

**FILED**

MAR 26 2018

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

**COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON**

S

Douglas County

Plaintiff

Vs.

Mark Marlow and Nancy Marlow

Defendants

Case # 339289

BRIEF OF APPELLANTS

## TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. ASSIGNMENTS OF ERROR .....	2
III. STATEMENT OF THE CASE.....	2
IV. ARGUMENT.....	7
A. Background.....	8
B. Time Frame of Knowledge.....	9
C. Intent of the Original Law Makers.....	12
D. Subject Matter Jurisdictional Challenge .....	12
E. Status and Standing of the Marlows and Their Private Land .....	14
F. Public Servants.....	16
G. Sovereignty of the People.....	17
H. Issues in the Record.....	18
I. Sovereignty of Private Land Patent Land.....	23
J. United States Private Land Patent Land.....	24
K. The Supremacy Clause.....	25
L. The Fourth Amendment.....	25

M. Sovereignty of Private Land Patent Land.....	28
N. The Issue of Sovereignty.....	31
IV. CONCLUSION.....	39

Table of Cases

Penhallow v, Doane's Adm'rs. 3 U.S. 54 (1795).  
Haines v. Kerner 404 U.S. 519. 521 (1972). and Platsky v. CIA. 953  
F .2d. 26 ( 2nd Cir. 1991).  
Babcock & Wilcox Co v. Parsons Corp., 430 F.2d 531 ( 8th Cir.  
1970)  
Summa Corp. v. California, 466 U.S. 198 (1984) City of Los  
Angeles v. Venice Peninsula Prop., 253 Cal. Rptr 331 (1988)  
United States v. Fox. 94 U.S. 315 (1876). to Wit:  
Federal Crop Insurance Corporation v Merrill, 332 U.S. 380, 384  
(1947)  
Wallace v. Harmstad, 44 Pa. 492, 499-500 (1863).  
The Fourth Amendment  
Anastasoff v. United States. 223 F.3d 898 ( 8th Cir. 2000).  
Anastasoff v. United States. 223 F. 3d 898 ( 8th Cir. 2000)  
Giffin v. King County. 50 Wash. 327, 97 P. 230 ( 1908); Beseloff v.  
Whatcom County, 133 Wash. 109. 233 P. 284 ( 1925).

Please See Pages 30-36 For additional  
Case Law.

## I. Introduction

Pro se appellants, the living, breathing, humans identified as Mark Marlow and Nancy Marlow, husband and wife, (hereinafter “the Marlows) are NOT MARK MARLOW and NANCY MARLOW (an UPPER CASE spelled identity of federal, corporate, dead legal entities).

The Superior Court of Douglas County is fully aware that a corporation cannot bring charges against a living being as declared by the U.S. Supreme Court in Penhallow v. Doane's Adm'rs, 3 U.S. 54 (1795).

The Pro Se Marlow's also herein claim that they are justifiably relying on the U.S. Supreme Court case, Haines v. Kerner 404 U.S. 519, 521 (1972), and Platsky v. CIA, 953 F.2d. 26 (2<sup>nd</sup> Cir. 1991), for the proposition that the Marlow's thus are to be considered *in pro se/in pro per*, also known as *in propria persona*.

The Marlow's, as pro se appellants, sincerely believe they can justifiably rely on the PRO SE MEMORANDUM OF LAW in our brief, which basically says **substance is more important than form.**

## II. ASSIGNMENTS OF ERROR

1. The court committed reversible error when it decided it had subject matter jurisdiction over this case.

2. The court committed reversible error when it failed to consider our claim that the County Commissioners were bound by an oral agreement with the Marlow's resolving this case.

### Issues Pertaining to Assignments of Error

A. Did the court commit reversible error when it decided it had subject matter jurisdiction over this case?

B. Did the court commit reversible error when it failed to consider our claim that the County Commissioners were bound by an oral agreement with the Marlow's resolving this case?

## III. STATEMENT OF THE CASE

The orders appealed by the Marlow's arose out of a trial held on November 18, 2014. There is no recorded audio of the trial so the following is the narrative report of proceedings:

Addressing the court at the onset, Nancy Marlow advised Judge Hotchkiss that she had telephoned Steve Clem, prosecuting attorney, on November 13, 2014, to ask if the November 18 proceeding was a trial. Mr. Clem confirmed it was a trial. Ms. Marlow asked if they could continue the trial as they had been having family issues. She had power of attorney for her father and

mother, who had just been put in hospice and did not have but a few days to live, so the Marlow's did not have enough time to prepare to get the County Commissioners, Tom Barros, the biologist, and several neighbors subpoenaed to testify at the trial. She advised the judge she felt it was very important for all the Commissioners and property owners to be in court as the Marlow's had had direct contact with the Commissioners to resolve alleged shoreline issues in dispute. Mr. Clem did not agree to a continuance, but they could ask the judge although he doubted a continuance would be granted.

Judge Hotchkiss denied the Marlow's request for a continuance of trial. Ms. Marlow told the judge he might as well just let the County come in and do all the work demanded because no matter what the Marlow's did, it would never make the County happy. Judge Hotchkiss said it just might come to that. On several occasions, the Marlow's had gone above and beyond what the Commissioners told them to do, had created a plan, that addressed the alleged violations and thought it was going to be approved by the county as in the verbal agreement with all 3 county commissioners; however the plan was rejected by Land services director Mark Kulaas . The Army Corps of Engineers told the Marlow's whatever their local county would allow them to have, the Corps would honor it.

Mark Marlow brought up equal treatment under the law when one of their neighbors, Mr. Barros, who brought three car dealerships to Douglas County, also received a verbal permit in the 1990s and the County did not ask him to do anything to his shoreline development that is five times larger than the Marlow's. The County, however, wanted them to remove everything. Judge Hotchkiss said he hoped that was not the case.

On cross examination, Mark Kulaas, was asked whether he recalled the Marlow's talking to the County Commissioners when in a staff meeting with them, he told them to just take a backhoe down, rip it all out, and they would call it good. Ms. Marlow asked if they could get that in writing because the last time they got a verbal

permit was 15 years ago and that was why they were here today. The Commissioners and Mark Kulaas said the Marlow's do not need it in writing as they had all of them there saying it was OK. Mr. Kulaas said he did not recall.

Ms. Marlow made the point to Judge Hotchkiss that they had an agreement with the Commissioners and had worked hard on getting everything together. The judge stated he did not doubt the Marlow's have been working hard, but he did not have anything to do with their agreement with Douglas County. Rather, he had a small part to do and it was to uphold the appellate court's decision. Judge Hotchkiss told the Marlow's they were going to lose their home and all of the stuff they were doing was nothing but a bunch of hogwash.

The Marlow's believed they were wronged when others had been treated differently and were not cited for violations because they had money. The Marlow's had done everything in their power to make a wrong right even though they really did not feel like they did anything wrong since they had a verbal permit in the 1990s just like Tom Barros and others did.

Other matters presented at trial are reflected in the trial minutes. Narrative Report of Proceedings.

The trial court entered findings and conclusions after the trial. CP 276.

The Marlow's appealed the Douglas County Superior Court November 10, 2016 Order on Third Review Hearing and Supplemental Judgment and an order striking certain pleadings, including the Marlow's Verified Special Appearance on Paper and

Notice of Demand to Verify and Clarify Jurisdictional Challenge, dated November 21, 2015, and Good Faith Offer to Pay Judgment.

At a 3/24/15 review hearing, Mr. Marlow acknowledged he had not complied as of that date with the court's order of compliance with County ordinances. RP 6. The court did not enter judgment for further penalties for noncompliance. RP 8; CP 285.

At a 5/12/15 hearing, the court told the Marlow's he knew of no settlement with the County Commissioners and did not rule on the matter. RP 10-11. The court entered an order. CP 285. At the 7/14/15 review hearing, the Marlow's made a jurisdictional challenge, which the court dismissed as "gobbledygook." RP 17. The court signed an order. CP 291.

At the 10/13/15 review hearing, matters were continued to 11/10/15, including Douglas County's motion to strike the Marlow's pleadings. RP 20-21. At the 11/10/15 hearing, the County brought before the court its motion to strike pleadings and/or in the alternative denying motions regarding the Marlow's verified good faith offer to pay judgment and a verified good faith on the record subject matter jurisdiction challenge, "saying that this Court has no

subject matter jurisdiction over the property or over the Marlow's with respect to the County's notice of violations and order to comply because their predecessors in title acquired their property from the United States government through a land patent and the land constitutes allodial land." RP 22-23; CP 295.

The County acknowledged subject matter jurisdiction could be challenged at any time, but argued that, under federal and state law, land acquired from the United States government through a land patent was subject to subsequent state land use and building code regulations, a land patent being no more than the equivalent of a quit claim deed. It also argued allodial land was an archaic concept having no relevance to current federal and Washington law. RP 23-24. Contending there was clearly subject matter jurisdiction, the County pointed out the land was in Douglas County; the Marlow's resided in Douglas County; and the notice of violation and order to comply was issued as a Douglas County administrative order. RP 24. The County also argued other grounds in support of its position. RP 24-25.

The Marlow's again argued there was no subject matter jurisdiction because of their land patent. RP 26. The court told the Marlow's their pro se status did not give them any leeway whether a legal theory was valid and their theory based on a land patent and allodial land was not valid at all. RP 28. The court entered an order and supplemental judgment against the Marlow's. CP 305. A \$50/day civil penalty continues to accrue. CP 306. The order striking pleadings found subject matter jurisdiction and struck pleadings filed by the Marlow's. CP 309-10. They appealed. CP 313.

#### IV. ARGUMENT

A. The trial court had no subject matter jurisdiction over this case.

#### **BACKGROUND**

The Marlow's are a hard working family who have for many years provided a much needed and time-consuming service to the community operating a Pilot Car Service that sometimes takes them away for days or even weeks at a time. They are simply a family of SOVEREIGN AMERICAN NATIONALS

who are attempting to live the American Dream on their own private land located on the banks of the beautiful Columbia River. The record will clearly indicate that they have been unjustly and unconstitutionally attacked by highly paid governmental or quasi-governmental officers, agents, or employees (aka Public Servants) who, as will be seen, have been functioning in the provable, clear, total, and complete absence of all subject matter jurisdiction due to their own displayed ignorance of 241 years of well-settled American law and jurisprudence.

The Marlow's are under the understanding and belief that Judges and Justices are **"presumed to know the law,"** and therefore either knew or reasonably should have known that 241-year-old American law and jurisprudence cannot be considered as "archaic," just because it goes against their desire to regulate and control the Marlows and the private land owned by those SOVEREIGN AMERICAN NATIONALS that may be located within their perceived subject matter jurisdiction.

### **TIME FRAME OF KNOWLEDGE**

It was approximately three years ago in May of 2015 (hereinafter “recently”) that the Marlow’s were made aware of such 241-year-old, well-settled American law and jurisprudence that is binding on all parties, *including the Marlows*.

It was due to the Marlows' own admitted ignorance of such 241-year-old, well-settled American law and jurisprudence, along with the identified FOREVER benefits on their UNITED STATES LAND PATENT that the Respondents would like to refer to as “archaic.” CP 12-76. It was through the Marlow’s own admitted ignorance and lack of understanding that the Marlow’s made court appearances in the past, appearances that DID NOT and COULD NOT grant subject matter jurisdiction to any governmental or quasi-governmental agency, court, or office, as high courts clearly say that subject matter jurisdiction CANNOT be waived through error, mistake, or inadvertence. Either the government has subject matter jurisdiction or it does not.

The Marlow’s hereby claim that all officers of the UNITED STATES ARMY CORPS OF ENGINEERS, and the STATE OF WASHINGTON, and DOUGLAS COUNTY all knew, or

reasonably should have known of the above-stated facts as they are clearly recognized in 241 years of well-settled American law and jurisprudence.

The Marlow's hereby claim that no Washington state court case can overrule or set aside many years of U. S. Supreme Court cases as they relate to UNITED STATES LAND PATENTS, as the Respondents would have this Honorable COURT OF APPEALS believe.

AGAIN, it is now the Marlows understanding that subject matter jurisdiction CANNOT be waived due to error, mistake, or inadvertence by ANY of the parties and that without subject matter jurisdiction there can be absolutely no in rem jurisdiction, in personam jurisdiction, or venue jurisdiction. Babcock & Wilcox Co. v. Parsons Corp., 430 F.2d 531 (8<sup>th</sup> Cir. 1970). Subject matter jurisdiction over UNITED STATES LAND PATENTED private land is either available or it is not. Here it is not.

The Marlow's now claim that 241 years of well-settled American Law and Jurisprudence indicate that there can be no governmental Subject Matter Jurisdiction on ANY private land

that was and still is FOREVER protected by a UNITED STATES LAND PATENT. See *Summa Corp. v. California*, 466 U.S. 198 (1984); *City of Los Angeles v. Venice Peninsula Prop.*, 253 Cal. Rptr 331 (1988).

It is well settled that the original Founding Fathers and all of the approximately 2 ½ million American inhabitants became Sovereign on July 4, 1776 A.D., with the signing of the UNANIMOUS DECLARATION OF INDEPENDENCE and that the ownership of their private land also became sovereign with what was known as an allodial Land Ownership Title, or Title held in Allodium as presented above. That is why the world at the time considered America as **“a nation of Sovereigns with no subjects with no one to govern but themselves,”** and **“a place where a man’s house was his castle.”** On that specific date there were absolutely no state or federal governments, so the SOVEREIGN AMERICAN NATIONALS were not Citizen/Persons UNDER any government control.

The United States Supreme Court says it clearly in its case entitled: *United States v. Fox*, 94 U.S. 315 (1876), to wit:

**“Since in common usage, the term person does not include the sovereign, statutes not employing the phrase are ordinarily construed to exclude it.” (Emphasis Added).**

### **INTENT OF THE ORIGINAL LAW MAKERS**

*On every question of construction let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, [intent of the original law makers] and instead of trying to determine what meaning can be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.” Thomas Jefferson.*

### **SUBJECT MATTER JURISDICTIONAL CHALLENGE**

Historically, a Subject Matter Jurisdictional Challenge, was understood to be neither an unlawful, illegal, nor rebellious act. It was designed to shift the burden of specific proof of Subject Matter Jurisdiction to the governmental legal entity claiming such Subject Matter Jurisdiction.

**“Whatever the form in which the Government functions, anyone entering into an arrangement with the Government takes the risk of having accurately ascertained that the fact that he who purports to act for the Government stays within the bounds of their authority. . . . and this is so even though as here, the agent himself may have been unaware of the limitations upon their authority.” Federal Crop Insurance Corporation v Merrill, 332 U.S. 380, 384 (1947).**

A Subject Matter Jurisdictional Challenge is also designed to discover who has competent Jurisdiction and who does not. Jurisdictional power and authority to regulate UNITED STATES LAND PATENTED private land, has been timely challenged by the Marlow's since its discovery approximately three years ago.

The Marlow's now understand that since Subject Matter Jurisdiction CANNOT be waived due to error, mistake, or inadvertence by ANY of the parties, that without Subject Matter Jurisdiction there can be absolutely no In rem Jurisdiction, In Personam Jurisdiction, or Venue Jurisdiction. AGAIN, Subject matter jurisdiction is either available or it is not.

The Marlow's now claim that 241 years of well-settled American Law and Jurisprudence indicate that there can be absolutely no governmental Subject Matter Jurisdiction on ANY private land that was and still is FOREVER protected by a UNITED STATES LAND PATENT.

**STATUS AND STANDING**  
**OF THE MARLOW'S AND THEIR PRIVATE LAND.**

The Marlow's have recently learned that they and their private land are still under the same historic status, standing and protections as were roughly 2 ½ million former Subjects of the King of England living in America who became 2 ½ million Sovereign American Nationals on July 4, 1776 pursuant to the document identified as THE UNANIMOUS DECLARATION OF INDEPENDENCE. Those original SOVEREIGN AMERICAN NATIONALS were not Citizen/Persons of any Administrative-Law government or federal, corporate quasi-government on that date.

The Marlow's hereby reject and object to being considered as "Sovereign Citizens with a Sovereign Citizen Ideology," and believe the term "Sovereign Citizen" is nothing more than an oxymoron (Like a Christian Atheist), as no one can be one of the SOVEREIGN AMERICAN NATIONALS, *and at the same time* be of a lower status of a Statutory, or Juristic, Citizen/Person.

The Marlow's sincerely believe that today there are more than 300 million SOVEREIGN AMERICAN NATIONALS, including all officers, agents, employees of the Respondents, until

such time as they cease their daily governmentally regulated activities during the day.

The Marlow's thus claim that everything in the record that occurred prior to May 2015 simply shows the unlawful and unconstitutional abuses they have been subjected to, but that such record is irrelevant and off-point to the more recent issues as presented in this Appeal.

### **PUBLIC SERVANTS**

It can be proven that even at the first and over the years some of those SOVEREIGN AMERICAN NATIONALS stepped down from their high and lofty Sovereign status and standing to become Public Servants for the day, but regained their Sovereignty when they ceased their governmentally sanctioned daily activity. It was only during that time during the day that they were Public Servants, were they UNDER the constitutional mandates for their office. As time went on lesser Administrative-Laws, such as Statutes, Statutes-at-Large, Revised Statutes, Ordinances, Codes, Titles, Manuals, Resolutions, Rules, and Regulations were either "Constitutionally passed," *one at a time*,

or “Administratively adopted,” *in bulk*. Such laws, or quasi-laws only applied to the in-house regulation SOVEREIGN AMERICAN NATIONALS and management of those governments and government officers, agents, and employees, to govern and manage all of them for the benefit of the SOVEREIGN AMERICAN NATIONALS.

### **SOVEREIGNTY OF THE PEOPLE**

Quoting an old proverb: **“A fountain cannot rise higher than its source,”** is appropriate here. The original used a portion of their Sovereignty known as a “clipped Sovereignty” to create those original federal, state, county, city and township governments to serve them well. In other words it was the Sovereignty of those original SOVEREIGN AMERICAN NATIONALS that was the “source” of the sovereignty that created the ‘fountain.’ of government. The original SOVEREIGN AMERICAN NATIONALS DID NOT create governments that would or could rise higher than the SOVEREIGN AMERICAN NATIONALS and be able to control them. It was their lesser “clipped sovereignty” that would govern those old original federal

and state governments that were to merely serve the SOVEREIGN AMERICAN NATIONALS. The issue of Sovereignty therefore flows down from the original SOVEREIGN AMERICAN NATIONALS to the governments they created to serve them, then on down to those Citizen/Persons who stepped down from their Sovereign status and standing for the day, to become a Public Servant, but only while engaged in the governmental activity of serving the SOVEREIGN AMERICAN NATIONALS. Today's Public Servants claim that they do not serve the SOVEREIGN AMERICAN NATIONALS but are Public Servants, serving the governmental, public entity, but they cannot point to any Constitutionally valid law, that made that change, therefore a Subject Matter Jurisdictional Challenge has been appropriate in the past and again at this time.

#### **ISSUES IN THE RECORD**

The record also indicates that the Marlow's have also claimed that they are referred to as Assigns on their original UNITED STATES LAND PATENT. CP 12-76.

The Record also indicates that the Marlow's have claimed that both the UNITED STATES ARMY CORPS OF ENGINEERS and they themselves have the right to use the easement related land that starts at the historic location of the low watermark of the Columbia River before the Rock Island Dam was built.

The record will also indicate that the Marlow's have claimed that their private shoreline improvements and boat dock are located within their own private land that starts at the historic location of the low watermark of the Columbia River before the ROCK ISLAND DAM was built.

The record will also indicate that the Marlow's have claimed that through the subject UNITED STATES LAND PATENT and related case law, they own from the center of the earth to the center of the sky, including but not limited to, their private land that starts at the historic location of the low watermark of the Columbia River before the ROCK ISLAND DAM was built.

The record will also indicate that the Marlow's have claimed the sovereign, allodial, land ownership, rights, title, interest, estate, use, and control of their private land all the way out to the historic location of the low watermark of the Columbia River before the ROCK ISLAND DAM was built. CP 110, 129, 139, 149, 159, 170, 256.

The record will also indicate that the Marlow's have made a good-faith OFFER TO PAY a related judgment according to the mandates of the still valid COINAGE ACT OF APRIL 2, 1792 and the UNIFORM COMMERCIAL CODE (UCC) that the Opposition has failed, refused, or neglected to either timely accept or timely reject pursuant to the well-settled American Law and Jurisprudence generously provided in the documents MEMORANDUM OF LAW. CP 77.

The record will also indicate that the Marlow's have made several Subject Matter Jurisdictional Challenges and that the Opposition has continually failed, refused, or neglected to comply with well-settled JURISDICTIONAL CHALLENGE procedures that were generously provided in the MEMORANDUM OF LAW

of such document. CP 110, 129, 139, 149, 159, 170, 256. As can be seen, the Marlow's have never waived their challenge to subject matter jurisdiction.

The record indicates that the Marlow's recognize an easement to the Columbia River's side of their private land, which was purchased from a former owner, that allows the UNITED STATES ARMY CORPS OF ENGINEERS permit holder to park Rock Island Dam water on a portion of their private land. CP 12-76.

The record will also indicate that the subject UNITED STATES LAND PATENT did not reserve any sovereign, allodial, land ownership, rights, title, interest, estate, use, and control to the government of the United States of America, to the 1871 A. D. federal, corporate, quasi-government known as the UNITED STATES, INC., or to the UNITED STATES ARMY CORPS OF ENGINEERS. CP 12-76.

The record will also indicate that the subject UNITED STATES LAND PATENT did not reserve any sovereign, allodial, land ownership, rights, title, interest, estate, use, and control to the

governments, or federal, corporate, quasi-governments of the STATE OF WASHINGTON, or DOUGLAS COUNTY, or to any of their officers, agents, or employees. CP 12-76.

The record will indicate that the Marlow's have claimed the FOREVER benefits of the original UNITED STATES LAND PATENT as it relates to their Legal Description, which quitclaim transferred all sovereign allodial land ownership rights, title, interest, estate, use, and control once held by the government of the United States of America to the private sector with such UNITED STATES LAND PATENT. CP 12-76.

More than 200 years of high court case law clearly indicates that the above-mentioned quit-claim transfer was FOREVER, and a possible reservation of ANY stated rights, title, or interest, that MAY have been mentioned on the actual UNITED STATES LAND PATENT, was for the UNITED STATES [government] exclusively, and historically none EVER mentioned any reservation of rights for any state, county, city, town, or village government. Thus, there is *absolutely* no constitutionally valid law that grants, or delegates, or transfer's ANY regulatory

rights, title, or interest, to any state, county, city, town, or village governments.

The record will also indicate that the subject UNITED STATES LAND PATENT did not reserve any sovereign, allodial, land ownership, rights, title, interest, estate, use, and control to the governments, or federal, corporate, quasi-governments of the STATE OF WASHINGTON, or DOUGLAS COUNTY, or to any of their officers, agents, or employees. CP 12-76.

### **SOVEREIGNTY OF PRIVATE LAND PATENTED LAND**

Historically, UNITED STATES LAND PATENTS either [1] treaty-recognized a former Sovereign governments earlier FOREVER, quit-claim transfer of ALL of its Sovereign allodial land ownership rights, title, and interest, to its own settlers, with its own original Land Grant, OR [2] it actually FOREVER quit-claim transferred ALL of the UNITED STATES [governments] own Sovereign allodial land ownership rights, title, and interest, to its own Public Domain land grantees, that it was “*holding in trust,*” for the SOVEREIGN AMERICAN NATIONALS. This

was commenced with constitutionally valid “*laws of the United States,*” that were created for Homestead Grants, Cash Entry Grants, Desert Entry Grants, Military Warrant Grants, Mining Claim Grants, or Railroad Grants. Then, ONLY AFTER the required development and occupation, mandated in the above-mentioned constitutionally valid laws, the final FOREVER quit-claim release of ALL of its Sovereign allodial land ownership rights, title, and interest, was transferred with the final issuance of the coveted UNITED STATES LAND PATENT. THAT’S IT. Those are the constitutionally valid powers of the only two types of UNITED STATES LAND PATENTS. See Wallace v. Harmstad, 44 Pa. 492, 499-500 (1863).

#### **UNITED STATES LAND PATENT PRIVATE LAND**

ALL UNITED STATES LAND PATENTED private land was and is FOREVER protected by a specific UNITED STATES LAND PATENT that is STILL under the constitutionally valid protections and powers of the original SUPREMACY CLAUSE of the 1787 A.D. Constitution for the United States of America, at Article VI paragraph 2, to wit:

## THE SUPREMACY CLAUSE

**"This [federal] Constitution, and the Laws of the United States which shall be made in Pursuance thereof; [i.e. the United States Land Patent Laws] and all Treaties [i.e. the 1848 A.D. International Treaty of Guadalupe Hidalgo, and its Protocol of Queretaro] made, or which shall be made, under the authority of the United States, shall be the Supreme Law of the Land [with its related Common-Law]; and the judges in every state [including, but not limited to, the federal, corporate STATE OF ARIZONA, and its Superior Courts] shall be bound thereby, any thing in the Constitution or laws of any state [including, but not limited to, the federal, corporate STATE OF WASHINGTON, and its political subdivisions i.e. DOUGLAS COUNTY] **to the contrary notwithstanding.**" (Emphasis added)**

All of the above is constitutionally coupled with such constitutions BILL OF RIGHTS, especially considering the specific "intent," of the original 1789 A.D. lawmakers:

## THE FOURTH AMENDMENT

**"The right of the [sovereign] people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon [1791 A.D. mens rea] probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. Proposed September 25, 1789; ratified December 15, 1791. (Emphasis added).**

It should be noted that in the year 1789 A.D., the Fourth Amendment term "probable cause" specifically referenced a

“mens rea” (bad in itself) or mala in se, common-law felony, SIMPLY BECAUSE absolutely no “mens prohibita” Administrative-Law, quasi-crimes, had yet been either “Constitutionally passed,” *one at a time*, or “Administratively adopted,” *in bulk* as the Congress had not yet met.

The Marlow’s hereby submit that pursuant to the UNITED STATES SUPREME COURT, *Haines v. Kerner* 404 U.S. 519, 521 (1972), that (a) pro se/pro per pleadings MAY NOT be held to the same standard as government privileged lawyers and/or attorneys; (b) pro se/pro per motions, pleadings and all papers may ONLY be judged by their substance and never their Form; (c) the Marlow’s must be considered *in pro se/in pro per*, also known as *in propria persona*; (d) *pro se* litigants’ complaints, pleadings and other papers are exempt from dismissal regarding Form and not substance; (e) *pro se* Documents CANNOT be dismissed without the court providing the opportunity for the *pro se* litigant to correct the Document; (f) the court MUST inform the *pro se* litigant of the Petition’s deficiency; (g) the court must instruct the *pro se* litigant on the necessary information for any needed

corrections; (h) *pro se* litigant may introduce any evidence in support of his Document; and (i) Documents CANNOT be dismissed without the court providing the opportunity for the *pro se* litigant to correct the Document.

The Marlow's hereby submit that Litigants' Constitutional (Unalienable and guaranteed and secured) rights (granted by the Creator) are violated when courts depart from precedent, where parties are similarly situated. See Anastasoff v. United States, 223 F.3d 898 (8<sup>th</sup> Cir. 2000) (*pro se* litigants complaints, pleadings and other papers are exempt from dismissal regarding Form and not substance).

The Marlow's hereby submit that Litigants' Constitutional (Unalienable and guaranteed and secured) rights are violated when courts depart from precedent, where parties are similarly situated. See Anastasoff v. United States, 223 F.3d 898 (8<sup>th</sup> Cir. 2000).

The Marlow's hereby submit that the Court commits Reversible Error if the court (a) dismisses the *pro se* litigant's complaint WITHOUT instruction as to how the pleadings are

deficient and how to correct the pleadings. See *Platsky v. CIA*, 953 F.2d. 26 (2<sup>nd</sup> Cir. 1991).

### **SOVEREIGNTY OF PRIVATE LAND PATENTED LAND**

The Sovereignty of the subject private land, historically stems directly from a specific UNITED STATES LAND PATENT that was signed by the President of the United States of America, and thereafter placed on permanent file in the United States National Archives. A certified copy is available from the United States National Archives, or the United States Department of the Interior's Bureau of Land Management. (BLM) THIS CONSTITUTIONAL AND HISTORICALLY VALID PROCEDURE IS A VERIFIABLE MATTER OF LAW AND FACT.

This Historic FACT presents a valid Subject Matter Jurisdictional problem for the Respondents, which is a type of jurisdiction that CANNOT be waived through fraud, deceit, misrepresentation, coercion, or through error, mistake, or inadvertence. This leaves any possible governmental jurisdictional contract, quasi-contract, or document in the nature of

a contract, that was obtained without Full Disclosure of all obligations, duties, and responsibilities associated with any governmental related privilege, in the form of a license, pass, permit, or franchised, not only voidable, but void ab initio (from the beginning) and nunc pro tunc (now for then).

Stare Decisis clearly recognizes that if an interest in the subject land was not timely made during the General Land Offices' Confirmation Hearings, any entity that may desire such interest in the future was precluded from ever having such future interest. That is one of the issues presented herein.

There are literally hundreds of case law precedence that were ruled upon over more than one hundred and fifty years regarding the adjudication of UNITED STATES LAND PATENTS. They clearly indicate if an entity failed, refused, or neglected to make their actual or perceived interest known during those General Land Offices' Confirmation Hearings, it was too late and they could *never* have the interest desired for all issues had been *forever* SETTLED without their interest noted.

Decisional case law also clearly indicates that *most* (not all) of the early UNITED STATES LAND PATENTs were for pure ownership to the center of the Earth with absolutely no listed surface or subsurface restrictions identified. Since the benefits of the UNITED STATES LAND PATENT was good for the original patentee, his heirs, and assigns *forever*, they also became good to anyone in the chain of title from the original patentee and even those who simply occupied or inhabited the land who were not in the chain of title. The reason is simple. At the time the UNITED STATES [government] “released” all of its allodial rights, title, and interest FOREVER, the recognized or released land was simply off-limits to all governmental grantors, officers, agents, and employees *forever* as that governmental interest may relate to anybody on that particularly released and transferred land.

### **THE ISSUE OF SOVEREIGNTY**

The Marlow’s cite these authorities for the proposition that to the people belongs sovereignty:

**United States Constitution, Article IV, Section 1:**  
**“Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.”** (emphasis added).

**American Communications v. Douds, 339 U.S. 442 (1949):**

**“Strictly speaking, in our republican form of government, the absolute sovereignty of the nation is in the people of the nation; and the residuary sovereignty of each state, not granted to any of its public functionaries, is in \*the people of the state.”** (emphasis added).

**Bouvier’s Law Dict. (1870):**

**“It is not the function of Government to keep the citizen from falling into error; it is the function of the Citizen to keep the government from falling into error.”**

**Billings v. Hall, 7 Cal. 1 (1857):**

**“Under our form of government, the legislature is not supreme. It is only one of the organs of that absolute sovereignty which resides in the whole body of the people; like other bodies of the government, it can only exercise such powers as have been delegated to it, and when it steps beyond that boundary, its acts are utterly void.”** (emphasis added).

**Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886):**

**“In the UNITED STATES, Sovereignty resides in the people, who act through the organs established by the Constitution.”** (emphasis added).

**United States Constitution, Preamble:**

**“We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish**

**this Constitution for the UNITED STATES of America.” (emphasis added).**

**Definition of a “juristic person,” Bouvier's Law Dict. at 1768 (1914):**

**“The usual form of a juristic person and the only one (except the state) at common law, is a corporation.”**

**Definition of “supremacy,” Bouvier’s Law Dict. (1917):**

**“Sovereign dominion, authority, and preeminence; the highest state. In the UNITED STATES the supremacy resides in the people.” (emphasis added).**

**Dred Scott v. Sandford, 60 U.S. 393 (1857).**

**“The state citizen is immune from any and all government attacks and procedure, absent contract.”**

**Marshall v. Dye, 231 US 250 (1913):**

**“A Constitution is designated as a supreme enactment, a fundamental act of legislation by the people of a state. A Constitution is legislation direct from the people acting in their sovereign capacity, while a statute is legislation from their representatives, subject to limitations prescribed by the superior authority.” (emphasis added).**

**Glass v. Sloop Betsey. 3 Dallas 6 (1794):**

**“In Europe, the executive is synonymous with the sovereign power of a state... where it is too commonly acquired by force or fraud, or both ... In America, however the case is widely different. Our government is founded upon compact. Sovereignty was, and is, in the people.” (emphasis added).**

**Hurtado v. California, 110 U.S. 516 (1884):**

**The State cannot diminish rights of the people.**  
(emphasis added).

**United States Constitution, 10th Amendment:**

**“The powers not delegated to the United States by the Constitution, nor prohibited by it, to the states, are reserved to the states respectively, or to the people.”**  
(emphasis added.)

**Juilliard v. Greenman, 110 U.S. 421 (1884):**

**“There is no such thing as power of inherent Sovereignty in the government of the UNITED STATES. In this country, sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution entrusted to it. All else is withheld.”** (emphasis added).

**Madden v. Kentucky, 309 US 83, 94 (1940):**

**“...the privileges and immunities clause protects all citizens against abridgment by states of rights of national citizenship as distinct from the fundamental or natural rights inherent in state citizenship.”**

**Mugler v. Kansas, 123 U. S, 623, 659-60 (1887):**

**“No convention or legislature has the right under our form of government, to prohibit any citizen from manufacturing for his own use, or for export, or storage, any article of food or drink not endangering or affecting the rights of others. Our system of government, based upon the individuality and intelligence of the citizen, the state does not claim to control him, except as his conduct to others, leaving him the sole judge as to all that only affects himself.”**

**Ohio Life Ins. & Trust Co. v. Debolt, 57 U.S. 416 (1854):**  
“For it can never be maintained in any tribunal in this country that the people of a State, in the exercise of the powers of sovereignty, can be restrained within narrower limits than that fixed by the Constitution of the United States.....the people of a State may, by the form of government they adopt, confer on their public servants and representatives all the power and rights of sovereignty which they themselves possess; or may restrict them within such limits as may deemed best and safest for the public interest.” (emphasis added).

**Quote of J. Reuben Clark: former U.S. Under-Secretary of the State, and Ambassador to Mexico,** succinctly stated the principles and applications of these two systems of law (civil and common) when he wrote:

“Briefly, and stated in general terms, the basic concept of these two systems was as opposite as the poles. In the civil law, the source of all law is the personal ruler, whether prince, king, or emperor; he is sovereign. In the Common Law, certainly as finally developed in America, the source of all law is the people. They, as a whole, are sovereign, During the centuries, these two systems have had an almost deadly rivalry for control of society, the Civil Law and its fundamental concepts being the instrument through which ambitious men of genius and selfishness have set up and maintained despotism’s; the Common Law, with its basic principles being the instrument through which men of equal genius, but with love of mankind burning their souls, have established and preserved liberty and free institutions. The Constitution of the United States embodies the loftiest concepts yet framed of this exalted concept.” (emphasis added).

**Quote of Justice William O. Douglas, U.S. Supreme Court:**

**“Our Bill of Rights curbs all three branches of government. It subjects all departments of government to a rule of law and sets boundaries beyond which no official may go. It emphasizes that in this country man walks with dignity and without fear, that he need not grovel before an all powerful government.”**

See *Robertson v. Dep’t of Public Works*, 180 Wash 133, 147 (1934):

**“Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, If, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment.”**  
(emphasis added).

**United States Constitution, Amendment 10:**

**“The powers not delegated to the United States by the Constitution, nor prohibited by it, to the states, are reserved to the states respectively, or to the people.”**  
(emphasis added).

*The Siren*, 74 U.S. 152 (1868):

**“It is the doctrine of the common law, that the Sovereign cannot be sued in his own court without his consent.”**

**The Unanimous Declaration of the Thirteen United States of America:**

**“We, therefore, the Representatives of the united States of America, in general Congress, assembled,**

appealing to the Supreme Judge of the world for the rectitude of our intentions... solemnly publish and declare, that these united Colonies are, and of Right ought to be Free and Independent States... And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our Sacred Honor. That to secure these rights governments are instituted among men.”

***United States v. Lee*, 106 U.S 196, 208 (1882):**

“Under our system in America the people, who are there in England called subjects, are here the sovereign. Their rights, whether collective or individual, are not bound to give way to a sentiment of loyalty to the person of a monarch. The Citizen here in America knows no person, however near to those in power, or however powerful himself to whom he need yield the rights which the law secures to him when it is well administered.” (emphasis added).

***Dred Scott v. Sandford*, 60 U.S. 393 (1857):**

“The words ‘people of the United States’ and ‘Citizens’ are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty. They are what we familiarly call the ‘sovereign people,’ and every citizen is one of this people, and a constituent member of the sovereignty.” (emphasis added).

***Yick Wo v. Hopkins*, 118 U.S. 356 (1886):**

“While sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom, all government exists and act.” (emphasis added).

The trial court had no subject matter jurisdiction because the Marlow's obtained this property from their predecessors in title, who acquired the property from the United States government through a land patent and the land is allodial land.

B. The trial court should have considered the Marlow's argument that they had an agreement with the County Commissioners resolving this case.

The court did not consider the Marlow's contention that they had an agreement with the County Commissioners resolving this case because it was unaware of any settlement and had not ruled on it. But the Marlow's did raise the issue. (RP 10-12).

Washington case law supports the Marlow's claim that the oral agreement they had with the County Commissioners was enforceable. *Giffin v. King County*, 50 Wash. 327, 97 P. 230 (1908); *Beseloff v. Whatcom County*, 133 Wash. 109, 233 P. 284 (1925). The Marlow's did all that was asked of them in their agreement with the county commissioners and the Respondents should be bound by it just as the Marlow's were

bound and followed through on their end. The court should have at least considered this claim raised by the Marlows and it committed reversible error by refusing to rule on their oral agreement claim.

### CONCLUSION

The Marlows respectfully demand that this Honorable COURT OF APPEALS will make its final ruling, judgment, or decree in the form of an Appealable Statement of Facts and Conclusion of Law on the issues that are presented above. The orders should be reversed, the fines lifted, and the case dismissed for lack of subject matter jurisdiction.

Executed by the voluntary act of our own hands on the land in DOUGLAS COUNTY and dated this 22<sup>nd</sup> day of the third month, in the year two thousand and eighteen, Anno Domini, in the two-hundred and forty-first year of the Independence of America.



Mark Marlow  
Authorized Representative of  
MARK MARLOW  
(Legal distinction being made ON  
THE RECORD.)

All Rights Reserved  
UCC 1-308, Without Prejudice



---

Nancy Marlow  
Authorized Representative of  
NANCY MARLOW  
(Legal distinction being made ON  
THE RECORD.)  
All Rights Reserved  
UCC 1-308, Without Prejudice

**VERIFICATION**

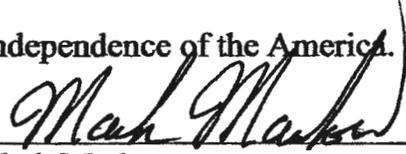
We have read the foregoing document entitled: Marlow's  
Verified Brief of Appellants and know the contents thereof.

We, the Marlows declare that:

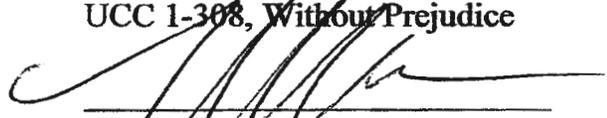
We are a party to the above entitled action or proceeding,  
and certify that the matters stated therein are facts of our own  
knowledge.

We declare under the penalty of perjury of the Laws of the  
STATE OF WASHINGTON and *these* United States of America,  
that the foregoing is correct and complete to the best of my  
knowledge, information and belief, and that this verification is  
executed by the voluntary act of our own hands in DOUGLAS  
COUNTY and is dated this twenty-second day of the third month,

in the year two thousand and eighteen, Anno Domini, in the two-  
hundred and forty-first year of the Independence of the America.)



Mark Marlow  
Authorized Representative of  
MARK MARLOW  
(Legal distinction being made ON  
THE RECORD.)  
All Rights Reserved  
UCC 1-308, Without Prejudice



Nancy Marlow  
Authorized Representative of  
NANCY MARLOW  
(Legal distinction being made ON  
THE RECORD.)  
All Rights Reserved  
UCC 1-308, Without Prejudice

339289

**FILED**

MAR 29 2018

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

**PROOF OF SERVICE BY MAIL**

In The STATE OF WASHINGTON, DOUGLAS COUNTY.

I, the undersigned, herein declare that I am over the age of eighteen years and NOT a party to the within entitled action.

I hereby declare under the penalty of perjury in The STATE OF WASHINGTON and these United States of America, that I deposited in a Mail Box maintained by the United States Postal Service with postage prepaid, addressed as follows:

NAME *Steve Clem*  
COMPANY/TITLE *Prosecutor Attorney*  
ADDRESS *PO Box 360*  
ADDRESS *WATERVILLE, WA, 98858*

I declare under the penalty of perjury of the Laws of the STATE OF WASHINGTON and these United States of America, that the foregoing is correct and complete to the best of my knowlege, information and belief, and that this PROOF OF SERVICE is executed by the voluntary act of my own hand in DOUGLAS COUNTY and is dated this 22 day of the 3<sup>rd</sup> month, in the year two thousand and *Eighteen*

Zach Kolan *Zach Kolan*  
2525 Aviation Dr E Vancouver

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28