37 advisors of the people and, as such, may or may not have been able to collect fee for their services. Under the Common  
38 Law, they could charge for their services but could not use the force of law to collect a fee.

39 "Attorneys", on the other hand, were agents of the court, an "officer of the court," who could be "appointed or admitted in  
40 place of another to manage his matters in law." Attorneys were schooled in the law, "examined, approved, licensed and  
41 sworn, by the direction of some court." As such, they could charge for their services and demand payment under force of  
42 law. They were granted the "privilege" of a license because they were commissioned to serve the public interest and the  
43 Court, and not the general public at large. Their first allegiance was to the court as an officer of the court, and not to their  
44 client.

1 Without doubt, the founding fathers knew well the meaning of the word "**COUNSEL**," and they used that word so the  
2 people would be "**FREE**" to choose counsel of their choice, who may or may not be an attorney. It has only been the  
3 rulings of the monopolistic American jurisprudence system controlled by licensed attorneys intent on expanding their  
4 unjust power and authority that has continuously denied the **RIGHT** of "**ASSISTANCE OF COUNSEL**" to the American  
5 public.

6 It has therefore long been recognized under the Common Law that attorneys were different from "counselors."

7 The Supreme Court of the United States recognizes that there were separate functions and responsibilities for "attorneys"  
8 and "counselors" as the two different rolls were maintained by the court.

9 *"His name should be taken from the roll of attorneys, and placed on the list of counselors."*  
10 *[Ex Parte Hallowell, 3 Dal 411, Feb. 1799]*

11 The usage of these words clearly separates functions and responsibilities of attorneys from counselors.

12 *"Under both our Federal and State Constitutions, a defendant has the right to defend in person or by*  
13 ***COUNSEL** of his own choosing."*  
14 *[People v Price, 262 N.Y. 410, 412, 187 N.E. 298, 299]*

15 *"This fundamental right is denied to a defendant unless he gets reasonable time and a fair opportunity to secure*  
16 *counsel of his own choice and, with that counsel's assistance, to prepare for trial."*  
17 *[People v McLaughlin, 53 N.E. 2d Series 356, 357]*

18 *"Justice requires that a party should be permitted to conduct his cause in person (subject to reasonable*  
19 *requirements of propriety), or by any agent of good character, and that the test of the agent's character should*  
20 *not be so rigorously applied as to imperil the constitutional right to a fair trial."*  
21 *[Concord Mfg. Co. v Robertson, ante, pp. 1, 6, 7]*

22 *"It is the responsibility of the court to insure that the court indulge every reasonable presumption against the*  
23 *waiver of fundamental rights."*  
24 *[Aetna Ins. Co. v Kennedy, 301 U.S. 389]*

25 *"Upon the trial judge rests the duty of seeing that the trial is conducted with solicitude for the essential rights of*  
26 *the Plaintiff."*  
27 *[Glasser v U.S., 315 U.S. 68, 70]*

28 The trial court must protect the right of the defendant to have the "assistance of counsel".

29 *"This protecting duty imposes the serious and weighty responsibility upon the trial judge of determining*  
30 *whether there is an intelligent and competent waiver by the Plaintiff. While an Plaintiff may waive the right to*  
31 *counsel, whether there is a proper waiver should be clearly determined by the trial court, and it would be fitting*  
32 *and appropriate for that determination to appear upon the record."*  
33 *[Johnson v Zerbst, 304 U.S. 458, 465]*

34 The constitutional right of Assistance of Counsel is not qualified to only someone who has received a license from some  
35 supreme court or other alleged authority. Neither the federal nor any state constitution, in fact, expressly grants to any  
36 official of any supreme court the authority to "admit" or "license" the practice of law, and the Ninth And Tenth Articles of  
37 the Constitution reserve all rights and powers not expressly delegated to the People, and not the government.

38 Since the United States Constitution was "ordained and established" by the people for their protection, not for the  
39 protection of a legal society, and since it may not be superseded or amended by any act of Congress or by any other "law"  
40 of this or any other state, it is within the power of every person to exercise such right. They may choose either Counsel or  
41 Co-counsel, or both, to help them with their case. When the Constitution was written and ratified, the Bar Associations did  
42 not exist. Therefore, it is simply an absurdity to conclude that the Constitution ever contemplated that only Bar Licensed  
43 Attorneys could appear as counsel for an Plaintiff.

44 *"In all criminal prosecutions, the Plaintiff shall enjoy the right...to have the Assistance of Counsel for his*  
45 *defense."*  
46 *[6th Amendment to the U.S. Constitution]*

1 The language of the Sixth Amendment quoted above is quite clear, unambiguous, and is very precise, and the men who  
2 were responsible for its form, very learned and skilled in the Law, and in fact, many were attorneys. Therefore, the  
3 conspicuous lack of the words "**attorney**" or "**attorney-at-law**" is notable indeed!

4 *"While the Bill of Rights was being debated and argued, the same members of Congress were in the process of*  
5 *passing the First Judiciary Act of September 24, 1789. The very same day the President signed this bill, the*  
6 *House and Senate were finally coming to an agreement on the express and explicit language and form of the*  
7 *Bill of Rights. Therefore, their meanings are to be compatible."*  
8 *[Williams v Florida, 399 U.S. 78; 90 S.Ct. 1895, 1904.]*

9 Therefore, it is absolutely clear that the explicit language and form of the first Judiciary Act of 1789 were and are the  
10 meaning of the Sixth Amendment. The First Judiciary Act of 1789 states in part: Sec. 35.

11 *"And be it further enacted, That in all the courts in the United States, the parties may plead and manage their*  
12 *own causes personally OR by the assistance of such counsel OR attorneys at law as by the rules of the said*  
13 *courts respectfully shall be permitted to manage and conduct causes therein."*  
14 *[First Congress, Session I, Chapter 20, Page 20. 1 Stat. at L.(p.92)]*

15 Judiciary Act of 1789, Section 30, page 89 also refers to counsel as:

16 *"...not being of counsel or attorney to either of the parties..."*

17 It is notable that this statute does not mention only criminal matters, but simply states "all courts."

18 It is the individual who has the absolute **Constitutional RIGHT** to "**ASSISTANCE OF COUNSEL**" under the Sixth  
19 Amendment. It is the "Will of the private Citizen" who reign supreme---not the Bar Associations.

20 *"In the United States, sovereignty resides in the people...the Congress cannot invoke sovereign power of the*  
21 *People to override their will as thus declared."*  
22 *[Perry v. U.S., 294 U.S. 330 (1935)]*

23 *"Sovereignty itself is, of course, not subject to law, for it is the author and source of law...While sovereign*  
24 *powers are delegated to...the government, sovereignty itself remains with the people."*  
25 *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

26 *"The words 'people of the United States' and 'citizens,' are synonymous terms, and mean the same thing. They*  
27 *both describe the political body who, according to our republican institutions, form the sovereignty, and who*  
28 *hold the power and conduct the government through their representatives. They are what we familiarly call the*  
29 *'sovereign people,' and every citizen is one of this people, and a constituent member of this sovereignty. ..."*  
30 *[Boyd v. State of Nebraska, [143 U.S. 135](#) (1892)]*

31 Numerous court cases support the individual's INALIENABLE RIGHT to counsel. Some are:

32 *"The fundamental right of the Plaintiff to representation by counsel must not be denied or unreasonably*  
33 *restricted."*  
34 *[Poindexter v. State, 191 S.W. 2d 445]*

35 *"While the Constitution guarantees to a defendant in a criminal case, the right to be heard by counsel, it also*  
36 *allows him to be heard 'by himself' and where he elects to appear for himself rather than by an attorney, he*  
37 *cannot be compelled to employ counsel, or to accept services assigned by the court."*  
38 *[People v. Shapirio, 188 Misc 363]*

39 *"The right of counsel is not formal but substantial."*  
40 *[Snell v. U.S., 174 F. 2d 580]*

41 Th "**RIGHT**" to "**Assistance of Counsel**" is as imperative, necessary, essential, as any other right to "Life, Liberty and the  
42 Pursuit of Happiness". It is a prerequisite to a proper defense of my life, liberty, and property that has been endangered by  
43 the unlawful, apprehension and restraint of myself. The "**RIGHT**" to "**Assistance of Counsel**" may not be limited to any  
44 condition because,....

45 *"it is one of the fundamental rights of life and liberty."*  
46 *[Robinson v. Johnson, (DC-CAL), 50 F. Supp 774]*

1 And finally,

2 *"The right to effective "Assistance of Counsel" in a criminal proceeding guaranteed by this amendment is a*  
3 *basic and fundamental right secured to every person by the Due Process Clause of the Fourteenth Amendment."*  
4 *[Armine v. Times, (CCA 10), 131 F. 2d 827]*

5 Every person has the "RIGHT" to have "Assistance of Counsel" of THEIR choice. Inasmuch as this right was once well  
6 known and understood to be the "RIGHT" of the people as defined in the "Will of the Sovereign People's" Constitution. I,  
7 the Plaintiff, here and now asserts my "RIGHT" and takes it back. No governmental entity was ever properly given power  
8 or authority, by the "Will of the Sovereign People," to take such a "RIGHT" away. "If the state should deprive a person  
9 the benefit of counsel, it would not be due process of law." Powell v. Alabama, 287 U. S. 45, 70.

10 By definition of the word "Code", one can see that statutes are regulatory law. Bouvier's Law Dictionary (1914)

11 *"A body of law established by the legislative authority of the state, and designed to regulate completely, so far*  
12 *as a statue may, the subject to which it relates."*

13 *I contend that, "attorneys and counselors at law", and those who follow the profession of "practicing law", and*  
14 *those who charge a fee for their services, as lawyers and attorneys are the only persons who are regulated by*  
15 *code. Also it should be noted that those persons defined in the Code come into the court as a matter of their own*  
16 *interests, for they receive a reward for this occupation.*

17 The statutes also show what an "attorney" is by definition in that he collects a fee, or makes a charge, and he practices law.  
18 The intent of the law-makers is clear -- they are regulating the profession of the practice of law, which attorneys and  
19 lawyers carry on. Let the court note that the Accuses is not bringing a lawyer into court, to practice law, but someone  
20 whom he trusts to know the law, not justice "practice" it on an unwitting victim of "ward of the court" as some "guinea  
21 pig".

22 Further, this court cannot act for or in my behalf and seek to exercise their conscience for anyone, or make their choice, by  
23 directing them to bring only a certain class of persons into the court to counsel them. This in itself is a violation of my free  
24 exercise of my right to seek the assistance of counsel, my First Amendment right to freedom from compelled association,  
25 and to enjoy counsel of choice. No, the court cannot lawfully assume this responsibility, but must assume a role as impartial  
26 referee of the proceedings, in this regard, and allow anyone to make their own defense; of, by, and for themself with  
27 counsel of my own choosing. To do otherwise is to interfere with the inalienable right to contract of the litigants before the  
28 court, which no court has the authority to do. See Article 1, Section 10 of the United States Constitution and the following  
29 as authority:

30 **"Independent of these views, there are many considerations which lead to the conclusion that the power**  
31 **to impair contracts [either the Constitution or the Holy Bible], by direct action to that end, does not exist**  
32 **with the general [federal] government. In the first place, one of the objects of the Constitution, expressed**  
33 **in its preamble, was the establishment of justice, and what that meant in its relations to contracts is not**  
34 **left, as was justly said by the late Chief Justice, in Hepburn v. Griswold, to inference or conjecture.** As he  
35 observes, at the time the Constitution was undergoing discussion in the convention, the Congress of the  
36 Confederation was engaged in framing the ordinance for the government of the Northwestern Territory, in  
37 which certain articles of compact were established between the people of the original States and the people of  
38 the Territory, for the purpose, as expressed in the instrument, of extending the fundamental principles of civil  
39 and religious liberty, upon which the States, their laws and constitutions, were erected. **By that ordinance it**  
40 **was declared, that, in the just preservation of rights and property, 'no law ought ever to be made, or have**  
41 **force in the said Territory, that shall, in any manner, interfere with or affect private contracts or**  
42 **engagements bona fide and without fraud previously formed.'** The same provision, adds the Chief Justice,  
43 found more condensed expression in the prohibition upon the States [in Article 1, Section 10 of the  
44 Constitution] against impairing the obligation of contracts, which has ever been recognized as an efficient  
45 safeguard against injustice; and though the prohibition is not applied in terms to the government of the United  
46 States, he expressed the opinion, speaking for himself and the majority of the court at the time, **that it was clear**  
47 **'that those who framed and those who adopted the Constitution intended that the spirit of this**  
48 **prohibition should pervade the entire body of legislation, and that the justice which the Constitution was**  
49 **ordained to establish was not thought by them to be compatible with legislation [or judicial precedent] of**  
50 **an opposite tendency.'** 8 Wall. 623. [99 U.S. 700, 765] Similar views are found expressed in the opinions of  
51 other judges of this court."  
52 *[Sinking Fund Cases, 99 U.S. 700 (1878)]*

53 No statute or Code can work to violate the common law rights of the private Citizen.

1 Statute: This word is used to designate the written law in contradistinction to the unwritten law.  
2 [Bouvier's Dictionary of Law]

3 The unwritten law, of course, is the common law, which is that system of law guaranteed to the private Citizen by the due  
4 process clauses of the Constitution for the united States.

5 *"The adoption of the 14th Amendment completed the circle of protection against violations of the provisions of*  
6 *the Magna Carta, which guaranteed to the private Citizen their life, liberty, and property against interference*  
7 *except by the Law of the Land, which phrase was coupled in the petition of right with due process of law. The*  
8 *latter phrase was then used for the first time, but the two are generally treated as meaning the same. This*  
9 *security is provided as against the United States by the 4th and 5th Amendments, and against the States by the*  
10 *14th Amendment".*  
11 [Davidson v. New Orleans, 96 U.S. 97]

12 As cited above, the meaning of the due process clause is that the common law shall be the inalienable right of every private  
13 Citizen, nor can it be removed from them by mere statutes. Every right, in fact, constitutes a form of "property" which  
14 cannot be taken away from the litigant by any judicial act without the just compensation called for by the Fifth  
15 Amendment. To wit:

16 *PROPERTY. That which is peculiar or proper to any person; that which belongs exclusively to one; in the strict*  
17 *legal sense, an aggregate of rights which are guaranteed and protected by the government. Fulton Light, Heat*  
18 *& Power Co. v. State, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable*  
19 *right and interest. McAlister v. Pritchard, 230 S.W. 66, 67, 287 Mo. 494. More specifically, ownership; the*  
20 *unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use*  
21 *it, and to exclude every one else from interfering with it. Mackeld. Rom. Law, 9 265. That dominion or*  
22 *indefinite right of use or disposition which one may lawfully exercise over particular things or subjects.*  
23 *Transcontinental Oil Co. v. Emmerson, 298 Ill. 394, 131 N.E. 645, 647, 16 A.L.R. 507. The exclusive right of*  
24 *possessing, enjoying, and disposing of a thing. Barnes v. Jones, 139 Miss. 675, 103 So. 773, 775, 43 A.L.R.*  
25 *673; Tatum Bros. Real Estate & Investment Co. v. Watson, 92 Fla. 278, 109 So. 623, 626. The highest right a*  
26 *man can have to anything; being used for that right which one has to lands or tenements, goods or chattels,*  
27 *which no way depends on another man's courtesy. Jackson ex dem. Pearson v. Housel, 17 Johns. 281, 283.*

28 *The right of property is that sole and despotic dominion which one man claims and exercises over the external*  
29 *things of the world, in total exclusion of the right of any other individual in the universe. It consists in the free*  
30 *use, enjoyment, and disposal of all a person's acquisitions. without any control or diminution save only by the*  
31 *laws of the land. 1 BLComm. 138: 2 B1.Comm. 2. 15; Great Northern Ry. Co. v. Washington Elec. Co.. 197*  
32 *Wash. 627, 86 P.2d 208, 217.*

33 *The word is also commonly used to denote everything which is the subject of ownership, corporeal or*  
34 *incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable*  
35 *value or which goes to make up wealth or estate. It extends to every species of valuable right and interest, and*  
36 *includes real and personal property, easements, franchises, and incorporeal hereditaments. Samet v.*  
37 *Farmers' & Merchants' Nat. Bank of Baltimore, C.C.A.Md., 247 F. 669, 671; Globe Indemnity Co. v. Bruce,*  
38 *C.C.A. Okl., 81 F.2d 143, 150.*  
39 [Black's Law Dictionary, Fourth Edition, p. 1382]

40 No new systems of law can be forced upon me. I have the right to live under the protection of the Constitution; it is my  
41 birthright.

42 *"When a change of government takes place, from a monarchical to a republican government, the old form is*  
43 *dissolved. Those who lived under it, and did not choose to become members of the new, had a right to refuse*  
44 *their allegiance to it, and to retire elsewhere. By being a part of the society subject to the old government, they*  
45 *had not entered into any engagement to become subject to any new form the majority might think proper to*  
46 *adopt. That the majority shall prevail is a rule posterior to the formation of government, and results from it. It*  
47 *is not a rule upon mankind in their natural state. There, every man is independent of all laws, except those*  
48 *prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent"*  
49 [Cruden v. Neale, 2 N.C., 2 S.E. 70 (1796)]

50 In spite of possible encroachments by the legislature, and in spite of private interests, which would restrict the exercise of a  
51 right, the fundamental law rises above all private concerns, such as that of the legal professions which are interested in  
52 protecting their monopoly with the unlawful and constitutionally unauthorized aid of the authority of the bench. The  
53 Constitution is worthy of the court's full devotion, and the office of a judge should not be used to further the extensive  
54 conspiracy to monopolize the control of the privileged, licensed censors of the state over the affairs of the sovereigns they  
55 are supposed to be serving.

#### **4. Right of officers of Non-Publicly Held Trusts and Corporations to Represent the Entity without A Licensed Attorney**

Non-publicly held or traded corporations and trusts have the same inalienable right to “assistance of counsel” as natural persons. Case law holds that non-lawyers may appear on behalf of a corporation if the corporation is closely held corporation of which they hold the voting powers. Closely held corporations are defined as corporations in which the stock or shares, or at least the voting shares, are held by a single shareholder or closely knit group of shareholders. In such a case, there are generally no public investors and it’s shareholders are active in the conduct of business of the entity. A “close corporation” is one which fills it’s vacancies. *Brooks v. Willcuts*, 78 F.2d 270 (8th Cir. 06/12/1935). In other words, a "close corporation" means, in the vernacular, a corporation in which the stock is held in few hands, or in few families, and wherein it is not at all, or only rarely, dealt in by buying or selling. It seems fairly plain that the regulation would subserve no practical purpose if it should be held that the term "close corporation" is used therein in its technical, legal sense.

It was found in *Shane v. Shane*, 891 F.2d 976 (1st Cir. 12/20/1989), appellants were shareholders in a closely-held corporation and owed a fiduciary duty to Michael Shane, another shareholder. *Shane, supra*. In the context of a closely-held corporation, a release of all claims signed in conjunction with a sale of stock does not bar subsequent actions where the release was obtained by fraud or misrepresentation. *Shane v. Shane, supra*. See also *Sher v. Sandler*, 325 Mass. 348, 353-54, 90 N.E.2d 536 (1950).

Closely held corporations and partnerships can also be represented by non-lawyer share holders, such as Certificate of Beneficial Interest holders and members as was the case in the *Matter of Holliday's Tax Services, Inc.*, 417 F.Supp. 182 (E.D.N.Y. 1976), *aff'd*, 614 F.2d 1287 (2d Cir. 1979), where the district court made a limited exception allowing a small closely-held corporation to be represented in bankruptcy proceedings by its sole shareholder, if the corporation was financially unable to hire an attorney. See also, *Willheim v. Murchison*, 206 F. Supp. 733 (S.D.N.Y. 1962), allowing a stockholder and non-lawyer to represent himself and other similarly situated stockholders in a derivative action.

There are enough safeguards in the duties and responsibilities of the personal representative of the corporations and trusts to protect the interests of the corporation and trust. First, that the personal representative of the corporation and trust is a "fiduciary", who shall observe the standards of care applicable to trustees as described, by the personal representative stands in a fiduciary relationship with the corporation and the trust and must exercise reasonable care in representing them in matters on behalf of the them. Second, we note that if the representative party's exercise of power concerning them, is improper or in bad faith, then the personal representative is liable to interested persons for damages or loss resulting from a breach of his fiduciary duty to the same extent as is a trustee of an express trust. The right of a party to bring an action in federal court under 28 U.S.C. §1654, is a right, which is accorded the highest degree of protection. It is, as the Court said in *Faretta v. California*, the "basic right of free people." 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562. When an action is within the language of §1654, the Reshards' "own case," the trial court was in error in requiring that they obtain outside counsel in order to, proceed. *Reshard v. Britt*, 819 F.2d 1573 (11th Cir. 06/26/1987).

There are therefore universally recognized exceptions to the rule of 28 U.S.C. §1654, those exceptions being a closely held corporation and trust or partnership that cannot afford to hire a licensed attorney to represent them. *United States v. Reeves*, 431 F.2d 1187 (9th Cir. 09/22/1970)

Under 28 U.S.C. §1654, in all courts of the United States, the parties may plead and conduct their own cases personally or by counsel

*\*\*\* as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein."*

We do not believe the quoted words give a district court the right to forbid a personal party, as distinguished from a corporation, from pleading and conducting his own case. Those words do authorize a local district court to prescribe reasonable rules governing such appearances, which rules, we think, may not operate to withdraw the right affirmatively conferred by section 1654.

## 5. Why the Bar Association in Your State is an Illegal Fictitious Monopoly

Every so-called State in the Union has laws on their books forbidding the unauthorized practice of their Law. This fact alone might lead one to conclude that being a licensed member of the legal professional is not only required, but that one not so duly appointed had better not even think about offering legal writings or advice without having a "license to practice law." To test this assumption, we go to California, the so-called Union's most populace so-called state, our test subject, to see how they do it, California style.

To begin this journey of discovery you can go online to the Secretary of State for California web site. All bona fide corporations public and private must be registered with the Secretary of State. Do a search for "California Bar Association" and notice several strange anomalies with the posted information.

For one, while the incorporation date of record is listed as 1907, this date differs from the date on the seal of the letter head for the California Bar that lists an incorporation date of 1927. Now notice that the status of the California Bar is inactive. Also notice that there is no registered agent listed for service of process, nor is there a listing for the corporate address. Go to the Secretary of State web sites for the so-called states neighboring California and you will discover the same anomalies--listed but inactive, without contact information.

Now call the California Corporate Commission to discover if they can explain the so-called anomalies and they will advise you that the State Bar of California was formed by statute (legislative act), and therefore not formed in accordance with the California Corporation Code.

Next, call the Executive Director at the headquarters for the California Bar Association in San Francisco and ask the following three questions:

1. Why is the California Bar Association an inactive corporation?
2. What type of organization (legal classification) is the California State Bar Association?
3. Why does the incorporation date on the letter head seal differ from the date of incorporation listed with the California Corporation Commission?

While the Executive Director will not be able to clear up the mystery to any of the questions listed above, you will be assured that the State Bar of California is a constitutional agency, with the judicial branch of State government. It serves an administrative function for the California Supreme Court in matters relating to the regulation of the legal profession.

However, the California State Constitution and the California Business & Professions Code, do not agree with this claim--these two authorities describe the State Bar of California as a public corporation, not a 'constitutional agency.'

To complicate matters still, the California Secretary of State refuses to issue a "Certificate of Non filing," a five dollar (\$5.00) fee, a standard form for any unregistered, non-filing public corporation. By claiming that the State Bar Corporation was created by legislative act, the Secretary of State can take the position that it lacks authority to issue the certificate, even though the State Bar Association actively touts itself to be a public corporation. In so doing the California Bar has effectively exempted itself from registration and shielded its books from public scrutiny. The following obscure cite from 7 Corpus Juris Secundum 9 reveals the deceit being perpetrated here:

*"In view of the decision that the creation of public corporation by special acts is prohibited by state constitution, state bar act creating state bar corporation as public corporation has no validity and designation of state bar as 'public corporation' has no legal efficacy."  
[Bridgegroom v. State Bar, 550, P.2d 1089, 27 ArizApp. 47]*

To further interpret what this means: the State Bar of California enjoys the best of both worlds; an apparent agency of government enjoying the power and protection of the state, including exemption from taxation, while in fact a pirate institution without legal basis.

Whereas, the notion of a "license to practice law" is scarcely mentioned in state and federal codes, the requirements relating to every other kind of license in existence is spelled out in mind-numbing detail (e.g. Vehicle Code, Internal Revenue Code, etc.). The sacred "license to practice law," however, remains undefined! Answers to questions regarding where it comes

1 from, how it is conferred, where one goes to see what it looks like, its tenure, its cost, remain elusive like the wind. These  
2 and other intensely pertinent questions remain unanswered by the codes that imply its existence.

3 So pull up a chair and take a front row seat as we examine-what the word manipulating Esquires have done to convince us  
4 that such a thing 'really' exists. As always the subterfuge is in their definition of the words and what is conveniently  
5 omitted. It is up to you to guess which words are 'suspect,' which assumptions are implied to lead you off track, what  
6 remains unspecified, and where to go to find the appropriate 'definitions.'

7 Code Series 6000 of the California Business & Professions Code (Cal. B&P) is known as the "The State Bar Act". Section  
8 6002 is the solitary code section in all of California Code evidencing the supposed issuance of a "license to practice law." I  
9 will list out the relevant sections in Cal. B&P relating to the issuance of licensing and also section 9 of their California State  
10 Constitution.

11 Look these over to see if you can tell were the clues are and note what questions to ask.

12 *Cal. B&P Code Section 6001*

13 *"The State Bar of California is a public corporation."*  
14 \_\_\_\_\_

15 *Cal. State Const., Sec. 9*

16 *"The State Bar of California is a public corporation."*  
17 \_\_\_\_\_

18 *Cal. B&P Code Section 6002. Members*

19 *"The members of the State Bar are all persons admitted and licensed to practice law in this state..."*  
20 \_\_\_\_\_

21 *Cal. B&P Code Section 6125. Necessity of Active Membership in State Bar*

22 *"No person shall practice law in California unless the person is an active member of the State Bar"*  
23 \_\_\_\_\_

24 *Cal. B&P Code Section 6060*

25 *"To be certified to the Supreme Court for admission and a "license to practice law", a person who has not been*  
26 *admitted to practice law in a sister state..."*  
27 \_\_\_\_\_

28 *Cal. B&P Code Section 6060.5*

29 *"Neither the board, nor any committee authorized by it, shall require that applications for admission to practice*  
30 *law in California pass different final bar examinations depending upon the manner or school in which they*  
31 *acquire their legal education."*  
32 \_\_\_\_\_

33 *Cal. B&P Code Section 6064*

34 *"Upon certification by the examining committee that the applicant has fulfilled the requirements for admission*  
35 *to practice law, the Supreme Court may admit such applicant as an attorney at law in all the courts of this state*  
36 *and may direct an order to be entered upon its records to that effect A certificate of admission thereupon shall*  
37 *be given to the applicant by the clerk of the court."*  
38 \_\_\_\_\_

39 *Cal. B&P Code Section 6064.1.*

40 *"No person who advocates the overthrow of the Government of the United States or of this State by force,*  
41 *violence, or other unconstitutional means, shall be certified to the Supreme Court for admission and a license to*  
42 *practice law."*  
43 \_\_\_\_\_

1 Cal. B&P Code Section 6067

2 "Every person on his admission shall take an oath to support the Constitution of the United States and the  
3 Constitution of the State of California, and faithfully to discharge the duties of an attorney at law to the best of  
4 his knowledge and ability. A certificate of the oath shall be indorsed upon his license."

## 5 **5.1 Jurisdiction**

6 California B&P Sections 6002 and 6125, appears straight forward, until the jurisdictions are compared. The jurisdiction  
7 "California," means the de jure social compact known as the California Republic as described in the 1849 California  
8 Constitution. The jurisdiction "/ this State," per California Revenue and Taxation Code, means the de facto military social  
9 construct defined as a federal territory via the Buck Act under military control of the United States located in the District of  
10 Columbia (See What is United States?).

## 11 **5.2 Persons**

12 Since the so-called bankruptcy in 1933, "this state" signifies the military federal social construct known as the "State of  
13 California," with its subject "citizens of the United States," artificial persons existing under statute in an artificial realm.

14 In the de jure California, the word "person" means the flesh and blood man or woman. Thus Cal. B&P Code Section 6002  
15 says that only artificial persons (legal fictions) may be admitted and licensed. Real persons need not apply!

16 Since the de jure social compact known as California no longer truly exists due to the fact the compact went out of legal  
17 existence in 1933, as a pledge to the military social government construct bankruptcy, Cal. B&P Code Section 6125 is  
18 nonsensical; It makes about as much sense as stating "No person shall drive an 18-wheeler on interstate highways in  
19 California unless that person is a member of the Teamsters Union."

## 20 **5.3 What is the State Bar?**

21 Another fatal flaw in both Cal. B&P Code Sections 6002 and 6125 according to Corpus Juris Secundum 9, listed above,  
22 and the Secretary of State, is that the State Bar itself has no legal existence in contradiction to Sec.9 of their California State  
23 Constitution and the California State Bar Act, Cal. B&P Code Section 6001, state that the State Bar is a public corporation.  
24 The State Bar is a public corporation that is NOT, and the State Bar Act creating the State Bar has no legal efficiency.

## 25 **5.4 Bar Membership**

26 Cal. B&P Code Section 6002 informs us that "members of the State Bar are admitted and licensed to practice law."  
27 Admitted into what! And who does the licensing? Cal. B&P Code Section 6002 is framed to satisfy the reader's perfunctory  
28 inquisitiveness, while remaining firmly ambiguous. Also, the reader of section 6002 may get the impression that Bar  
29 members are the only ones that may be "admitted and licensed to practice law in this state." However, because of the way  
30 California B&P Code Section 6002 is worded, non-members of the State Bar are not excluded from being "admitted and  
31 licensed to practice law in this State." In addition bar membership is a result of being admitted and licensed to practice law,  
32 whereupon the admitted party is then granted membership in the State Bar by a bar card-not the other way around.

33 "Generally, membership in a bar association is optional with the individual attorney, but where a unified or  
34 integrated state bar organization is established, membership and payment of dues may be required as  
35 conditions of practicing law in the state..."

36 [7 Corpus Juris Secundum 8, In re Gibson, 4 P.2d 643.35 N.M. 550]

37 Though the controlled and licensed media and courts would have us believe otherwise, non-State Bar members are not  
38 excluded from being "licensed to practice law in this State."

39 Cal. B&P Code Sections 6060, 6060.5 reveal that the "license to practice law" follows (is one in the same) "admission to  
40 practice law," not membership in the bar-association. California B&P Code Section 6060 says that one may be certified to  
41 the so-called Supreme Court (admitted/licensed to practice law) even if they haven't been "admitted to practice law" (no  
42 bar-card) in another state.

1 An article in the Los Angeles Times entitled "Clinton Resigns from the High Court Bar" underscores this point: "...Former  
2 President Clinton hereby respectfully requests to resign from the bar Of this court', his lawyer, David E. Kendall, said in a  
3 two-page letter to the high court's clerk..." "Clinton's resignation from the Supreme Court bar will have little practical  
4 impact. Clinton; has not practiced before the Supreme Court and was not expected to argue any cases in the future..."

5 Clinton resigned only from the Supreme Court bar, and from no other bar. Every other "license to practice law" is still in  
6 force and is just like the one issued in the so-called de facto State of California. The only possible license to practice law,  
7 the certificate of admission, is the real "license."

8 **5.5 The Examining Committee**

9 Cal. B&P Code Section 6064 gives provides additional evidence that bar membership doesn't confer a "license to practice  
10 law" Otherwise Cal. B&P 6002 would be sufficient in itself, with no further requirement that an examining committee must  
11 certify that an applicant "has fulfilled the requirements for admission to practice law" for being "licensed."

12 Regarding the true importance of the "examining committee" referenced above in Cal. B&P Code Section 6064, the so-  
13 called chief justice of the Supreme Court can unilaterally overrule its decision and admit any applicant they see fit, even  
14 one who has been rejected as unfit or unqualified. As the following case cites show, "Admission to practice law" is  
15 ultimately controlled by the chief justice of the Supreme Court of the jurisdiction. In fact the chief justice is the Supreme  
16 Court.

17 *"Supreme Court has inherent power and authority to admit an applicant to practice law in this State...despite*  
18 *unfavorable report upon such applicant by Board of Governors of State Bar."*  
19 *[Lacey, In re (1936), 11 CA.2d 699, 81P2D 935]*

20 *"The authority of the Committee of Bar Examiners is limited to investigating and recommending for admission*  
21 *those applicants found to be of the prescribed standards. Only the Supreme Court has plenary power to admit*  
22 *applicants who, in the opinion of the court, meet the prescribed test, whether or not the Committee agrees with*  
23 *the conclusions of the court."*  
24 *[Green v. Zank (1984. 2dDist) CalApp.3d 497, 204 Cal Rptr 770]*

25 **5.6 Significance of the State Bar**

26 The State Bar of California does not issue licenses--cannot issue licenses--because it is a freewheeling, private trade union  
27 falsely posing as an agency of government. Quoting from a statement issued by Governor Pete Wilson's office in a May, 30  
28 1998 article from the Los Angeles Times:

29 *"Beleaguered State Bar Faces Uncertain Fate -Agencies: It will begin going out of business as a result of*  
30 *Wilson veto unless Legislature acts quickly"*

31 *"...Critics two years ago launched a referendum on whether to abolish the bar, but with just over half the state's*  
32 *lawyer's voting the bar survived. About 65% of the respondents opposed dismantling it.*

33 *"The bar has escaped other brushes with death. In 1985, the Legislature refused for several months to allow the*  
34 *bar association to collect dues because of its abysmal record in disciplining lawyers."*

35 If the existence of the bar association hinges on an internal vote of disgruntled bar-association attorneys, complaining about  
36 paying dues and disciplining themselves--and could have been abolished in 1885 and 1996--how relevant could the State  
37 Bar of California actually be?

38 **5.7 Professional Standards**

39 Regarding the conduct and professional standards of Esquires, there is no state or federal regulatory agency in their  
40 America governing such matters. Quoting Oceanside, California Republican Assemblyman Bill Morrow, who sponsored a  
41 bill for overhauling and shrinking the Bar in 1998, In the same LA Times article above:

1 "Morrow said that he is not worried that lawyer discipline will lapse. If no legislative breakthrough is reached  
2 by summer, the legislature will simply transfer lawyer discipline to the State Department of Consumer Affairs,  
3 the lawmaker said."

## 4 **5.8 The Non Existent Oath of Office**

5 Cal. B&P Code Section 6067 implies that attorneys take oaths of office and that this is printed on "the license." If you read  
6 Section 6067 carefully, these attorneys are not a "member of the State Bar," but "admitted persons." Cal. B&P Code  
7 Section 6067 is designed to lull the reader into the false believe that attorneys take constitutional oaths of office. Since the  
8 license is effectively the bar card-- a credit card sized piece of plastic, and the only text appearing on the bar card of the  
9 State Bar of California concerns annual union dues.

10 There is no oath:

11 "This certifies that the person whose name appears on this card has paid the annual fee required by statute."

12 So on further analysis, Cal. B&P Code Section 6067 reduces to another meaningless entry designed to mislead and distract  
13 one from getting closer to the truth.

## 14 **6. Example Motion for Constitutional "Counsel"**

### 15 **6.1 Judicial Notice of Constitution and Laws, Fed.Rul.Ev. 201**

16 Every court of this state shall take judicial notice of the **Constitution, common law**, civil law, and statutes of every state,  
17 territory and other jurisdiction of the United States. (emph. added)

### 18 **6.2 Motion for Constitutional Counsel**

19  
20 Comes now, <<NAMED PERSON>>, by and through her Constitutional Counsel, <<COUNSEL NAME>>, Herein after,  
21 Plaintiff. Plaintiff, waives no rights known or unknown, stated or unstated. Plaintiff herein, submits this answer in support  
22 of Plaintiff's 7<sup>th</sup> Amendment Rights and that Plaintiff can show reason why this court should grant an order dismissing any  
23 and all Motions filed by Defendant and enter judgment in favor of Plaintiff. [*This may change from time to time. Change  
24 to the case that best fits your case*]

- 25 1. I, the <<PLAINTIFF/DEFENDANT>>, of Heaven, as such endowed by **God** with **unalienable Rights**, confirmed  
26 and guaranteed by the Constitution of the united States of America and claimed herein. **We**,  
27 <<PLAINTIFF/DEFENDANT>> and Council hereby notice this court that under any law of \_\_\_\_\_(statename)  
28 which would perceive to be the *unauthorized practice of law* would be administrative in nature, therefore this court is  
29 on notice that under such law and notice, the Judge is nothing more than an administrative hearings officer. As such,  
30 the Judge only has qualified immunity, which means, violate our right to contract and  
31 <<PLAINTIFF'S/DEFENDANT'S>> right to council of choice as enumerated by our forefathers in the 1<sup>st</sup>, 6<sup>th</sup>, 7<sup>th</sup>  
32 and 9<sup>th</sup> Amendments to the Constitution for the united States of America, the Plaintiff and Council will take lawful  
33 action.
- 34 2. <<PLAINTIFF/DEFENDANT>> and Council are enforcing all <<PLAINTIFF'S/DEFENDANT'S>> rights;  
35 among which is my **right to counsel**; counsel being **my choice** of a party to assist and counsel me in my **defense**, and  
36 to **speak freely** on my behalf, under my direction, and to **act as my agent** for the purposes of this action; appearing  
37 with me and speaking for me at my discretion, as a matter of my rights secured and protected by the Constitution for  
38 the united States of America. This counsel will be <<COUNSEL NAME>>, **who will speak for me in all matters**.
- 39 3. This right to counsel of choice is protected by the Constitution for the united States of America; specifically the First  
40 Article of the Bill of Rights, in the matter of freedom of speech, the right to assemble peaceably, and the right to  
41 petition the Government for redress of grievance; also the Fifth Article of the Bill of Rights concerning due process of  
42 law; the Sixth Article of the Bill of Rights, and also the Ninth Article of the Bill of Rights, concerning the vast area of  
43 rights held by the people as the ultimate sovereigns;
- 44 4. The meaning of the above words, is that no man shall be deprived of his property (rights) without being heard in his  
45 own defense. Kinney v. Beverly, 2 Hen. & M (VA) 318, 336.

1 I, <<YOUR NAME>>, in my exercise of the above freedoms and rights, will not waive my right to have counsel  
2 of choice, as a matter of due process.

- 3 5. The right to defend and to be heard in my own defense shall not be limited in its exercise by statutes or by rules of the  
4 court; this by order of the supreme law of the land: The Constitution for the united States of America. "Where rights  
5 secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them."  
6 Miranda v. Arizona, 384 U.S. 436.
- 7 6. AA state can not, by invoking the power to regulate the professional conduct of attorneys, infringe in any way the  
8 **right of individuals** and the public to be fairly represented in lawsuits authorized by Congress to effectuate a basic  
9 public interest. Laymen cannot be expected to know how to protect their rights when dealing with practiced and careful  
10 adversaries, cf. Gideon v. Wainright, 372 U.S. 335, Aand for them to associate together to help one another to preserve  
11 and enforce **rights** granted them under federal laws cannot be condemned as a threat to legal ethics. Brotherhood of  
12 Railroad Trainmen v. Virginia ex rel. Virginia State Bar, 377 U.S. 1, 7.
- 13 7. I, the <<PLAINTIFF/DEFENDANT>>, claim my right to be heard under the law of the land, and by the modes and  
14 procedures of the common law, as a matter of due process. AThat statutes which would deprive a citizen of the rights  
15 of person or property without a regular trial, according to the course and usage of the common law, would not be the  
16 Law of the Land. Hoke v. Henderson, 15 N.C. 15, 25 Am. Dec. 677.

17 I demand that the court not uphold any mode or follow any procedure which would abrogate the Constitution  
18 for this State and the Constitution for the united States of America .

- 19 8. The Fifth article of the Bill of Rights of the Constitution for the united States provides:

20 "No person shall be deprived of life, liberty, or property without due process of law."

21 A similar provision exists in all the State constitutions; Athe phrases "due course of law," and the "law of the land" are  
22 sometimes used; but all three of these phrases have the same meaning and that implies conformity with the ancient and  
23 customary laws of the English people or laws indicated by Parliament. Davidson v. New Orleans, 96 U.S. 97, 25 L.Ed.  
24 616.

- 25 9. I, the <<PLAINTIFF/DEFENDANT>>, also demands that the court not uphold any unconstitutional applications of  
26 any statutes. AAll laws which are repugnant to the Constitution are null and void. Chief Justice Marshall, Marbury v.  
27 Madison, 5 U.S. (1 Cranch) 137, 174, 176. (1803) Upheld nearly 400 times in the ensuing nearly 20 decades (and never  
28 overruled or reversed). The duty of the court is to insure the Constitution is construed in favor of the citizen. Byars vs  
29 U.S., 273 U.S. 28. The Court is to protect Constitutionally secured rights. Boyd v. U.S., 116 U.S. 616
- 30 10. I, the <<PLAINTIFF/DEFENDANT>>, have an unlimited right to appoint a representative to act in my behalf, and  
31 such act cannot be made into a crime by this court or by the legislature. The claim and exercise of a Constitutional  
32 right cannot be converted into a crime. Miller v. U.S., 230 F. 486 at 489.
- 33 11. I, the <<PLAINTIFF/DEFENDANT>>, require that the court apply no laws that would abrogate my rights, and that  
34 the court answer to its duty to guarantee to me, my due process of law in all proceedings. I contend on good authority  
35 (the Constitution and Supreme Court standing case law) that the legislature cannot violate my right to counsel of  
36 choice, as such act would be unconstitutional. Furthermore, the \_\_\_\_\_(statename) State Bar association is nothing  
37 more than a private club and is not any form of state agency and does not speak for the state and does not act for the  
38 state and has no power to control the lives of private citizens. It was held that a state may not pass **statutes** prohibiting  
39 the unauthorized practice of law or interfere with the **right** to freedom of **speech**, secured in the first Amendment.  
40 United Mine Workers v. Illinois Bar Association, 389 U.S. 217.
- 41 12. In Closing:

42 Woe to those who decree unjust statutes and to those who continually record unjust decisions, to deprive the  
43 needy of justice, and to rob the poor of their rights.

### 44 **6.3 Points and Authorities**

- 45 1. As in the doctrine of the 9th Amendment, the fact that the 10th Amendment secures a right to counsel in all civil  
46 matters, cannot be construed to deny that right, to say nothing of the right to peaceably assemble, and to petition the  
47 Government, and to defend one's life, liberty, and property in the courts. Any rule of procedure, for the court, is there  
48 precisely to guarantee due process of law to the private Citizen as a matter of right.
- 49 2. What is a counsel? What is an attorney? The terms "attorney" and "counsel" are Common Law terms.

1 "It has been held, and is undoubtedly the law, that, where common law phrases are used in an indictment or  
2 information, such phrases must have common law interpretation."  
3 [Chapman vs People, 39 Mich. 357-359; in re richter (D.C.) 100 Fed. 295-297 ]

- 4 3. The meaning of the Common Law terms is quite clear and the term "Assistance of Counsel" does not necessarily mean  
5 that "Counsel" will be a licensed attorney. Certainly a licensed attorney may be a counselor, but all counselors may not  
6 be licensed attorneys.

7 With Counsel being defined from Bouvier Dictionary, 3rd Ed.: COUNSELLOR AT LAW, offices:

8 1. An officer in the supreme court of the United States, and in some other courts, who is employed by a party in  
9 a cause, to conduct the same on its trial on his behalf. He differs from an attorney at law. (q. v.) (emph. added)

10 2. In the supreme court of the United States, the two degrees of attorney and counsel are kept separate, and no  
11 person is permitted to practice both. It is the duty of the counsel to draft or review and correct the special  
12 pleadings, to manage the cause on trial, and, during the whole course of the suit, to apply established  
13 principles of law to the exigencies of the case. 1 Kent, Com. 307. (emph. added)

14 "Attorneys are responsible to their clients for negligence or unskillfulness; but no action lies against the  
15 counsel for his acts, if done bona fide for his client. In this respect therefore, the counsel stands in a different  
16 position from the attorney." Swinfen v. Swinfen, 1 C. B. N. S. 364, 403

17 "English attorneys-at-law (called solicitors since the judicature act of 1873 took effect) were not members of  
18 the bar, and were not heard in the superior courts, and the power of admitting them to practice and striking  
19 them off the roll had not been given to the inns of the court. That part of the profession which is carried on by  
20 attorneys is liberal and reputable, as well as useful to the public,...and they ought to be protected where they act  
21 to the best of their skill and knowledge. But every man is liable to error...A counsel may mistake, as well as an  
22 attorney. Yet no one will say that a counsel who has been mistaken shall be charged with the debt. The  
23 counsel, indeed, is honorary in his advice, and does not demand a fee: The attorney may demand a  
24 compensation, but neither of them ought to be charged with the debt for a mistake." Pitt v. Yalden, 4 Burr.  
25 2,060, 2,061

26 "An attorney-at-law ...is one who is put in the place, stead, or turn of another, to manage his matters of law.

- 27 4. The intent of the founding fathers was pretty clear and it is also axiomatic in Law that it is the intent of lawmakers that  
28 is law; not the interpretations of others.

29 "The intention of the lawmaker constitutes the law."  
30 [Stewart v Kahn, 11 Wall, 78 U. S. 493, 504]

31 "As the meaning of the lawmaker is the law, so the meaning of the contracting parties is the agreement."  
32 [Whitney v Wyman, 11 Otto, 101 U.S.]

- 33 5. It has been repeatedly upheld in the courts that:

34 "The framers of the statute are presumed to know and understand the meaning of the words used, and where the  
35 language used is clear and free from ambiguity, and not in conflict with other parts of the same act, the courts  
36 must assume the legislative intent to be what the plain meaning of the words used import." First National  
37 Bank vs United States, 38 F (2nd) 925 at 931 (March 3, 1930).

38 "A legislative act is to be interpreted according to the intention of the legislature, apparent upon its face. Every  
39 technical rule, as to the construction or force of particular terms, must yield to the clear expression of the  
40 paramount will of the legislature." 2 Pet. 662

41 "The intention of the legislature, when discovered, must prevail, any rule of construction declared by previous  
42 acts to the contrary notwithstanding." 4 Dall 144 "The intention of the law maker constitutes the law." U.S. v  
43 Freeman, 3 How. 565; U.S. v Babbit, 1 Black 61; Slater v Cave, 3 Ohio State 80.

- 44 6. Then, what was the intent of the founding fathers? The founding fathers wrote the Constitution in plain simple  
45 language and used words that every one of that day could understand. The Constitution was written that way to insure  
46 all the people could understand its meaning, otherwise, there was no way the people would submit themselves to it.  
47 Hadn't they just rid themselves of a tyrant King? Therefore, each word was chosen very carefully and we need only  
48 understand the meaning of the words used in those days. In referring to the American Dictionary of the English  
49 Language, First Edition, Noah Webster, 1825, we find the following Definitions:

1                   *"COUNSEL, n...which is probably from the Hebrew...Those who give counsel in law; any counselor or*  
2                   *advocate, or any number of counselors, barristers, or servants; as the plaintiff's counsel, or the defendant's*  
3                   *counsel..."*  
4                   *[American Dictionary of the English Language, First Edition, Noah Webster, 1825]*

5                   We all need to remember that many of the authors of the Constitution were members of the legal profession, and isn't it  
6                   interesting that Webster's definition clearly omits any reference to "lawyer" or "attorney" as being counsel? Whatever  
7                   "COUNSEL" is, counsel can represent both a plaintiff and a defendant.  
8                   The word advocate was defined as:

9                   *"ADVOCATE, n...To call for, to plead for;...In English and American courts, advocates are the same as*  
10                  *counsel, or counselors..."*  
11                  *[American Dictionary of the English Language, First Edition, Noah Webster, 1825]*

12                  The word Barrister was defined as:

13                  *"BARRISTER, n. (from bar) A counselor, learned in the laws, qualified and admitted to plead at the bar, and to*  
14                  *take upon him the defense of clients;..."*  
15                  *[American Dictionary of the English Language, First Edition, Noah Webster, 1825]*

16                  In neither definition are there any references to "lawyers" or "attorneys," nor is anything specifically mentioned about  
17                  qualifications other than "learned in the laws," and "qualified." Nothing is mentioned about being approved by the  
18                  Supreme Court nor any other agency or entity. The word attorney was defined as:

19                  *"ATTORNEY, n. One who takes the turn or place of another...One who is appointed or admitted in the place of*  
20                  *another, to manage his matters in law. The word formerly signified any person who did business for another;*  
21                  *...The word answers to the procurator, (proctor) of the civilians..."*  
22                  *"Attorneys are not admitted to practice in courts, until examined, approved, licensed and sworn by direction of*  
23                  *some court; after which they are proper officers of the court."*

- 24                  7. It is important to notice that an attorney could act **"FOR"** or **"IN PLACE OF"** an individual, whereas counselors were  
25                  restricted to **"PLEADING FOR"** and **"GIVING"** of **"ADVICE AND COUNSEL"** in the presence of the Plaintiff or  
26                  client. Counselors had no authority to **"ACT FOR"** or **"IN PLACE OF"** any client.  
27                  8. In those days it was commonplace to handle one's own case, thereby, acting in Proper Party on one's own behalf in  
28                  court. However the court room is an awesome and lonely place when everyone else in the room is a member of the  
29                  court. Whenever desired, the Plaintiff or the plaintiff could have a friend in the court--A counselor. A friendly person  
30                  who could and would **"SPEAK FOR HIM"** or **"ADVISE HIM"** in court proceedings and matters of law.  
31                  9. Counselors were persons who took pride in their knowledge of the law and used it to the good of the people. They  
32                  were advisers of the people and, as such, may or may not have been able to collect fee for their services. Under the  
33                  Common Law, they could charge for their services but could not use the force of law to collect a fee.  
34                  10. Attorneys, on the other hand, were agents of the court, an "officer of the court," who could be "appointed or admitted  
35                  in place of another to manage his matters in law." Attorneys were schooled in the law, "examined, approved, licensed  
36                  and sworn, by the direction of some court." As such, they could charge for their services and demand payment under  
37                  force of law.  
38                  11. Without doubt, the founding fathers knew well the meaning of the word **"COUNSEL,"** and they used that word so the  
39                  people would be **"FREE"** to choose counsel of their choice, who may or may not be an attorney. It has only been the  
40                  rulings of the monopolistic American jurisprudence system that has continuously denied individuals the **RIGHT** of  
41                  **"ASSISTANCE OF COUNSEL"** to the American public.  
42                  12. It has long been recognized under the Common Law that attorneys were different from "counselors."  
43                  13. The Supreme Court of the United States recognizes that there were separate functions and responsibilities for  
44                  "attorneys" and "counselors" as the two different rolls were maintained by the court.

45                  *"His name should be taken from the roll of attorneys, and placed on the list of counselors."*  
46                  *[Ex Parte Hallowell, 3 Dal 411, Feb. 1799]*

- 47                  14. The usage of these words clearly separates functions and responsibilities of attorneys from counselors.

48                  *"Under both our Federal and State Constitutions, a defendant has the right to defend in person or by*  
49                  *COUNSEL of his own choosing."*  
50                  *[People v Price, 262 N.Y. 410, 412, 187 N.E. 298, 299]*

1 *"This fundamental right is denied to a defendant unless he gets reasonable time and a fair opportunity to secure*  
2 *counsel of his own choice and, with that counsel's assistance, to prepare for trial."*  
3 *[People v McLaughlin, 53 N.E. 2d Series 356, 357]*

4 *"Justice requires that a party should be permitted to conduct his cause in person (subject to reasonable*  
5 *requirements of propriety), or by any agent of good character, and that the test of the agent's character should*  
6 *not be so rigorously applied as to imperil the constitutional right to a fair trial."*  
7 *[Concord Mfg. Co. v Robertson, ante, pp. 1, 6, 7]*

8 *"It is the responsibility of the court to insure that the court indulge every reasonable presumption against the*  
9 *waiver of fundamental rights."*  
10 *[Aetna Ins. Co. v Kennedy, 301 U.S. 389]*

11 *"Upon the trial judge rests the duty of seeing that the trial is conducted with solicitude for the essential rights of*  
12 *the Plaintiff."*  
13 *[Glasser v U.S., 315 U.S. 68, 70]*

14 The trial court must protect the right of the defendant to have the assistance of counsel.

15 *"This protecting duty imposes the serious and weighty responsibility upon the trial judge of determining*  
16 *whether there is an intelligent and competent waiver by the Plaintiff. While an Plaintiff may waive the right to*  
17 *counsel, whether there is a proper waiver should be clearly determined by the trial court, and it would be fitting*  
18 *and appropriate for that determination to appear upon the record."*  
19 *[Johnson v Zerbst, 304 U.S. 458, 465]*

20 15. The constitutional right of Assistance of Counsel is not qualified to only someone who has received a license from  
21 some supreme court or other alleged authority.

22 16. Since the United States Constitution was ordained and established by the people for their protection, not for the  
23 protection of a legal society, and since it may not be superseded or amended by any act of Congress or by any other  
24 "law" of this or any other state, this Defendant demands the right to exercise such right, and will choose either Counsel  
25 or Co-counsel, or both, to help me with my case. When the Constitution was written and ratified, the Bar Associations  
26 did not exist. Therefore, it is simply an absurdity to conclude that the Constitution ever contemplated that only Bar  
27 Licensed Attorneys could appear as counsel for an Plaintiff.

28 *In all criminal prosecutions, the Plaintiff shall enjoy the right...to have the Assistance of Counsel for his*  
29 *defense.*  
30 *[6th Amendment to the U.S. Constitution]*

31 17. The language of the Sixth Amendment quoted above is quite clear, unambiguous, and is very precise, and the men who  
32 were responsible for its form, very learned and skilled in the Law, and in fact, many were attorneys. Therefore, the  
33 conspicuous lack of the words "**attorney**" or "**attorney-at-law**" is notable indeed!

34 *"While the Bill of Rights was being debated and argued, the same members of Congress were in the process of*  
35 *passing the First Judiciary Act of September 24, 1789. The very same day the President signed this bill, the*  
36 *House and Senate were finally coming to an agreement on the express and explicit language and form of the*  
37 *Bill of Rights. Therefore, their meanings are to be compatible."*  
38 *[Williams v Florida, 399 U.S. 78; 90 S.Ct. 1895, 1904.]*

39 18. Therefore, it is absolutely clear that the explicit language and form of the First Judiciary Act of 1789 were and are the  
40 meaning of the Sixth Amendment. The First Judiciary Act states in part: Sec. 35.

41 *And be it further enacted, That in all the courts in the United States, the parties may plead and manage their*  
42 *own causes personally OR by the assistance of such counsel OR attorneys at law as by the rules of the said*  
43 *courts respectfully shall be permitted to manage and conduct causes therein."*  
44 *[First Congress, Session I, Chapter 20, Page 20. 1 Stat. at L.(p.92)]*

45 Judiciary Act of 1789, Section 30, page 89 also refers to counsel as:

46 *"...not being of counsel or attorney to either of the parties..."*

47 19. It is notable that this statute does not mention only criminal matters, but simply states "all courts."

1 20. It is the individual who has the absolute **Constitutional RIGHT** to "**ASSISTANCE OF COUNSEL**" under the Sixth  
2 Amendment. It is the "Will of the private Citizen" who reign supreme---not the Bar Associations. Numerous court  
3 cases support the individual's right to counsel. Some are:

4 *"The fundamental right of the Plaintiff to representation by counsel must not be denied or unreasonably*  
5 *restricted."*  
6 *[Poindexter v. State, 191 S.W. 2d 445]*

7 *"While the Constitution guarantees to a defendant in a criminal case, the right to be heard by counsel, it also*  
8 *allows him to be heard 'by himself' and where he elects to appear for himself rather than by an attorney, he*  
9 *cannot be compelled to employ counsel, or to accept services assigned by the court."*  
10 *[People v. Shapiro, 188 Misc 363]*

11 *"The right of counsel is not formal but substantial."*  
12 *[Snell v. U.S., 174 F. 2d 580]*

13 21. I, the **<<PLAINTIFF/DEFENDANT>>**, claims and demands that the "**RIGHT**" to "**Assistance of Counsel**" is as  
14 imperative, necessary, essential, as any other right to "Life, Liberty and the Pursuit of Happiness". It is a prerequisite to  
15 a proper defense of my life, liberty, and property that has been endangered by the unlawful, apprehension and restraint  
16 of myself. The "**RIGHT**" to "**Assistance of Counsel**" may not be limited to any condition because,....

17 *"it is one of the fundamental rights of life and liberty."*  
18 *[Robinson v. Johnson, (DC-CAL), 50 F. Supp 774]*

19 And finally,

20 *"The right to effective "Assistance of Counsel" in a criminal proceeding guaranteed by this amendment is a*  
21 *basic and fundamental right secured to every person by the Due Process Clause of the Fourteenth Amendment."*  
22 *[Armine v. Times, (CCA 10), 131 F. 2d 827]*

23 22. The **<<PLAINTIFF/DEFENDANT>>** has the "**RIGHT**" to counsel and because of the above authorities he intends  
24 to have "**Assistance of Counsel**" of **MY** choice. Inasmuch as this right was once well known and understood to be the  
25 "**RIGHT**" of the people as defined in the "Will of the Sovereign People's" Constitution. I, the Plaintiff, here and now  
26 asserts my "**RIGHT**" and takes it back. No governmental entity was ever properly given power or authority, by the  
27 "Will of the Sovereign People," to take such a "**RIGHT**" away. "If the state should deprive a person the benefit of  
28 counsel, it would not be due process of law." Powell v. Alabama, 287 U. S. 45, 70.

29 23. By definition of the word "Code", one can see that statutes are regulatory law. Bouvier's Law Dictionary (1914)

30 *"A body of law established by the legislative authority of the state, and designed to regulate completely, so far*  
31 *as a statute may, the subject to which it relates."*

32 *I contend that, "attorneys and counselors at law", and those who follow the profession of "practicing law", and*  
33 *those who charge a fee for their services, as lawyers and attorneys are the only persons who are regulated by*  
34 *code. Also it should be noted that those persons defined in the Code come into the court as a matter of their own*  
35 *interests, for they receive a reward for this occupation.*

36 24. I, the **<<PLAINTIFF/DEFENDANT>>**, am simply asserting my right to defend, and that this involves appointing an  
37 agent or agents to accompany me and, if necessary, to speak also at my direction. Therefore let the court note that this  
38 Citizen(s) acting as an agent(s) for the Plaintiff comes into the court at my request and at my direction, in my interest,  
39 and not of their own interests or hope of pecuniary gain. In this regard, they are counsel, in the fundamental  
40 constitutional sense, and lack those characteristics of attorneys or lawyers, and cannot be said in any language, to be  
41 "practicing law" or "holding themselves out for hire", or as "qualified to carry on the calling of a lawyer."

42 25. It is **<<PLAINTIFF/DEFENDANT>>** who assesses their qualifications; I who calls them into court; it is my interests  
43 they hold in regard and seek to assist in protecting. I will appeal any coercive or threatening attempts to hinder the  
44 effectiveness of my counsel, or their presence in these proceedings, which acts will violate due process of law as  
45 secured to me by the Constitution for the united States of America, the supreme law of the land.

46 26. The statutes also show what an attorney is by definition in that he collects a fee, or makes a charge, and he practices  
47 law. The intent of the law-makers is clear -- they are regulating the profession of the practice of law, which attorneys  
48 and lawyers carry on. Let the court note that the Accuses is not bringing a lawyer into court, to practice law, but  
49 someone whom he trusts to know the law, not practice it.

- 1 27. Further, this court cannot act in the <<PLAINTIFF'S/DEFENDANT'S>> behalf and seek to exercise their  
2 conscience for me, or my choice, by directing me to bring only a certain class of persons into the court to counsel me.  
3 This in itself is a violation of my free exercise of my right to seek the assistance of counsel, and to enjoy counsel of  
4 choice. There may not be a lawyer in the land who can comprehend, act in, sympathize with, or research, this  
5 Plaintiff=s defense. No, the court cannot assume this responsibility, but must assume a role as impartial referee of the  
6 proceedings, in this regard, and allow me, the Plaintiff, to make my own defense; of, by, and for myself with counsel of  
7 my own choosing.  
8 28. No statute or Code can work to violate the common law rights of the private Citizen.

9 *Statute: This word is used to designate the written law in contradistinction to the unwritten law.*  
10 *[Bouvier's. Dictionary of Law]*

- 11 29. The unwritten law, of course, is the common law, which is that system of law guaranteed to the private Citizen by the  
12 due process clauses of the Constitution for the united States.

13 *"The adoption of the 14th Amendment completed the circle of protection against violations of the provisions of*  
14 *the Magna Carta, which guaranteed to the private Citizen their life, liberty, and property against interference*  
15 *except by the Law of the Land, which phrase was coupled in the petition of right with due process of law. The*  
16 *later phrase was then used for the first time, but the two are generally treated as meaning the same. This*  
17 *security is provided as against the United States by the 4th and 5th Amendments, and against the States by the*  
18 *14th Amendment".*  
19 *[Davidson v. New Orleans, 96 U.S. 97]*

- 20 30. As cited above, the meaning of the due process clause is that the common law shall be the inalienable right of every  
21 private Citizen, nor can it be removed from them by mere statutes. No new systems of law can be forced upon him. I  
22 have the right to live under the protection of the Constitution; it is my birthright.  
23 31. In spite of possible encroachments by the legislature, and in spite of private interests, which would restrict the exercise  
24 of a right, the fundamental law rises above all private concerns, such as that of the legal professions which are  
25 interested in protecting their monopoly with the aid of the authority of the bench. The Constitution is worthy of the  
26 court's full devotion, and the office of a judge should not be used to further the extensive conspiracy which received  
27 this denunciation from a private Citizen.

## 28 **7. Alternatives to Unauthorized Practice of Law Statutes**

29 Certification is a sound alternative to licensing that does not restrict consumer choice. It is a means of informing consumers  
30 that a service provider possesses one or more specific qualifications, and it need not involve the government. For example,  
31 the Certified Public Accountant designation is earned by those who can pass a rigorous accounting examination, but the  
32 exam is voluntary. There is no "unauthorized practice of accountancy" statute. Consumers of accounting services are free to  
33 hire accountants who come with the private seal of approval and a higher price tag, or they may use a non-CPA who they  
34 believe will meet their needs at a lower cost. Certification provides information without restricting consumer options. In  
35 *Capitalism and Freedom* (1962) Milton Friedman wrote:

36 *The usual arguments for licensure, and in particular the paternalistic arguments, are satisfied almost entirely*  
37 *by certification alone. If the argument is that we are too ignorant to judge good practitioners, all that is needed*  
38 *is to make the relevant information available. If, in full knowledge, we still want to go to someone who is not*  
39 *certified, that is our business; we cannot complain that we did not have the information. . . . I personally find it*  
40 *difficult to see any case for which licensure rather than certification can be justified.*

41 Bar membership too is a form of certification. Without UPL statutes, bars might make this informational device more  
42 useful to consumers by certifying attorneys in various subfields of law.

43 The great advantage of certification is that it is subject to the test of the market. Consumers decide whether the higher fees  
44 that typically accompany contracts with certified practitioners are worth the service. Without UPL statutes, the bar's steps  
45 to certification would be put to the test of the market as well. Are three years of law school really necessary? Are two years  
46 sufficient? If one can pass the bar exam, is graduation from law school necessary? The need to serve consumers should  
47 force bars to review and probably refine their requirements and rating systems.

## 8. Points and Authorities on Unlicensed Practice of Law

### 1. Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar, 377 U.S. 1 (1964)

"Laymen cannot be expected to know how to protect their rights when dealing with practiced and carefully counseled adversaries, cf. Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799, and for them to associate together to help one another to preserve and enforce rights granted them under federal laws cannot be condemned as a threat to legal ethics.<sup>FN15</sup> The State can no more keep these workers from using their cooperative plan to advise one another than it could use more direct means to bar them from resorting to the courts to vindicate their legal rights. The right to petition the courts cannot be so handicapped."  
[Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar, 377 U.S. 1 (1964)]

### 2. Gideon v. Wainwright, 372 U.S. 335 (1963)

We accept *Betts v. Brady*'s assumption, based as it was on our prior cases, that a provision of the Bill of Rights which is 'fundamental and essential to a fair trial' is made obligatory upon the States by the Fourteenth Amendment. We think the Court in *Betts* was wrong, however, in concluding that the Sixth Amendment's guarantee of counsel is not one of these fundamental rights. Ten years before *Betts v. Brady*, this Court, after full consideration of all the historical data examined **\*\*796** in *Betts*, had unequivocally declared that 'the right to the aid of **\*343** counsel is of this fundamental character.' Powell v. Alabama, 287 U.S. 45, 68, 53 S.Ct. 55, 63, 77 L.Ed. 158 (1932). While the Court at the close of its *Powell* opinion did by its language, as this Court frequently does, limit its holding to the particular facts and circumstances of that case, its conclusions about the fundamental nature of the right to counsel are unmistakable. Several years later, in 1936, the Court reemphasized what it had said about the fundamental nature of the right to counsel in this language:

'We concluded that certain fundamental rights, safeguarded by the first eight amendments against federal action, were also safeguarded against state action by the due process of law clause of the Fourteenth Amendment, and among them the fundamental right of the accused to the aid of counsel in a criminal prosecution.' Grosjean v. American Press Co., 297 U.S. 233, 243-244, 56 S.Ct. 444, 446, 80 L.Ed. 660 (1936).

And again in 1938 this Court said:

'(The assistance of counsel) is one of the safeguards of the Sixth Amendment deemed necessary to insure fundamental human rights of life and liberty. \* \* \* The Sixth Amendment stands as a constant admonition that if the constitutional safeguards it provides be lost, justice will not 'still be done.' Johnson v. Zerbst, 304 U.S. 458, 462, 58 S.Ct. 1019, 1022, 82 L.Ed. 1461 (1938). To the same effect, see Avery v. Alabama, 308 U.S. 444, 60 S.Ct. 321, 84 L.Ed. 377 (1940), and Smith v. O'Grady, 312 U.S. 329, 61 S.Ct. 572, 85 L.Ed. 859 (1941).

In light of these and many other prior decisions of this Court, it is not surprising that the *Betts* Court, when faced with the contention that 'one charged with crime, who is unable to obtain counsel, must be furnished counsel by the state,' conceded that '(e)xpressions in the opinions of this court lend color to the argument \* \* \*' 316 U.S., at 462-463, 62 S.Ct., at 1256, 86 L.Ed. 1595. The fact is that in deciding as it did that 'appointment of counsel is not a fundamental right, **\*344** essential to a fair trial'-the Court in *Betts v. Brady* made an abrupt break with its own well-considered precedents. In returning to these old precedents, sounder we believe than the new, we but restore constitutional principles established to achieve a fair system of justice. Not only these precedents but also reason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth. Governments, both state and federal, quite properly spend vast sums of money to establish machinery to try defendants accused of crime. Lawyers to prosecute are everywhere deemed essential to protect the public's interest in an orderly society. Similarly, there are few defendants charged with crime, few indeed, who fail to hire the best lawyers they can get to prepare and present their defenses. That government hires lawyers to prosecute and defendants who have the money hire lawyers to defend are the strongest indications of the wide-spread belief that lawyers in criminal courts are necessities, not luxuries. The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the **\*\*797** poor man charged with crime has to face his accusers without a lawyer to assist him. A defendant's need for a lawyer is nowhere better stated than in the moving words of Mr. Justice Sutherland in *Powell v. Alabama*:

'The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be **\*345** heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him.

1 Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish  
2 his innocence.' 287 U.S., at 68-69, 53 S.Ct., at 64, 77 L.Ed. 158.

3 [Gideon v. Wainwright, 372 U.S. 335 (1963)]

4 3. Argersinger v. Hamlin, Sheriff, 407 U.S. 25, 92 S.Ct. 2006 (1972)

5 'The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by  
6 counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If  
7 charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or  
8 bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a  
9 proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise  
10 inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a  
11 perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it,  
12 though he be not guilty, he faces the danger of conviction because he does not know how to establish his  
13 innocence. If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those  
14 of feeble intellect.'

15 [. . .]

16 When the deprivation of property rights and interest is of sufficient consequence,<sup>FN1</sup> denying the assistance of  
17 counsel to indigents who are incapable of defending themselves is a denial of due process.

18 FN1. A wide range of civil disabilities may result from misdemeanor convictions, such as forfeiture of public  
19 office (State ex rel. Stinger v. Kruger, 280 Mo. 293, 217 S.W. 310 (1919)), disqualification for a licensed  
20 profession (Cal.Bus. & Prof.Code s 3094 (1962) (optometrists); N.C.Gen.Stat. s 93A-4(b) (1965) (real estate  
21 brokers)), and loss of pension rights (Fla.Stat.Ann. s 185.18(3) (1966) (police disability pension denied when  
22 injury is result of participation in fights, riots, civil insurrections, or while committing crime); Ind.Ann.Stat. s  
23 28-4616 (1948), IC 1971, 21-6-13-16 (teacher convicted of misdemeanor resulting in imprisonment); Pa.  
24 Stat.Ann., Tit. 53, s 39323 (Supp.1972-1973) and s 65599 (1957) (conviction of crime or misdemeanor)). See  
25 generally Project, The Collateral Consequences of a Criminal Conviction, 23 Vand.L.Rev. 929 (1970).

26 [Argersinger v. Hamlin, Sheriff, 407 U.S. 25, 92 S.Ct. 2006 (1972)]

27 4. Conley v. Gibson, 355 U.S. 41 at 48 (1957)

28 "Following the simple guide of rule 8(f) that all pleadings shall be so construed as to do substantial justice,' we  
29 have no doubt that petitioners' complaint adequately set forth a claim and gave the respondents fair notice of its  
30 basis. The federal rules reject the approach that pleading is a game of skill in which one misstep by counsel  
31 may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper  
32 decision on the merits." The court also cited Rule 8(f) FRCP, which holds that all pleadings shall be construed  
33 to do substantial justice.

34 [Conley v. Gibson, 355 U.S. 41 at 48 (1957)]

35 5. Davis v. Wechler, 263 U.S. 22, 24 (1923); Stromberb v. California, 283 U.S. 359 (1931); NAACP v. Alabama, 375  
36 U.S. 449 (1958)

37 "The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of  
38 local practice."

39 6. Elmore v. McCammon, 640 F. Supp. 905 (1986)

40 "... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws."

41 [Elmore v. McCammon, 640 F. Supp. 905 (1986)]

42 7. Federal Rules of Civil Procedures, Rule 17, 28 USCA "Next Friend"

43 A next friend is a person who represents someone who is unable to tend to his or her own interest.

44 8. Haines v. Kerner, 404 U.S. 519 (1972)

45 "Allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient"... "which we hold  
46 to less stringent standards than formal pleadings drafted by lawyers."

1 9. Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 F.2d 240 (1945); Pucket v. Cox,  
2 456 F.2d 233 (1972)  
3 Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the  
4 same high standards of perfection as lawyers.

5 10. Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938)

6 *"Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between*  
7 *litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is*  
8 *important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment."*

9 11. NAACP v. Button, 371 U.S. 415 (1963); United Mineworkers of America v. Gibbs, 383 U.S. 715 (1966); Johnson v.  
10 Avery, 89 S. Ct. 747 (1969)  
11 Members of groups who are competent nonlawyers can assist other members of the group achieve the goals of the  
12 group in court without being charged with "unauthorized practice of law."

13 12. Picking v. Pennsylvania Railway, 151 F.2d. 240 (1945)

14 The plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept". Nevertheless, it was  
15 held

16 *"Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe*  
17 *Plaintiff's Pleadings without regard to technicalities."*

18 13. Puckett v. Cox, 456 F. 2d 233 (1972) (6th Cir. USCA)

19 It was held that a pro se complaint requires a less stringent reading than one drafted by a lawyer per Justice Black in  
20 Conley v. Gibson (see case listed above).

21 14. Roadway Express v. Pipe, 447 U.S. 752 at 757 (1982)

22 *"Due to sloth, inattention or desire to seize tactical advantage, lawyers have long engaged in dilatory*  
23 *practices... the glacial pace of much litigation breeds frustration with the Federal Courts and ultimately,*  
24 *disrespect for the law."*

25 15. Sherar v. Cullen, 481 F. 2d 946 (1973)

26 *The See and Reisman decisions, and the statutory procedures of § 7402(b), reflect the obvious concern that*  
27 *there be no sanction or penalty imposed upon one because of his exercise of constitutional rights. In [Spevack v.](#)*  
28 *[Klein](#), 385 U.S. 511, 87 S.Ct. 625, 17 L.Ed.2d 574 (1967), for example, the Supreme Court held that an attorney*  
29 *could not be disbarred solely because he claimed his privilege against self-incrimination in refusing to provide*  
30 *records and testimony for an investigation into his alleged professional misconduct. "In this context 'penalty' is*  
31 *not restricted to fine or imprisonment. It means, as we said in [Griffin v. California](#), 380 U.S. 609, 85 S.Ct. 1229,*  
32 *[14 L.Ed.2d 106 \(1965\)](#), the imposition of any sanction which makes assertion of the Fifth Amendment privilege*  
33 *'costly.'" Id. at 515, 87 S.Ct. at 628. In [Garrity v. New Jersey](#), 385 U.S. 493, 87 S.Ct. 616, 17 L.Ed.2d 562*  
34 *(1967), a companion case to Spevack, police officers were convicted in a state court of conspiring to obstruct*  
35 *justice. During their trial, the prosecution was allowed to introduce inculpatory statements taken by*  
36 *investigators after the officers had been advised that refusal to give answers would lead to discharge from their*  
37 *positions. The Supreme Court reversed the convictions, holding that "The choice given petitioners was either to*  
38 *forfeit their jobs or to incriminate themselves. The option to lose their means of livelihood or to pay the penalty*  
39 *of self-incrimination is the antithesis of free choice to speak out or to remain silent." Id. at 497, 87 S.Ct. at 618.*  
40 *See [Boyd v. United States](#), 116 U.S. 616, 6 S.Ct. 524, 29 L.Ed. 746 (1886) (a statute offering the owner of goods*  
41 *in a forfeiture action an election between producing a document or forfeiture of the goods at issue was held to*  
42 *be a form of compulsion in violation of both the Fourth and Fifth Amendments); [Malloy v. Hogan](#), 378 U.S. 1,*  
43 *84 S.Ct. 1489, 12 L.Ed.2d 653 (1964) (a person has the right "to remain silent unless he chooses to speak in the*  
44 *unfettered exercise of his own will, and to suffer no penalty . . . for such silence"); [Sanitation Men v. Sanitation](#)*  
45 *[Comm'r.](#), 392 U.S. 280, 88 S.Ct. 1917, 20 L.Ed.2d 1089 (1968) (public employees, like all other persons, are*  
46 *entitled<sup>948</sup> to the benefit of the constitutional privilege against self-incrimination, and they may not be faced*  
47 *with proceedings which present them with a choice between surrendering their constitutional rights or their*  
48 *jobs); [Gardner v. Broderick](#), 392 U.S. 273, 88 S.Ct. 1913, 20 L. Ed.2d 1082 (1968) ("the mandate of the great*  
49 *privilege against self-incrimination does not tolerate the attempt, regardless of its ultimate effectiveness, to*  
50 *coerce a waiver of the immunity it confers on penalty of the loss of employment").*

51 16. Schware v. Board of Examiners, 353 U.S. 232, pages 238, 239 (1957)

1 A State cannot exclude a person from the practice of law or from any other occupation in a manner or for  
2 reasons that contravene the Due Process or Equal Protection\*<sup>FNS</sup> Clause of the Fourteenth Amendment. <sup>FNS</sup>  
3 Dent v. State of West Virginia, 129 U.S. 114, 9 S.Ct. 231, 32 L.Ed. 623. Cf. Slochower v. Board of Higher  
4 Education, 350 U.S. 551, 76 S.Ct. 637, 100 L.Ed. 692; Wieman v. Updegraff, 344 U.S. 183, 73 S.Ct. 215, 97  
5 L.Ed. 216. And see Ex parte Secombe, 19 How. 9, 13, 15 L.Ed. 565. A State can require high standards of  
6 qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar,  
7 but any qualification must have a rational connection with the applicant's fitness or capacity to practice law.  
8 Douglas v. Noble, 261 U.S. 165, 43 S.Ct. 303, 67 L.Ed. 590; Cummings v. State of Missouri, 4 Wall. 277, 319-  
9 320, 18 L.Ed. 356. Cf. Nebbia v. People of State of New York, 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940.  
10 Obviously an applicant could not be excluded merely because he was a Republican or a Negro or a member of  
11 a particular church. Even in applying permissible standards, officers of a State cannot exclude an applicant  
12 when there is no basis for their finding that he fails to meet these standards, or when their action is invidiously  
13 discriminatory. Cf. Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220.

14 FNS. We need not enter into a discussion whether the practice of law is a 'right' or 'privilege.' Regardless of  
15 how the State's grant of permission to engage in this occupation is characterized, it is sufficient to say that a  
16 person cannot be prevented from practicing except for valid reasons. Certainly the practice of law is not a  
17 matter of the State's grace. Ex parte Garland, 4 Wall. 333, 379, 18 L.Ed. 366.

## 18 **9. Summary and Conclusions**

19 Based on the foregoing analysis and legally admissible evidence, we can safely conclude the following:

- 20 1. There is no such thing legally defined anywhere in any enactment of any government that is specifically called a  
21 "license to practice law".
- 22 2. An "Admission to Practice" issued by the U.S. Supreme Court functions as the de facto equivalent of a "license to  
23 practice law".
- 24 3. Individual courts also issue admissions to practice to attorneys who VOLUNTARILY apply for it. See section 2.3  
25 earlier.
- 26 4. Neither the Constitution nor any legislative act within any state of the Union can or does specifically authorize a justice  
27 of the state Supreme Court to issue "Admissions to Practice". Therefore, there is no authority and can be no lawful  
28 authority to issue such grants of privilege.
- 29 5. The Ninth And Tenth Articles to the United States Constitution specifically reserve all powers not delegated by the  
30 Constitution to the People or the States respectively. Therefore, the Federal government has never been empowered to  
31 issue "licenses" or "admissions" to practice law. Neither can this authority be implied from the "necessary and proper"  
32 clauses found anywhere in the Constitution.
- 33 6. The idea of licenses to practice law is therefore primarily a "judicial doctrine" that cannot adversely affect the  
34 Constitutionally protected rights of anyone.
- 35 7. All those persons represented by a licensed attorney are "wards of the court" incapable of executing their own defense  
36 or litigation. As such, licensed attorneys are there to represent them as "incompetents" and the authority of the state to  
37 license such attorneys derives from the need to protect such incompetent persons.
- 38 8. It is not a crime to practice law without a license and there can be no adverse consequences for doing so for any person  
39 not domiciled on federal territory under exclusive federal jurisdiction, so long as the person doing so identifies  
40 themselves not as a "attorney", but as a "Counsellor at Law".
- 41 9. The only case where any judge or public official may mandate or influence one's choice of counsel is in the case of  
42 public traded entities, such as corporations. Private corporations and private persons may not be controlled or  
43 regulated in their choice of legal counsel to only those who have been licensed or admitted to practice by the state  
44 supreme Court.
- 45 10. The only legitimate purpose for licensing of attorneys is to protect the public. In practice, public servants abuse this  
46 regulatory authority delegated to them NOT to protect the public, but to:
  - 47 10.1. Stifle all attorneys from speaking the truth in open court about government and official corruption, especially as it  
48 pertains to the judiciary.
  - 49 10.2. Establish and further the ends of a legal profession monopoly on the practice of law designed to further their own  
50 private economic ends.
- 51 11. The authority to "practice law" conveyed upon "counsel" or a "counsellor at law" includes the following:
  - 52 11.1. Preparing pleadings, discovery, and execute discovery.
  - 53 11.2. Arguing issues of law before the court.
  - 54 11.3. Advising the assisted party of his rights and options.
- 55 12. The word "attorney" is not equivalent to "counsel" as used in the Sixth Amendment. All licensed "attorneys" may also  
56 be classified as "counsel" but not all counsel need be licensed attorneys within the meaning of the Sixth Amendment.

- 1 13. Any attempt by any court of law to interfere with the choice of counsel for a party represents:  
2 13.1. An interference with their right to contract.  
3 13.2. Compelled association in violation of the First Amendment right of freedom from compelled association.  
4 13.3. The conveying of a Title of Nobility to a licensed party in violation of Article 1, Section 10 of the United States  
5 Constitution.  
6 13.4. A deprivation of the equal rights of the party seeking constitutional counsel.  
7 14. No state or federal constitution or any of the statutes that implement them can or does lawfully confer upon any state  
8 supreme court or federal court the delegated authority to “admit” or “license” specific parties to litigate before a  
9 specific court. It represents an unconstitutional bill of attainder for any judicial officer to set any policy which would  
10 deprive any private, non-public party of the right to vigorously defend their rights within any judicial forum.  
11 15. A person who retains a counselor must appear at each and every phase of the proceeding and may not delegate that  
12 authority to the counsel. An attorney, on the other hand, acts with full power of attorney and may personally and  
13 exclusively execute any phase of the litigation without the presence of the client.

## 10. Resources for Further Study and Rebuttal

If you would like to study the subjects covered in this short pamphlet in further detail, may we recommend the following authoritative sources, and also welcome you to rebut any part of this pamphlet after your have read it and studied the subject carefully yourself just as we have:

**Table 1: Resources for further study and rebuttal**

Reference	Organization	Description	Available at:
Nolo Press	Nolo Press	Legal self-help education	<a href="http://nolo.com">http://nolo.com</a>
American Bar Association Website	American Bar Association	Bar association	<a href="http://www.abanet.org/">http://www.abanet.org/</a>
Unauthorized Practice of Law (UPL) Section	American Bar Association	Bar association specialty area	<a href="http://www.abanet.org/rppt/section_info/upl/home.html">http://www.abanet.org/rppt/section_info/upl/home.html</a>
Lawyer Fees Too High?: The Case for Repealing Unauthorized Practice of Law Statutes	CATO Institute	Opinion	<a href="http://www.cato.org/pubs/regulation/reg20n1c.html">http://www.cato.org/pubs/regulation/reg20n1c.html</a>
Opinions Concerning Unauthorized Practice of Law	State Bar of Michigan		<a href="http://www.michbar.org/opinions/ethics/upl.cfm">http://www.michbar.org/opinions/ethics/upl.cfm</a>
Attorney at Law	Wikipedia		<a href="http://en.wikipedia.org/wiki/Attorney">http://en.wikipedia.org/wiki/Attorney</a>
Practice of Law	Answers.com		<a href="http://www.answers.com/topic/practice-of-law-1">http://www.answers.com/topic/practice-of-law-1</a>
Unauthorized Practice of Law: Manual for Prosecutors	Los Angeles County District Attorneys Office		<a href="http://da.co.la.ca.us/pdf/UPLpublic.pdf">http://da.co.la.ca.us/pdf/UPLpublic.pdf</a>
Unauthorized Practice of Law and the Internet			<a href="http://wwwwebbb.gsu.edu/lawand/papers/su06/clayton_klein/">http://wwwwebbb.gsu.edu/lawand/papers/su06/clayton_klein/</a>
Liberty University	Sovereignty Education and Defense Ministry	Free educational materials for regaining your sovereignty as an entrepreneur or private person	<a href="http://sedm.org/LibertyU/LibertyU.htm">http://sedm.org/LibertyU/LibertyU.htm</a>
Schwartz v. Board of Bar Exam. of State of New Mexico, 353 U.S. 232, 77 S.Ct. 752 (1957)	U.S. Supreme Court	Person denied licence to practice law	
Law and Government page	Family Guardian Website	Free website	<a href="http://famguardian.org/Subjects/LawAndGovt/LawAndGovt.htm">http://famguardian.org/Subjects/LawAndGovt/LawAndGovt.htm</a>

1 **11. Questions that Readers, Petit Jurors, and Grand Jurors Should be Asking the**  
2 **Government**

3 These questions are provided for readers, Grand Jurors, and Petit Jurors to present to the government or anyone else who  
4 would challenge the facts and law appearing in this pamphlet, most of whom work for the government or stand to gain  
5 financially from perpetuating the fraud. If you find yourself in receipt of this pamphlet, you are demanded to answer the  
6 questions within 10 days. Pursuant to [Federal Rule of Civil Procedure 8\(d\)](#), failure to deny within 10 days constitutes an  
7 admission to each question. Pursuant to [28 U.S.C. §1746](#), all of your answers must be signed under penalty of perjury. We  
8 are not interested in agency policy, but only sources of reasonable belief identified in the pamphlet below:

*Reasonable Belief About Income Tax Liability*, Form #05.007  
<http://sedm.org/Forms/FormIndex.htm>

9 Your answers will become evidence in future litigation, should that be necessary in order to protect the rights of the person  
10 against whom you are attempting to unlawfully enforce federal law.

11 1. Admit that the Sixth Amendment confers the right of “assistance of counsel”.

12 *“In all criminal prosecutions, the Plaintiff shall enjoy the right...to have the Assistance of Counsel for his*  
13 *defense.”*

14 *[6th Amendment to the U.S. Constitution]*

15 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

16 CLARIFICATION: \_\_\_\_\_  
17

18 2. Admit that “counsel” and “attorney” are not synonymous terms.

19 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

20 CLARIFICATION: \_\_\_\_\_  
21

22 3. Admit that no provision of the United States Constitution confers upon the Supreme Court the authority to “admit” any  
23 attorney to practice before any court.

24 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

25 CLARIFICATION: \_\_\_\_\_  
26

27 4. Admit that no branch of the federal government may lawfully exercise any authority not specifically delegated to it by  
28 the Constitution of the United States.

29 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

30 CLARIFICATION: \_\_\_\_\_  
31

32 5. Admit that the criminalization of the practice of law without a license grants an exclusive monopoly over the practice  
33 of law to those who hold licenses.

34 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

35 CLARIFICATION: \_\_\_\_\_  
36

1 6. Admit that statutes which criminalize the practice of law without a license can only apply in places not protected by the  
2 Bill of Rights, including the Sixth Amendment.

3 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

4  
5 CLARIFICATION: \_\_\_\_\_

6 7. Admit that the only places within the jurisdiction of any court where the United States Constitution does not apply are  
7 territory of the United States subject to the exclusive, general jurisdiction of the United States.

8 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

9  
10 CLARIFICATION: \_\_\_\_\_

11 8. Admit that this particular case does not relate to any crimes or activities conducted within exclusive federal territorial  
12 jurisdiction.

13 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

14  
15 CLARIFICATION: \_\_\_\_\_

16 9. Admit that preventing a litigant from hiring and using "counsel" of his choice interferes with the free exercise of his  
17 right to contract, which is protected by Article 1, Section 10 of the United States Constitution.

18 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

19  
20 CLARIFICATION: \_\_\_\_\_

21 10. Admit that occupational licenses convey the equivalent of a Title of Nobility upon the recipients of the license, which  
22 is specifically prohibited by Article 1, Section 10 of the United States Constitution.

23 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

24  
25 CLARIFICATION: \_\_\_\_\_

26 11. Admit that courts may only insist on licensed attorneys in the case of publicly held or publicly traded trusts or  
27 corporations or their officers, but not in the case of private persons not acting in the capacity of "public officers".

28 YOUR ANSWER: \_\_\_ Admit \_\_\_ Deny

29  
30 CLARIFICATION: \_\_\_\_\_

31  
32 **Affirmation:**

33 I declare under penalty of perjury as required under [26 U.S.C. §6065](#) that the answers provided by me to the foregoing  
34 questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these  
35 answers are completely consistent with each other and with my understanding of both the Constitution of the United States,  
36 Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court but not  
37 necessarily lower federal courts.

38 Name (print): \_\_\_\_\_

39 Signature: \_\_\_\_\_

40 Date: \_\_\_\_\_

- 1 Witness name (print): \_\_\_\_\_
- 2 Witness Signature: \_\_\_\_\_
- 3 Witness Date: \_\_\_\_\_