

Proof of Claim: The Key to Freedom

<https://nikeinsights.famguardian.org/forums/topic/its-all-about-proof-of-claim/>



"The framers of our Constitution understood **the dangers of unbridled government surveillance.**

They knew that democracy could flourish only in spaces free from government snooping and interference, and **they put restraints on government overreaching in the Fourth Amendment of the Bill of Rights.** . . . These protections require, at a minimum, a neutral arbiter – a magistrate – standing between the government’s endless desire for information and the citizens’ desires for privacy” (Elizabeth Holtzman).

(Disclaimer: We are law abiding people who believe in the *rule of law* and living responsibly. We do not, however, believe in being *ruled by a law* (statute) or treated like slaves of the government. Furthermore, we believe God’s law is the ultimate authority on this earth and that government workers have no authority to exempt themselves from obedience to the Ten Commandments. Thus, this article is meant to empower responsible freedom loving people to resist the overreaching State and to defend themselves against State’s presumption that citizens have duties and obligations to the government.)

PART I

THE RIGHT TO BE LEFT ALONE

INTRODUCTION

Life is argument.

Either someone is trying to persuade you, or you are trying to persuade someone else.

We live in a world where all kinds of people make claims and demands on us. And, it is most disconcerting when these claims & demands are made by public officials. Because public officials are in positions of authority, we error when we think they have authority over us, and that we have an immediate duty to comply with their demand.

These demands come in the form of tickets, traffic stops, court hearings, and taxation demands.

But, a free man is under the law of the LORD God and not the fickle, narrow statutes of the State.

We need to know how to stand up to authority figures in order to extract ourselves from the greedy clutches of government officers.

You can successfully extract yourself from legal entanglement with law enforcement of any kind, by asserting the following principles **regarding proof of claim**.

Know that we have a limited government.

"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." – [James Madison](#), *Federalist* 45, 1788

"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." – [Tenth Amendment](#), 1791.

Know that you have an unalienable right to be left alone.

"Justice, as a moral habit, is that tendency of the will and mode of conduct which refrains from disturbing the lives and interest of others, and interest of others, and, as far as possible, hinders such interference on the part of others . . ." (<https://sedm.org/Forms/05-MemLaw/WhatIsJustice.pdf>).

Know that the government presumes that you have obligations to the State and therefore makes demands upon you in the form of licenses, franchises, tickets, fines, and taxation.

Know that you have the right to challenge the presumption of obligation.

There are **only two ways** that obligations can be created to the State: (1) First, by a violation of the common law – an act on your part that injures the life or property of another – an act that forces the government to provide justice through the courts and to right the wrong created, usually by fines and fees (the whole body of criminal law); and Second, (2) if you violate a duty which was created by a contract with the State (the whole body of civil law).

No injured party, no crime!

No contract, no claim of a civil violation can stand.

In criminal law, the State correctly asserts that you have a duty to your neighbor to avoid acts of *malfeasance*^[1] or *male en se*^[2]. You are presumed innocent until proven guilty; that is, the moving party, usually the State prosecutor, must offer facts to prove guilt "beyond reasonable doubt" in order to overcome "the presumption of innocence."

In civil law, the plaintiff must produce the contract, show the obligation created by contract, and provide enough evidence to a judge (or jury) to convince him that his rights were violated due to your nonfeasance^[3] or misfeasance^[4].

The way the government wins in court: The only way the government can win in court is (1) to prove you injured another, (2) or to prove you had contract duties that obligated you to some kind of performance to the State or the aggrieved party.

The way you win in court: If the government is the Plaintiff, you must force them to produce

(1) and an injured party (a living breathing human being), or

(2) to force the State to produce the contract and show the judge that you agreed to contractual obligations.

You don't have to prove your innocence, you need only show the court

(1) there is no injured party (no injured party, no crime); or,

(2) because there is no contract in existence between you and the State, you are under no duty to perform.

But, because the government operates on presumption, you must expose the presumption.

THE CONSERVATIVE FAITH

America is divided into two camps, the liberal camp and the conservative camp. The liberal camp follows an evolution model believing that society must descend into change and chaos in order to create a new, utopian ideal.

*"When I began to write my book *The conservative Mind*, I discovered that the abstraction "conservatism" amounts to a general term descriptive of the beliefs and actions of certain eminent men and women whom we call "conservative" because they have endeavored to protect and nurture the Permanent Things in human existence. So it is with justice: in large part, we learn the meaning of justice by acquaintance with just persons."*

[*The Meaning of Justice*, Heritage Foundation; SOURCE: <https://www.heritage.org/poverty-and-inequality/report/the-meaning-justice>]

The permanent things include proven principles, that produce law and order. Virtue, according to Aristophanes, "cannot be taught in schools or by tutors; rather, virtue inheres in old families".

LEAVE ME ALONE

The right to be left alone is a fundamental, unenumerated right.

"The makers of the Constitution conferred the most comprehensive of rights and the right most valued by all civilized men—the **right to be let alone**" (Justice Louis D. Brandeis (1856-1941)).

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized" (4th Amendment).

"He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom beyond the protection of his life and property" (Hale v. Henkel – 201 U.S. 43 (1906)).

The Citizen has a right to be left alone from "swarms of officers" that are prone "to harass our people, and eat out their substance" by citing them with all kinds of code violations and then fining them to produce an income for the State (Declaration of Independence).

"Today, following the tragic events of September 11, 2001, the American people face another troublesome threat—**swarms of security agents harassing us at airports, borders, buildings, and highways** Airport security has now become federalized. And we have become, in the words of Sheldon Richman, "tethered citizens" (Mark Skousen, FEE).

Interference in our private lives, bank accounts, travel plans, and biological property is the insidious act of tyrants.

"Of all tyrannies, a tyranny exercised for the good of its victims may be the most oppressive. It may be better to live under robber barons than under omnipotent moral busybodies. The robber baron's cruelty may sometimes sleep, his cupidity may at some point be satiated; but those who torment us for our own good will torment us without end, for they do so with the approval of their own conscience." — C. S. Lewis

The right to be left alone is called "justice."

First, there is the Biblical concept of justice.

The Bible is and always will be the primary source document on justice and freedom.

Public order is founded upon the moral order, and the moral order arises out of the Christian religion—and order predicated on the laws of the LORD God (Exodus 20).

Jeremy Taylor (17th C) identified two kinds of justice: The one is **commutative justice**, or **reciprocal justice**, expressed in Scripture:

"Whatsoever ye would that men should do to you, even so do to them . . . This is the measure... of that justice which supposes exchange of things profitable for things profitable, that as I supply your need, you may supply mine; as I do a benefit to you, I may receive one by you . . ."

The other kind is **distributive justice**, expressed in this passage from Romans:

"Render to all their dues; tribute to whom tribute is due, custom to whom custom, fear to whom fear, honor to whom honor; owe no man anything but to love one another."

Taylor continues,

"This justice is distinguished from the first, because **the obligation depends not upon contract** or express bargain, but passes upon us by some command of God, or of our superior, by nature or by grace, by piety or religion, by trust or by office, according to that commandment, 'As every man hath received the gift, so let him minister the same one to another, as good stewards of the manifold grace of God.'" (Source: "The Meaning of Justice" by the Heritage Foundation)

Second, there is the classical idea of justice.

The **classical idea of justice** comes to us through Plato, Aristotle, Saint Ambrose, and Saint Augustine of Hippo, is expressed in a single phrase: *suum cuique*, or "to each his own."

"Justice is a habit whereby a man renders to each one his due with constant and perpetual will" (Justin: "Corpus Juris Civilis.")

"Justice is that ordering of the soul by virtue of which it comes to pass that we are no man's servant, but servants of God alone" (St. Augustine).

A major part of justice is simply the right to be left of alone . . . something, of course, government officials cannot do. The State infringes on your right to be left alone by propagating the presumption of obligations.

OBLIGATIONS

Government workers presume you are a subject of the Almighty STATE and that you have a duty to respect them as your superior and obey their codes. But, you are not a slave of the STATE. Slavery was outlawed by the 13th Amendment. You have a God-given right, even a duty, to challenge that presumption.

Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, **it is their right, it is their duty, to throw off** such Government (presumption), and to provide new Guards for their future security (Declaration of Independence).

The first way obligations are created are by operations of law.

There is one Lawgiver (James 4:12), and all men are bound to His law. As a Sovereign over His creation the LORD God places duties and obligations on all His creatures; that is, men have an obligation to conduct their affairs in a way that does not infringe on the rights of others (See the Ten Commandments, Exodus 20:1-2).

You have no choice. You are ordered by God not to injure others or steal their property.

The Second way obligations are created is by contract.

"In England, obligation law commonly refers to the study of the laws of **contract, torts** and **restitution**, the principal (but not sole) sources of civil liability" (Oxford Libguides, UK).

"The definition of obligation in law refers to the responsibility to follow through on actions agreed upon in a contract, promise, law, oath, or vow." (upcounsel).

"Obligation of contracts refers to the legal duty of contracting parties to fulfill the promises specified in their contracts . . . If one of the parties fails to fulfill his or her obligations as specified in the contract, it is considered a [breach of contract](#)." (upcounsel).

"Currently obligation is used in reference to anything that an individual is required to do because of a promise, vow, oath, contract, or law. It refers to a legal or moral duty that an individual can be forced to perform or penalized for neglecting to perform." (Online Legal Dictionary).

"a promise, acknowledgment, or agreement (as a contract) that binds one to a specific performance (as payment)" (FindLaw Legal Dictionary).

"Legal: Liability or duty to do something or refrain from doing something under the terms of a contract, such as the obligation of a borrower (the obligor) to pay back the lender (the obligee) under the terms of the loan agreement. Obligations usually involve a penalty for non-fulfillment" (The Business Dictionary).

"Obligation of contracts is the legal duty of the contractors to fulfill the promise stated in the contract. The reasonable capacity of a man to do, or to refrain from doing something is considered before questioning the obligation of contracts" (USLegal).

Obligations are created by contract with your consent. There is no such thing as a contract without your consent. Therefore, demand the officers show you a signed contract. No signature, no contract.

The third way obligations are created is by presumption that you have an obligation to obey all State rules, regulation, and codes.

Therefore, challenge the presumption and make them prove there is a contract in place obligating you to some kind of performance. It is your right, even your duty, to challenge their **presumption of obligation**.

STATUTES AND RULES ARE ONLY FOR THE GOVERNMENT

We error if we presume to think that government can tell us what to do.

"Under basic rules of construction, statutory laws enacted by legislative bodies cannot impair rights given under a constitution. 194 B.R. at 925. "

[In re Young, 235 B.R. 666 (Bankr.M.D.Fla., 1999)]

"A private person cannot make constitutions or laws, nor can he with authority construe them, nor can he administer or execute them."

[United States v. Harris, 106 U.S. 629, 1 S.Ct. 601, 27 L.Ed. 290 (1883)]

If you as a private human can't "execute" laws, then you ALSO can't enforce them against ANYONE else. Some people might be tempted to say that we all construe them against the private person daily, but in fact we can't do that WITHOUT being a public officer WITHIN the government.

"The reason why States are "bodies politic and corporate" is simple: just as a corporation is an entity that can act only through its agents, "[t]he State is a political corporate body, can act only through agents, and can command only by laws." [Poindexter v. Greenhow, supra, 114 U.S., at 288, 5 S.Ct. at 912-913](#). See also *Black's Law Dictionary 159 (5th ed. 1979)* ("[B]ody politic or corporate**": "A social compact by**

which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good"). As a "**body politic and corporate**," a State falls squarely within the Dictionary Act's definition of a "person."

[*Will v. Michigan Dept. of State Police*, 491 U.S. 58, 109 S.Ct. 2304 (U.S.Mich., 1989)]

If we do enforce the law as a private person, we are criminally impersonating a public officer in violation of 18 U.S.C. §912. Another U.S. Supreme Court cite also confirms why this must be:

*"All the powers of the government [including ALL of its civil enforcement powers against the public] must be carried into operation **by individual agency, either through the medium of public officers, or contracts made with [private] individuals.**"*

[*Osborn v. Bank of U.S.*, [22 U.S. 738](#) (1824)]

"...we are of the opinion that there is a clear distinction in this particular between an [PRIVATE] individual and a [PUBLIC] corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the state. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.

"Upon the other hand, the [PUBLIC] corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to [201 U.S. 43, 75] act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a state, having chartered a corporation to make use of certain franchises, could not, in the exercise of its sovereignty, inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purpose. The defense amounts to this: That an officer of a corporation which is charged with a criminal violation of the statute, may plead the criminality of such corporation as a refusal to produce its books. To state this proposition is to answer it. While an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute, it does not follow that a corporation, vested with special privileges and franchises, may refuse to show its hand when charged with an abuse of such privileges. "

[*Hale v. Henkel*, 201 U.S. 43 (1906)]

You MUST therefore be an agent of the government and therefore a PUBLIC officer in order to "make constitutions or laws or administer, execute, or ENFORCE EITHER". Here is more proof:

*"A defendant sued as a wrong-doer, who seeks to substitute the state in his place, or to justify by the authority of the state, or to defend on the ground that the state has adopted his act and exonerated him, cannot rest on the bare assertion of his defense. He is bound to establish it. **The state is a political corporate body, can act only through agents, and can command only by laws.** It is necessary, therefore, for such a defendant, in order to complete his defense, to produce a law of the state which constitutes his commission as its agent, and a warrant for his act."*

[*Poindexter v. Greenhow*, 114 U.S. 270 (1885)]

These limitations also carry over to the state, county, and city level pursuant to **The Clearfield Doctrine**. Governments descend to the level of a mere private corporation, and take on the characteristics of a mere private citizen . . . where private corporate commercial paper [Federal Reserve Notes] and securities [checks] is concerned . . . For purposes of suit, such corporations and individuals are regarded as entities **entirely separate from government"**

"See also *Clearfield Trust Co. v. United States*, 318 U.S. 363, 369 (1943) ("The United States does business on business terms") (quoting *United States v. National Exchange Bank of Baltimore*, 270 U.S. 527, 534 (1926)); *Perry v. United States*, supra at 352 (1935) ("When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference . . . except that the United States cannot be sued without its consent") (citation omitted); *United States v. Bostwick*, 94 U.S. 53, 66 (1877) ("The United States, when they contract with their citizens, are controlled by the same laws that govern the citizen in that behalf"); *Cooke v. United States*, 91 U.S. 389, 398 (1875) (explaining that when the United States "comes down from its position of sovereignty, and enters the domain of commerce, it submits itself to the same laws that govern individuals there").

See *Jones*, 1 Cl.Ct. at 85 ("Wherever the public and private acts of the government seem to commingle, a citizen or corporate body must by supposition be substituted in its place, and then the question be determined whether the action will lie against the supposed defendant"); *O'Neill v. United States*, 231 Ct.Cl. 823, 826 (1982) (sovereign acts doctrine applies where, "[w]ere [the] contracts exclusively between private parties, the party hurt by such governing action could not claim compensation from the other party for the governing action"). The dissent ignores these statements (including the statement from *Jones*, from which case *Horowitz* drew its reasoning literally verbatim), when it says, post at 931, that the sovereign acts cases do not emphasize the need to treat the government-as-contractor the same as a private party.

[*United States v. Winstar Corp.*, 518 U.S. 839 (1996)]

As such, government then becomes bound by the rules and laws that govern private corporations which means that **if they intend to compel an individual to some specific performance** based upon its corporate statutes or corporation rules, then the government, like any private corporation, **must be the holder-in-due-course of a contract or** other commercial agreement between it and the one upon who demands for specific performance are made.

Therefore, all laws created by these government corporations are **private corporate regulations** called public law, statutes, codes and ordinances to conceal their true nature. Yes, judges and lawyers know this . . . but will hide it in their argument if silence promotes their cause of action.

"Since these government bodies are not SOVEREIGN, they cannot promulgate or enforce CRIMINAL LAWS; **they can only create and enforce CIVIL LAWS, which are duty bound to comply with the LAW of CONTRACTS.** The Law of Contracts requires signed written agreements and complete transparency!

Did you ever agree to be arrested and tried under any of their corporate statutes? For that matter, did you ever agree to contract with them by agreeing to be sued for violating their corporate regulations?"

[Governments Have Descended to the Level of Mere Private Corporations, The Anti-corruption Society; SOURCE: <https://anticorruptionociety.files.wordpress.com/2014/05/clearfield-doctrine.pdf>]

Enforcement of these corporate statutes by local, state and federal law enforcement officers are unlawful actions being committed against the SOVEREIGN public and these officers can be held personally liable for their actions. [Bond v. U.S., 529 US 334-2000]

Any government employee who thinks he or she has authority over the people and act for the government should be treated as a terrorist.

PRESUMPTION

Government officials operate on the "presumption of regularity." That is, the government, in the eyes of its officers, is assumed to be acting lawfully and fulfilling its obligations in the absence of evidence to the contrary . . . but this is a "**delusive presumption.**"

Because State's officers are flawed men, they are prone to error. You, therefore, have a right to challenge any command, any statement, and any assertion made by one of their employees. In fact, the first duty of a citizen is not to obey authority, but to question authority.

Definitions of Presumption

"1 : [presumptuous](#) attitude or conduct : [audacity](#)

2 a : an attitude or belief dictated by probability : [assumption](#)

b : the ground, reason, or evidence lending probability to a belief

3 : a legal inference as to the existence or truth of a fact not certainly known that is drawn from the known or proved existence of some other fact." (Merriam-Webster).

"the assumption of something is true . . . Belief on reasonable grounds of probable evidence" (Dictionary.com).

"mass noun: The acceptance of something as true although it is not known for certain. 'the presumption of innocence.' Law : An attitude adopted in law or as a matter of policy towards an action or proposal in the absence of acceptable reasons to the contrary. Behaviour perceived as arrogant, disrespectful, and transgressing the limits of what is permitted or appropriate." (Oxford Dictionaries).

"A conclusion made as to the existence or nonexistence of a fact that must be drawn from other evidence that is admitted and proven to be true. A [Rule of Law](#). If certain facts are established, a judge or jury must assume another fact that the law recognizes as a logical conclusion from the proof that has been introduced. A presumption differs from an inference, which is a conclusion that a judge or jury may draw from the proof of certain facts if such facts would lead a reasonable person of average intelligence to reach the same conclusion.

A conclusive presumption is one in which the proof of certain facts makes the existence of the assumed fact beyond dispute. The presumption cannot be rebutted or contradicted by evidence to the contrary. For example, a child younger than seven is presumed to be incapable of committing a felony. There are very few conclusive presumptions because they are considered to be a substantive rule of law, as opposed to a rule of evidence.

A rebuttable presumption is one that can be disproved by evidence to the contrary. The [Federal Rules of Evidence](#) and most state rules are concerned only with rebuttable presumptions, not conclusive presumptions" (thefreedictionary.com).

PART II

BURDEN OF PROOF

First, you must discern the difference between a criminal claim and a civil claim.

In a criminal case, the government / plaintiff must produce **a quality of evidence** to overcome the "presumption of innocence" by producing quality facts that prove the defendant's guilt.

"The prosecution must prove..." – In a criminal case, the prosecution has the burden of proof. Suppose both the defense and the prosecution go into the courtroom and say nothing – nothing at all. Who wins? The answer is clear: The defense. Since it is up to the prosecution to prove that the defendant committed the crime alleged, if the prosecution does not provide any proof (in the form of evidence), the case must be dismissed.

"...beyond a reasonable doubt." – Not only must the prosecution introduce evidence of guilt, it must prove the defendant's guilt "beyond a reasonable doubt." If the prosecution presents *some* evidence, but not enough to clearly prove that the defendant committed the crime, the jury should find the defendant not guilty.

In a civil case, like traffic violations or IRS claims, the Claimant or officer must produce **a quantity of evidence** to persuade the judge the plaintiff has a claim for relief, and the defendant has the right to challenge the court the plaintiff has "no claim upon which relief can be granted."

"A duty placed upon a civil or criminal defendant to prove or disprove a disputed fact" (The Free Dictionary)

Administrative Procedures Act, 5 U.S.C. Part I, Chapter 5, II, § 556 ((d)) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Under 28 USC 1343, the use of codes to violate my rights is now exposed.

WHO HAS THE BURDEN OF PROOF?

"Generally, describes the standard that a party seeking to prove a fact in court must satisfy to have that fact legally established. There are different standards in different circumstances. For example, in criminal cases, the burden of proving the defendant's guilt is on the prosecution, and they must establish that fact beyond a reasonable doubt.

In [civil cases](#), the [plaintiff](#) has the burden of [proving](#) his [case](#) by a [preponderance of the evidence](#). A “[preponderance of the evidence](#)” and “beyond a [reasonable doubt](#)” are different standards, requiring different amounts of [proof](#)” (Legal Information Institute).

“The burden of proof lies with someone who is making a claim, and is not upon anyone else to disprove.

The inability, or disinclination, to disprove a claim does not render that claim valid, nor give it any credence whatsoever. However it is important to note that we can never be certain of anything, and so we must assign value to any claim based on the available evidence, and to dismiss something on the basis that it hasn’t been proven beyond all doubt is also fallacious reasoning.

Example: Bertrand declares that a teapot is, at this very moment, in orbit around the Sun between the Earth and Mars, and that because no one can prove him wrong, his claim is therefore a valid one” (logicalfallacy.com).

BURDEN OF PROOF IN A CRIMINAL CASE?

In a criminal case, the prosecutor must prove guilt beyond a reasonable doubt.

1. The jury begins with a **presumption of innocence**. In the mind of the jury, the accused is innocent until proven guilty. They begin as doubters.
2. **The claimant prosecutor FAILS to prove his case if** he offers

(a) no evidence,

(b) a scintilla of evidence,

(c) reasonable suspicion of guilt,

(d) probable cause why the accused committed the crime,

(e) an abundance of evidence to tilt the scale that the accused is guilty — “a preponderance of evidence.”

(f) clear and convincing evidence^[5] the accused is guilty. Even if the prosecutor fulfills a “burden of production” of clear and convincing evidence coupled with **the art of persuasion** fulfilling the “burden of persuasion” the jury must declare the accused NOT GUILTY!

The government prosecutor must present the **kind of facts** that overcome the “presumption of innocence” in the mind of a reasonable person – those **quality of facts**^[6] that convince him with moral certainty the accused is indeed guilty of the crime in which he has been accused.

“For the law holds, that it is better that ten guilty persons escape, than that one innocent suffer” (Sir William Blackstone, in his Commentaries on the Laws of England, 9th ed., book 4, chapter 27, p. 358 (1783, reprinted 1978).

“That it is better 100 guilty Persons should escape than that one innocent Person should suffer” (Benjamin Franklyn, letter to Benjamin Vaughan, March 14, 1785.—The Writings of Benjamin Franklin, ed. Albert H. Smyth, vol. 9, p. 293 (1906).).

In 1920, Justice Walker of New Jersey, in *State v Linker*, wrote:

“Reasonable doubt is **not mere possible doubt.**”

"It is that state of the case which, after the entire comparison and consideration of all the [evidence](#) leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge."

In 1997, the Supreme Court of Canada, in [R v Lifchus](#), suggested this explanation:

"The accused enters these proceedings presumed to be innocent. That [presumption of innocence](#) remains throughout the case until such time as the Crown has on the [evidence](#) put before you satisfied you beyond a *reasonable doubt* that the accused is guilty.

"What does the expression beyond a reasonable doubt mean? The term beyond a reasonable doubt has been used for a very long time and is a part of our history and traditions of justice. It is so engrained in our criminal law that some think it needs no explanation, yet something must be said regarding its meaning.

"A reasonable doubt is **not** an imaginary or frivolous doubt. It must **not** be based upon sympathy or prejudice. Rather, it is based on reason and common sense. It is logically **derived from the evidence** or absence of evidence.

"Even if you believe the accused is **probably guilty or likely guilty**, that is **not** sufficient. In those circumstances you must give the benefit of the doubt to the accused and acquit because the Crown has failed to satisfy you of the guilt of the accused beyond a reasonable doubt. On the other hand you **must remember that it is virtually impossible to prove anything to an absolute certainty** and the Crown is not required to do so. Such a standard of proof is impossibly high.

"In short if, based upon the evidence before the court, you are sure that the accused committed the offence you should convict since this demonstrates that you are satisfied of his guilt beyond a reasonable doubt." (Source: <http://www.duhaime.org/LegalDictionary/R/ReasonableDoubt.aspx>)

The criminal justice system seeks to present a case to jury where the facts in the case lead to a guilty verdict beyond reasonable doubt. **No court requires evidence that removes ALL DOUBT!**

Thus, the job of the defendant is to challenge all evidence presented to show they do not rise to the level of evidence that can remove the reasonable doubt or, if necessary, provide evidence, beyond reasonable doubt, that he is not guilty.

BURDEN OF PROOF IN A CIVIL CASE?

The burden of proof in a civil case is not as high as in a criminal case because the stakes are not as high; that is, in a civil case the issue is money and not life and liberty.

In a civil case where fees are involved, the judge or jury must make a decision based on the PREPONDERANCE OF EVIDENCE.

PREPONDERANCE OF EVIDENCE

"A requirement that more than 50% of the evidence points to something. This is the burden of proof in a civil trial" (Legal Information Institute).

The prosecution loses if it has no evidence.

The prosecution loses if it cannot prove it has been injured.

The prosecution loses if it cannot prove you have a contract with the State and that you have obligations and duties to the State via a contract. Therefore, you always demand to see evidence of a contract. No contract, no case.

The government / Claimant loses if you demand proof of claim with strict proof of claim.

The government / Claimant loses if you demand "validation" and "verification" of claim under penalties of perjury. Bankers, credit card companies, IRS agents, and government officers will NEVER MAKE A WRITTEN STATEMENT UNDER OATH.

In short, the government loses if you demand proof of claim with strict proof of claim.

WHAT IS "EVIDENCE?"

Substantive, credible evidence: In this world, there is no such thing as absolute certainty about anything. Claimant's are not required to produce evidence that removes "all doubt," only enough to support their claim and to convince a reasonable person that their claim is true and that deniability is unreasonable.

KINDS OF EVIDENCE IN A CRIMINAL TRIAL

A lot of the confusion about evidence in criminal cases stems from a lack of clear understanding of what constitutes "evidence." To many people, evidence means physical evidence – a literal smoking gun or drugs in the possession of someone caught red-handed. But, in reality, the definition of "evidence" is much broader.

What are some examples of things that can be used as evidence in a criminal trial? Common forms of evidence include:

- **Physical evidence** – As suggested above, physical evidence includes any item linking a person to a crime. Along with weapons and drugs, other forms of physical evidence could include an assault victim's injuries, drug paraphernalia, or a computer in an internet crime investigation.
- **Chemical evidence** – If you are being prosecuted for [driving under the influence \(DUI\)](#), the results of your breath, urine, or blood test may be admissible as evidence at trial.
- **Witness testimony** – If someone saw you commit a crime, his or her testimony would be considered evidence against you.
- **Confessions** – Any self-incriminating statements that you make to the police may be admissible as evidence, as well.
- **Circumstantial evidence** – Were you at the scene of the crime when the crime occurred? If so, the prosecution may be able to use this as circumstantial evidence that you were involved.
- **Electronic evidence** – In [computer crime](#), [domestic violence](#) and certain other types of **cases**, text messages, emails, computer files, and other types of electronic records may be admissible as evidence, as well.

PROBABLE CAUSE

In the criminal law context, there are a few additional standards that apply in specific circumstances. Another well-known standard is the probable cause standard. This standard focuses on balancing effective

law enforcement practices against the [Fourth Amendment](#) guarantee against unreasonable invasions into citizens' privacy. In [Illinois v. Gates](#), 462 U.S. 213 (1983), the Supreme Court outlined the totality of the circumstances test that applies to determining whether a police officer had probable cause to conduct a search and seizure, and for magistrate judges to use when issuing warrants. The standard requires police officers and judges "to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the 'veracity' and 'basis of knowledge' of persons supplying hearsay information, there is a fair probability that contraband evidence of a crime will be found in a particular place." A reasonable suspicion occurs when a police officer "observe[s] unusual conduct which lead him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing with may be armed and dangerous" [Terry v. Ohio](#), 392 U.S. 1 (1968) (Source: Justia).

NO ONE IS REQUIRED TO PROVE A NEGATIVE

No man can prove they did not do something! No one!

No one can prove he wasn't driving 80 mph down the highway . . . or that he does not owe an income tax:

"..the taxpayer can not be left in the unpardonable position of having to prove a negative"
[Elkins v. United States, 364 U.S. 206, 218, 80 S.Ct. 1437, 1444, 4 L.Ed.2d. 1669 (1960); Flores v. U.S., 551 F.2d. 1169, 1175 (9th Cir. 1977); Portillo v Comm'r, 932 F.2d. 938, Affirming, reversing and remanding 58 T.CM 1386, Dec 46, 373 (M), TC Memo, 1990-68 [91-2 USTC P50, 304]; Weimerschirch [79-1 USTC P9359], 596 F.2d. at 361]

. . . or that he does not owe a credit card company.

He must require those making a claim prove their claim with strict proof of claim.

TWO DUTIES OF FREE MEN: PRINCIPLES OF EMPOWERMENT

Innocent men involved in a legal fight must feel the power!

Power One: Your first duty is to question authority . . . if you do not CHALLENGE AUTHORITY the de facto doctrine kicks in; that is, your first duty is to honorably accept an agent's presumption, UPON PROOF OF CLAIM. This is called "**conditional acceptance.**"

The United States Supreme Court has ruled that it is YOUR duty, YOUR responsibility, and YOUR obligation, to determine the valid authority of anyone representing themselves to be an officer of the government. Below is one way to do it:

"As Per RYDER v. UNITED STATES, 115 S.Ct. 2031, 132 L.Ed.2d 136, 515 U.S. 177, I am required to initiate a direct challenge to the authority of anyone representing himself, or herself, to be a government officer or agent prior to the finality of any proceeding in order to avoid implications of de facto officer doctrine. When challenged, those posing as government officers and agents are required to affirmatively prove whatever authority they claim".

Additional authorities on the subject:

"Public officers are merely the agents of the public, whose powers and authority are defined and limited by law. Any act without the scope of the authority so defined does not bind the principal, and all persons

dealing with such agents are charged with knowledge of the extent of their authority," – Continental Casualty Co. v. United States, 113 F.2d 284 (5th Cir. 1940): , at 286.

"When the right to do a thing depends upon legislative authority, and the Legislature has failed to authorize it, or has forbidden it, no amount of acquiescence, or consent, or approval of the doing of it by a ministerial officer, can create a right to do the thing which is unauthorized or forbidden," – Department of Ins. of Indiana v. Church Members Relief Ass'n., 217 Ind. 58, 26 N.E.2d 51 (1940): 26 N.E.2d, at 52.

Power Two: Your second duty is to challenge the agent to PROVE HIS CLAIM under oath, under penalties of perjury. Government officers or debt collectors or credit card companies will NEVER, NEVER do this.

Administrative Procedures Act, 5 U.S.C. Part I, Chapter 5, II, § 556 ((d)) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Under 28 USC 1343, the use of codes to violate my rights is now exposed.

Example: You are hereby ordered . . .

- *To provide me with proof of claim that I am the "Taxpayer" to whom this letter is addressed: made under penalty of perjury [§6065] before a state notary testifying that I am a "Taxpayer" will be acceptable*
- *To provide me with proof of claim that . . .*
- *To provide me with the contract that obligates me to some kind of performance that I am required . . .*

Since government officers never take an oath that they are telling the truth in civil matters, you win because they are estoppel by acquiescence. The common law doctrine of estoppel by acquiescence is applied when one party gives legal notice to a second party of a fact or claim, and the second party fails to challenge or refute that claim within a reasonable time.

And, failure of a government official to provide proof of claim a timely manner can result in a claim being barred by laches. **Laches is an equitable defense or doctrine asserted in litigation. It is defined as an "unreasonable delay pursuing a right or claim by one party in a way that prejudices the opposite party".**

PART III

EXAMPLES OF DEMANDING PROOF OF CLAIM



16. **EXAMPLE ONE:**

A claim of credit card debt by a debt collection company

Mail: First Class Mail

March 22, 2018

Joe Patriot
2 Freedom Way
No Slave, NM 00000

Debt Collector Company, Inc.
PO Box 000000
Jacksonville, FL 00000000

RE: Claim 666

Lawful Notice of Dispute

To Agent or Assigns at Debt Collector Company:

I am in receipt of a computer-generated letter from your company dated 2/21/2018 with unsigned, unverified, unvalidated statements alleging some kind of debt.

It is my policy to pay all legitimate debts, but to also not be defrauded by clever schemes.

Your claims are conditionally accepted provided you furnish me with proof of claim with strict proof of claim.

Who are you? Do I have a contract with you? Please send me a certified copy of the contract that exists between Joe Patriot and Debt Collection Company, Inc.

Please verify your claim under pains and penalties that this is a true debt and not a collection scheme per the FDCPA at 15 U.S.C. § 1692 e.g.

Please send me a certified copy that you are collecting a debt for CITIBANK as their representative and that you did not purchase this debt for personal gain.

Please send me a copy of your license to collect a debt in New Mexico.

If you bought this as a "debt collections" device to make money as a debt collector, thank you for paying off the bill.

NOTICE TO AGENT IS NOTICE TO PRINCIPAL;

NOTICE TO PRINCIPAL IS NOTICE TO AGENT

SILENCE IS ACQUIESCENCE

All Rights Reserved,

Joe Patriot



17. EXAMPLE TWO:

A man in NJ was facing CIVIL charges. The tyrant judge refused his paper work, denied it had ever been presented in court, and then said that the Plaintiff did not have to provide proof of his claim because claims by lawyers and prosecutors are considered true, blah, blah, blah.

Walt C. submitted the following excellent Demand for Proof Claim to the Court demanding the judge provide proof of claim the Plaintiff does not have to have to provide proof of claim:

SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION SALEM COUNTY

Re: Case No(s): F- 333333

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, SALEM COUNTY

TO THE ATTENTION OF COUNTY RECORDER

Your failure to accept this instrument for filing will engage the use of the following United States codes, title 18, sections 1581, 241, 242, 1622, title 18 USC 4, title 18 USC 3, and title 42 USC 1986 and 1994.

Responsibility informant public proxy, Michael James Ross, pursuant to title 18 section 4, title 42 section 1994. See the Constitution for the United States of America, article 4 e-commerce accessibility of all acts, records, and proceedings uniform state to state and amendments 1, 4, 5 and 7, title 15 USC document, Tracer Flag.

STATE OF NEW JERSEY,)	COMMERCIAL AFFIDAVIT-
)	NOTICE OF INTEREST
)ss.	
COUNTY OF SALEM)	For a three (3) week (Jewish) (21 days statutory)
)	Grace PERIOD for CONTINUANCE

DATE: _____, 20__

I, John Hancock, as Affiant, state and affirm as follows:

I, John Hancock, have natural, personal and commercial survival self-defense, and monetary interests in handling my own legal cases. Images/costs of each cited case traverses exceed \$120, and guarantee a trial *by* jury.

As a living man, I have a natural, personal, and commercial rights of self-defense, which are guaranteed under the 1st, 4th, 5th, and 7th Amendments, of the Constitution for the United States of America, under International Jewish Commercial Law, and in the initiation of all lawful legal processes and Summons, who guarantee the exhaustion of all pertinent commercial interests, commercial remedies, and commercial relief. In exchange for the constitutional guarantees of personal and commercial protections all civilized people have the responsibility to practice law to the best of their ability regardless of the conditions of having a license to do so.

The request for reconsideration for charges against Defendants is premised upon the willingness of Donald Duck, in-esse, d/b/a DONALD DUCK, JUDGE, R. J. HUGHES JUSTICE COMPLEX, P.O. 970, TRENTON, NEW JERSEY 08625, supervisors, heirs, agents and assigns.

AFFIDAVIT OF VALIDATION

I HEREBY ALSO DEMAND TO RECEIVE THE FOLLOWING PROOF OF CLAIMS ANSWERED.

Please respond in affidavit of validation OR VERIFICATION OF CLAIM form under your full and complete commercial, corporate and personal liability that You have the proofs of your claims.

1. Proof of Claim: That You had the authority under the constitution as per your oath of office, to COMPLETELY deny and dismiss "ALL" my affidavits, evidences, documents, papers, jurisdictional and constitutional demands and challenges and all others forms or claims, as per your own judicial determination signed by You on September __.____.
2. Proof of Claim: That by completely stripping, eliminating, and suppressing ALL my claims, proofs, documents and demands and leaving Me naked BEFORE THE COURT, without any evidence in support of my case is NOT a violation of my constitutional rights and liberties.
3. Proof of Claim: That the law allows judges to be handed a document by any Esquire, WITHOUT YOU EVEN READING IT AND SIGNING, denying and dismissing all MY motions, all affidavits, all papers, all documents, all jurisdictional and constitutional demands, and ALL OTHER GROUNDS, as per the document You signed.
4. Proof of Claim: That plaintiffs do not have to prove their claims as the moving party in their verified complaint.
5. Proof of Claim: That defendant has to prove the claims of the plaintiffs' as per your judicial determination and demands.
6. Proof of Claim: That I as a defendant in error, have to answer by law a verified complaint against another verified complaint from the Plaintiff who is the moving party that refuses to answer my Affidavit of rebuttal of their verified complaint.
7. Proof of Claim: That defendant has received a certified copy with proof of return receipt of the new amended verified complaint to respond to, in the time frame demanded.
8. Proof of Claim: That this civil court has a verifiable contract signed by Me before trial, giving the court complete jurisdiction over a non-corporate living man.
9. Proof of Claim: That any Barrister and/or Solicitor or person from any foreign country, without having to be here in the U.S.A., can file a long-distance verified complaint from inside another country and does not have to be here to testify at court in any trial.
10. Proof of Claim: That as judge that You have subject matter jurisdictional authority in an Article 1 court.
11. Proof of Claim: That as judge that You have subject matter jurisdictional authority in an Article 3 court.
12. Proof of Claim: That as judge that You have subject matter jurisdictional authority in an Article 4 court.
13. Proof of Claim: That as stated by You that You are a judge presiding in an ARTICLE 5 COURT.

14. Proof of Claim: That You as judge, that You will/do not have to protect my Constitutional liberties/rights as per your oath of office.
15. Proof of Claim: That THE SUPERIOR COURT OF THE STATE OF NEW JERSEY IN AND FOR THE COUNTY OF SALEM is not a private corporation, even though Dun and Bradstreet D-U-N-S numbers were supplied and entered into the court record and sent to plaintiffs, that the court listed themselves as a PRIVATE corporation.
16. Proof of Claim: That the STATE OF NEW JERSEY is not a private corporation and that the causes of actions are not in REM against defendant. Proof of claim: That You and the court, corporation, dept etc. has giving Me full and complete disclosure over any and all contracts or over anything and everything claimed.
17. Proof of Claim: That You have complete authority over this Sovereign non-corporate living man within the country.
18. Proof of Claim: That You have complete authority over this living man upon the land.
19. Proof of Claim: That You are not a registered member of the Bar Association.
20. Proof of Claim: That the American Bar Association is not a foreign International Private organization, which makes Bar members foreign agents in a foreign state, under the Foreign sovereign immunities act (FSIA). Proof of Claim that Bar members actually have a license to practice law. Proof of Claim of any lawful law that proves that a non-corporation living man upon the law, has to pay any court a tax or fine. Proof of Claim that the supreme courts in each State were actually following a state and federal real law, that permitted the fellow Bar members of the supreme courts, to allow fellow Bar members in each state and federal government, as part of the judicial branch of government in each state and federal government courts.
21. Proof of Claim: That You as judge are above the Supreme Court's rulings and that You are above the law of this land.
22. Proof of Claim: That the Constitution is not the Supreme Law of this land and/ or in this or any court and that You do not have to adhere to your oath of office to uphold said oath and constitution.
23. Proof of Claim: That You can prove the "LAW" You asked for, that would supply the proof of why You should not have dismissed all my affidavits, and all documents.
24. Proof of Claim: Of why my affidavits of "denial of corporate existence" was not allowed under the FSIA.
25. Proof of Claim: Of YOUR AUTHORITY under the organic and corporate constitution to completely deny a writ of "CORAM NOBIS".
26. Proof of Claim: That the court upon challenge will/does not have to rebut or disprove the fact — that I am not a corporation.
27. Proof of Claim: That affidavits and statements of facts are not proof of anything and will not be allowed to be presented at trial as per your judgment.
28. Proof of Claim: That sworn affidavits and statements of facts will/can not be admissible as evidence, when the evidence within the affidavits, will clearly prove the claims of the defendant.
29. Proof of Claim: That verified complaints are admissible as evidence and sworn affidavits are not.

Each of Defendants as listed above is hereby damaged financially, socially and psychologically, with grief, by creating a crisis for Plaintiffs without a probable cause, by and through the process of obtaining a defense against unproven charges submitted by Donald Duck, in-esse, d/b/a DONALD DUCK, JUDGE, R. J. HUGHES JUSTICE COMPLEX, P.O. 970, TRENTON, NEW JERSEY 08625, supervisors, heirs, agents and assigns, while Donald Duck, in-esse, d/b/a DONALD DUCK, JUDGE, R. J. HUGHES JUSTICE COMPLEX, P.O. 970, TRENTON, NEW JERSEY 08625, supervisors, heirs, agents and assigns, is remaining as a false witness,

without a lawful written contract with Defendants to interfere in their commercial affairs by making financial determinations for Defendants without proper license and consent from Defendants and not recusing herself as an attorney, while remaining as a witness without first-hand-knowledge, per court rules.

I, John Hancock, have the due process right of nature and of law to raise and present my own knowledge and understanding of the natural principles of truth.

THE ISSUE

I am being defrauded of the opportunity to present my own thoughts and defense. There have been no claims or proof of claims produced in support of Plaintiff's alleged claims by Attorney for Plaintiff, which cannot be used as evidence in this matter, as it is improper to use attorney's statements as evidence. I, therefore, demand a three-week (Jewish) (21 days statutory) continuance of the legal processes, in these four (4) cited cases, to prepare my own commercial affidavit objections to the processes being imposed upon me and to receive commercial affidavit responses to them.

I, John Hancock, certify that I have read the foregoing instrument, COMMERCIAL AFFIDAVIT-NOTICE OF INTEREST, and know and understand the contents thereof, and that, to the best of my knowledge and belief, it is true, correct, complete, and not misleading, the truth, the whole truth, and nothing but the truth.

By: _____

Autograph: John Hancock

NOTARY WITNESS

STATE OF NEW JERSEY)

)ss.

COUNTY OF SALEM)

Today before me, a Commissioned Public Notary, visited the man/woman known to me to be Michael James Ross, and he/she did Issue this COMMERCIAL AFFIDAVIT-NOTICE OF INTEREST as shown and he/she also confirmed his/her testimony as shown before me this ____ day of _____ in the Year of our Lord Two Thousand _____, whereof I set my Signature and Seal:

_____ Public Notary (SEAL)

_____ Witness

One _____ Witness Two



18. EXAMPLE THREE

Christie, the Defendant, was pulled over by a cop and cited for speeding. She went to court, and faced her cop accuser (the Plaintiff). Here is how the hearing went.

Cop: Your Honor, I clocked the Defendant going 55 mph in a 35 mph zone . . .

A loose discussion occurs between the Plaintiff cop and the innocent Defendant.

Christie: Was anyone injured?

Cop: No.

Christie: So, this is not a criminal case. If no one was injured, then why did you turn on your emergency lights?

Cop: Because you were going 55 mph in a 35 mph zone.

Christie: Is that really a reason to turn on your emergency lights . . . How do you know I was going 55 mph?

Cop: I clocked the you on my radar gun.

Christie: Did you calibrate your radar gun in the morning to make sure it was accurately adjusted? (Defendant was asking for proof of claim.)

Cop: Yes, I did.

Christie: Where is your proof that you calibrated it in the morning of April 7th?

Cop: It is in my calibration book?

Christie: Do you have it with you in court today?

Cop: No.

Christie: Judge, I demand this case be dismissed because the Plaintiff did not back his claim with proof of Claim . . . that is, your Honor, because there is no evidence in this court to support the Plaintiff's claim, I demand this case be dismissed.

Judge: This case is dismissed. (true story)

Summary: You have a God-given right to be left alone. The State wants money, creates laws, then cites you for breaking their laws in order to create revenue. Therefore, the State will not leave you alone.

The State proceeds against you because (1) there is an injured party in which case this is their duty, or (2) because they assume you have obligations to the State. But, we have a limited government.

The State can only force you to comply with their laws if you have consented to be ruled by their laws by a signed bona fide contract. No contract, no duty.

Brooky Stockton

[1] **Malfesance:** The commission of an act that is unequivocally illegal or completely wrongful.

[2] **Mala en se:** acts that are completely wrong in and of themselves because they injure the rights of others. Acts *mala en se* are violations of God's law (moral law) and are criminal in nature. Things *mala en se* are quite different than acts that are mala prohibita which are prohibitions created by the legislature or a civil body like "don't walk on the grass."

[3] **Nonfeasance:** The intentional failure to perform a required duty or obligation.

[4] **Misfeasance:** A term used in [Tort Law](#) (a body of rights applied by the courts) to describe an act that is legal but performed improperly.

[5] According to the Supreme Court in [Colorado v. New Mexico, 467 U.S. 310 \(1984\)](#), "clear and convincing" means that the [evidence](#) is highly and substantially more likely to be true than untrue; the [fact finder](#) must be convinced that the contention is highly probable.

[6] **Fact:** a truth (an actual event) known by actual experience or observation; something known to be true as opposed to hints, presumption, imagination, myth, a lie, and make-believe.