
Guilderland Town Court

P.O. Box 339, 5209 Western Ave., Guilderland, New York 12084

James Birsen

Petitioner

- Against -

Judge Denise Randall, James Melita

Respondent

Jurisdiction: Court of Record, under
the rules of Common Law¹

Case no: 18090015.01


NOTICE OF MOTION

NOTICE OF MOTION

To the above named Respondent(s):

You are hereby notified that the above said court is moved to Federal District Court for cause. Respondents have thirty days after completion of service via United States Postal Service to respond. In case of your failure to answer, judgment will be taken against you by default for relief demanded in the show cause.

Dated: October 18, 2019



James Birsen, in pro per

¹ "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF NEW YORK**

• 445 Broadway, Albany, NY. 12207-2936 •

5

James Birsen:

Plaintiff(s)

- against -

Denise Randall, James Melita:

Defendant(s)

JURISDICTION: Court of Record¹ Law
Case No. 1776-1789-1791-2019
Depository Case No. 1:16-CV-1490

Administrator Grand Jury Foreman

**ACTION AT LAW²
REMOVAL FOR CAUSE³
& JOINED FOR JUSTICE**

Copied: President Trump, AG William Barr

ORIGINATING COURT:

Guilderland Town Court
P.O. Box 339, 5209 Western Ave., Guilderland, New York 12084
Statutory Case No: 18090015.01

10 New York State

Albany County

} SS

15 James Birsen, a Natural People⁴ of New York State, hereinafter plaintiff(s), in this court of record, proceeding according to Natural Law hereby moves the above said court of origin via petition to joinder in the above said federal district court case for cause, pursuant to Article III Section 2 for

¹ **“A Court of Record** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial.” Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

² **AT LAW:** According to Natural Law independent of enacted law; by, for, or in law; particularly in distinction from that which is done in or according to equity - Hooker v. Nichols, 116 N.C. 157, 21 S.E. 208.

³ **Article III Section 2:** The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;...

⁴ **Soul (people):** People are supreme, not the state. - Waring vs. the Mayor of Savannah, 60 Georgiaat 93; The state cannot diminish rights of the people. - Hertado v. California, 100 US 516; ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves... - CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 DALL (1793) pp471-472]: “Persons” are of two kinds, natural and artificial. A natural person is a human being. Artificial persons include a collection or succession of natural persons forming a corporation; a collection of property to which the law attributes the capacity of having rights and duties. The latter class of artificial persons is recognized only to a limited extent in our law. Examples are the estate of a bankrupt or deceased person. Hogan v. Greenfield, 58 Wyo. 13, 122 P.2d 850, 853.

violation of plaintiff(s)'s unalienable right of due process in a court of record protected by the 5th and 7th Amendments.^{5,6}

20 Defendants are to take notice that this is a Court of Record which proceeds according to Natural Law under the rules of Common Law, equity rules under USC Title 28 do not apply.

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.” - Miranda v. Arizona, 384 US 436, 491.

25 Whereas; Plaintiff(s) sues Denise Randall, James Melita, hereinafter Defendants, for reparations; plaintiff(s) being a natural people preserve's jurisdiction stated above in a court of law that proceeds according to Natural Law independent of enacted law. As grounds in support of removal plaintiff(s) states as follows:

- 1) Defendants via the repugnant and nullified Federal Rule 2 (see Tribunals Decision and Order filed in the above said court dated September 16, 2019 and on the web see footnote),⁷ committed Misprision of Treason and Fraud on the Court against the plaintiff(s).
- 30 2) Defendants conspired⁸ under color of law in a nisi prius⁹ de facto¹⁰ quasi¹¹ court not of record proceeding “in equity” and not at law.¹²

⁵ **Amendment V:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

⁶ **Amendment VII:** In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

⁷ <https://www.nationallibertyalliance.org/action-against-judiciary>

⁸ **18 USC 241:** If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

⁹ **NISI PRIUS:** is a Latin term (Bouvier's Law) Where courts bearing this name exist in the United States, they are instituted by statutory provision.; Black's 5th "Prius" means "first." "Nisi" means "unless." A "nisi prius" procedure is a procedure to which a party FIRST agrees UNLESS he objects.; Blacks 4th - A rule of procedure in courts is that if a party fails to object to something, then it means he agrees to it. A nisi procedure is a procedure to which a person has failed to object A "nisi prius court" is a court which will proceed unless a party objects. The agreement to proceed is obtained from the parties first.

- 3) Defendants did willfully injure, oppress, defraud and deprived¹³ plaintiff(s) their unalienable right¹⁴ of due process,¹⁵ secured by the Bill of Rights, with the intent to proceed, unlawfully carrying plaintiff(s) away to jurisdictions unknown.
- 35 4) Defendants not being able to prove a claim and fiduciary authority over plaintiff(s) necessary for a lawful seizure of body and/or property in a court of record conspired and devise a plan under the color of law to bypass plaintiff's unalienable right of "due process" in a court not of record, in unknown jurisdictions.
- 40 5) Defendants are fraudulently denying plaintiff's unalienable right of due process in a court of record, that proceeds according to Natural Law protected by Amendments V and VII.

¹⁰ **DE FACTO:** In fact, in deed, actually. This phrase is used to characterize an officer, a government, a past action, or a state of affairs which must be accepted for all practical purposes, but is illegal or illegitimate. In this sense it is the contrary of de jure, which means rightful, legitimate, just, or constitutional. Thus, an officer, king, or government de facto is one who is in actual possession of the office or supreme power, but by usurpation, or without lawful title; while an officer, king, or governor de jure is one who has just claim and rightful title to the office or power, but has never had plenary possession of it, or is not in actual possession. 4 Bl.Comm. 77, 78. MacLeod v. United States, 229 U.S. 416, 33 S.Ct. 955, 57 L.Ed. 1260; Wheatley v. Consolidated Lumber Co., 167 Cal. 441, 139 P. 1057, 1059.

¹¹ **QUASI:** Lat. As if; almost as it were; analogous to. This term is used in legal phraseology to indicate that one subject resembles another, with which it is compared, in certain characteristics, but that there are intrinsic and material differences between them. Bicknell v. Garrett, 1 Wash.2d 564, 96 P.2d 592, 595, 126 A.L.R. 258; Cannon v. Miller, 22 Wash.2d 227, 155 P.2d 500, 503, 507, 157 A.L.R. 530. Marker v. State, 25 Ala.App. 91, 142 So. 105, 106. It is often prefixed to English words, implying mere appearance or want of reality. State v. Jeffrey, 188 Minn. 476, 247 N.W. 692, 693.

¹² **AT LAW:** [Bouvier's] This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.; ALL CASES AT LAW. [Black's Law 4th] Within constitutional guaranty of jury trial, refers to common law ac-tions as distinguished from causes in equity and certain other proceedings. Breimhorst v. Beck-man, 227 Minn. 409, 35 N.W.2d 719, 734. According to law; by, for, or in law; particularly in distinction from that which is done in or according to equity; or in titles such as sergeant at law, barrister at law, attorney or counsellor at law. Hooker v. Nichols, 116 N.C. 157, 21 S.E. 208.

¹³ **18 USC 242** Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

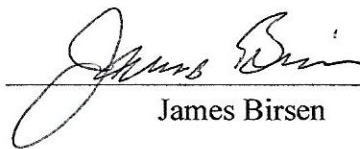
¹⁴ **42 USC 1983** Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress,...

¹⁵ "**Law of the land**," "due course of law," and "due process of law" are synonymous. People v. Skinner, Cal., 110 P.2d 41, 45; State v. Rossi, 71 R.I. 284, 43 A.2d 323, 326; Direct Plumbing Supply Co. v. City of Dayton, 138 Ohio St. 540, 38 N.E.2d 70, 72, 137 A.L.R. 1058; Stoner v. Higginson, 316 Pa. 481, 175 A. 527, 531.

6) Defendants, governed by USC Title 18, acted under color of law¹⁶ in one accord and thereby a conspiracy in violation of 18 USC §241 and 18 USC §242.

WHEREFORE plaintiff(s) moves this court for an order commanding defendants to cease and desist from their unlawful action against plaintiff and is to release and restore plaintiff(s) to their original state, including the returning of all assets and monies stolen from plaintiff(s) and/or spent to defend.

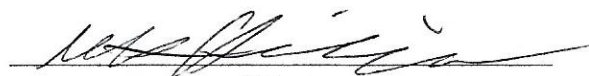
Plaintiff(s) further demands damages as follows: Each defendant is to pay restitution to plaintiff(s) in real money¹⁷ in the amount of \$1,000.00 face value¹⁸ for each rights violation of plaintiff's unalienable rights secured by the Bill of Rights.


James Birsen

NOTARY

In NY State, Albany County, on this 18th day of October, 2019, before me, the undersigned notary public, personally appeared James Birsen, to me known to be the living (wo)man described herein, who executed the forgoing instrument and has sworn before me that (s)he executed the same as their free-will act and deed.

Matthew P Hichliffe
Notary Public, State of New York
Qualified in Albany County
No. 01HI6377427
Commission Expires July 02, 2022


Notary

¹⁶ COLOR OF LAW: The appearance or semblance, without the substance, of legal right. State v. Brechler, 185 Wis. 599, 202 N.W. 144, 148.

¹⁷ US CONSTITUTION ARTICLE I SECTION 10: No state shall ... make anything but gold and silver coin a tender in payment of debts.

¹⁸ Morgan Silver dollars