

THE CONTRACT

THE RULE OF LAW

- The People have the right to form or to abolish a government. Pa. Const., Article I, section 2.
- Governments derive their just powers from the consent of the governed; the sovereign People.
- Our United States government was established by the sovereign People to protect and preserve those inherent rights as ENDOWED and **entrusted** to the People BY OUR Creator [Almighty God].
- The Inherent Rights of Mankind, those inalienable and inalienable rights, are endowed by our Creator [Almighty God] upon all citizens of this Nation.
- This endowment is affirmed in the Declaration of Independence (1776), U. S. Constitution and the Constitution of Pennsylvania [Inherent Rights of Mankind]. Article I.
- Governmental beneficence or benevolence **did not** bestow upon the People the Inherent Rights of Mankind.
- The establishment of a government creates a **CONTRACT** between the government and the governed (“People”) to protect and preserve those inalienable and inalienable rights for the benefit of the People, individually and collectively.
- The CONTRACT is named “LAW”; a Contract between government and the People.
- This CONTRACT creates a **Public Trust** under which the People are beneficiaries.
- The Public Trust is administered by “public servants”, a.k.a. “trustees”. See **5 C.F.R. § 2635.101**.
- Under “trust law”, this constitutional CONTRACT burdens the government as “trustee” with a **legal duty** [fiduciary responsibility] to serve the People for the preservation of rights for those beneficiaries under the Constitution. See **5 C.F.R. § 2635.101**.
- A “trustee” is charged with a fiduciary responsibility [the **legal duty**] to administer the Public Trust’s assets (Constitutional rights) for its beneficiaries, We the People.
- The assets include those inalienable and inalienable Inherent Rights of Mankind, supra, implicitly and explicitly endowed upon the People via the Public Trust.
- The ratification of the U.S. Constitution, [also, “U.S. Const.”] creates “**organic law**” that affirms and defines the Contract between the government and the sovereign People.
- Organic law is supreme and requires a constitutional amendment to modify or repeal such law; in other words, organic law cannot be amended or repealed by statute.

- The Constitution as ratified declares itself to be "... the supreme Law of the Land, and the judges in every state shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding." **U.S. Const., Article VI, second clause.**
- Clause two of Article VI of the U.S. Constitution **has not** been amended or repealed.
- Public Trust benefits are codified as "**organic law**" in the U.S. and Pennsylvania Constitutions.
- The Commonwealth of Pennsylvania is one of thirteen original states that joined together to form the union known as The United States of America under the U.S. Constitution, **THE Contract.**
- The colonial government of Pennsylvania was initially formed by treaties with King Charles of England. See "**Frame of Government of 1682 for Pennsylvania**", hereafter "Frame of Govt."
- Organic law may and does incorporate treaties signed prior to ratification of the U.S. Constitution, among which remains the "Frame of Govt."
- 1 Pa.C.S.A. § 1503 affirms Colonial law [Frame of Govt.] as remaining in full force and effect.
- The government for the Commonwealth of Pennsylvania was formed with the consent of the People and a Constitution ["Contract"] was drafted thereto.
- The Constitution of Pennsylvania is also organic law establishing a similar **trust contract** between Pennsylvanians, "executors and beneficiaries", and the Commonwealth of Pennsylvania, "trustee" under the Public Trust. See **5 C.F.R. § 2635.101.**
- The Constitution of Pennsylvania is subordinate to the U.S. Constitution; it neither amends nor supersedes the U.S. Constitution. See "**supremacy clause**" **U.S. Const. Art. VI.**
- Under the Public Trust, **all law is civil**; *i.e.*, contract law. Pa.R.C.P. must apply.
- "Criminal law" is a subset of civil law, ergo, **all law is civil** under the Contract with the People.
- Where interpretation of a statute or treaty is required to define a criminal offense, that statute or treaty or relevant sections thereof must be interpreted in favor of the defendant. **Cite. ...**
- Statutory language which may be "arbitrary, capricious, ambiguous, vague, etc.", may be found to be "unconstitutional" and subject to appellate review and interpretation.
- Pa.R.C.P. Rule 128 sets forth the general rule under which the Public Trust is presumed and all rules and statutes are to be interpreted.

- A breach of contract under the Public Trust constitutes a “breach of trust” by the trustee.
- Trustees shall [“are required to”] perform their fiduciary responsibility in consonance with the People’s “intangible right to honest services”. **See 18 U.S.C. § 1346.**
- A breach of trust by a court "trustee" deprives a litigant of his “intangible right to honest services” and therefore his intangible right to "due process of law".
- A breach of a fiduciary responsibility by a trustee is a breach of trust and a breach of contract.
- A party in breach of a contract appears before the court with “unclean hands”.
- A trustee in breach of the trust forfeits any qualified immunity which may attach to his office.
- A contract is a fundamental element of commerce, ergo, the administration of Law is the interpretation of the contract which is, by definition, commercial.
- The Principles of Commercial Law as stated below must apply in civil and criminal matters:

Principles of COMMERCIAL LAW

- Eternal, unchanged principles of Commercial Law are: [from **Mosaic Law**]
- a) A workman is worthy of his hire. (thou shalt not steal)**
(Exodus 20:15; Leviticus 19:13; Matthew 10:10; Luke 10:7; II Timothy 2:6)
 - b) All are equal under the law. (no one is above the law)**
(Exodus 21:23-25; Leviticus 24:17-21; Deuteronomy 1:17, 19:21; Matthew 22:36-40; Luke 10:17; Col. 3:25)
 - c) In Commerce, truth is sovereign. (thou shalt not bear false witness)**
(Exodus 20:16; Psalms 117:2; John 8:32; II Corinthians 13:8)
 - d) Truth is expressed in the form of an affidavit.**
(Leviticus 5:4-5; Leviticus 6:3-5; Leviticus 19:11-13; Numbers 30:2; Matthew 5:33; James 5:12)
 - e) An un rebutted affidavit stands as the truth in Commerce.**
(12 Peter 1:25; Hebrews 6:13-15)
 - f) An un rebutted affidavit becomes the judgment in Commerce.**
(Hebrews 6:16-17)
 - g) All matters must be expressed to be resolved.**
(Hebrews 4:16; Philisians 4:6; Ephesians 6:19-21)
 - h) He who leaves the battlefield first loses by default.**
(Book of Job; Matthew 10:22)
 - i) Sacrifice is the measure of credibility.**
(no willingness to sacrifice = no liability, no responsibility, no authority or measure of conviction)
(Acts 7, life/death of Stephen)
 - j) A lien or claim can be satisfied only through an affidavit by a point-for-point rebuttal,**

resolution by jury, or payment.

(Genesis 2-3; Matthew 5; Revelation)

- Mosaic Law establishes the foundation for Judeo-Christian legal principles dating back Centuries before the Magna Charta and from which the body of American law, **the Contract**, arose.
- Trustees for the Public Trust have a fiduciary responsibility that includes, inter alia, a search for “truth” that is materially complete, without falsehood, and **not misleading**. See Pa.R.A.P. 1926.
- **In commerce, truth is sovereign.** Supra. The most understandable and brief definition of “truth” is: **“That which remains after all other possibilities have been eliminated.”**
- Truth is expressed in the form of an affidavit. Supra.
- An Affidavit of Defense must be admissible as evidence pursuant to U.S. Const., Amendment VI and F.R.C.P. 56(e). See also Pa.R.C.P. 1030. New Matter [includes Affidavit of Defense].
- An un rebutted affidavit becomes the judgment in Commerce. Supra.
- An un rebutted affidavit supports a summary judgment [Quash] claim for the affiant.
- An un rebutted affidavit overturns [defeats] any **“presumption of probable cause”**.
- Failure to rebut an affidavit is "to leave the battlefield"; to **"lose by default"**. Supra.
- Criminal law, the subset of civil law, is a contract **limited inter alia by the rights of the People**.
- Criminal law or criminal statutes may not abrogate or diminish the Inherent Rights of Mankind.
- “Law and court procedures that are “fair on their faces” but administered “with an evil eye or a heavy hand” was discriminatory and violates the equal protection clause of the Fourteenth Amendment.” *Yick Wo v. Hopkins*, 118 US 356 (1886).
- An alleged criminal statute that violates the equal protection clause or abrogates or diminishes the Inherent Rights of the People is “repugnant” to the Constitution and is UN-Constitutional.
- The People are the only heirs and beneficiaries to the Public Trust to be administered by a free government established under authority of and instituted for the peace, safety and happiness of those People.

- The Public Trust secures for the People those Inherent Rights of Mankind and *inter alia* such inalienable and inalienable rights explicitly or implicitly enumerated in the U.S. Const., the Constitution of Pennsylvania, definitive statutes and interpretation of appellate courts thereto.
- The Inherent Rights of Mankind as endowed upon We the People by our Creator forms the corpus assets for a testamentary trust to be administered under the laws of the state. *i.e.*, by and through government agents who serve **only** as “trustees” for the Public Trust.
- The Inherent Rights of Mankind do not extend to governments; federal, state or local.
- A government, or government agency, is not a person and therefore is unable to be a beneficiary of those rights endowed upon the People through the Public Trust, leaving to the government the only role left for the administration of the Public Trust; that is, to serve We the People as “trustee”.
- Citizens are the heirs and beneficiaries to the Public Trust and the Inherent Rights of Mankind, those inalienable and inalienable rights as enumerated in the Constitutions of the United States and the Commonwealth of Pennsylvania; **these rights cannot be waived.**
- Among those Inherent Rights of Mankind is the implied benefit that the government, via trustees, will serve the People in compliance with their “**intangible right to honest services.**” See 18 U.S.C. § 1346.
- A government formed or established under a constitution may act only within the limits of authority granted by that constitution. The U.S. Constitution is a "limiting" document that limits the power of the government.
- Legislative enactments [statutes] may not modify or amend organic law, the Constitution.
- SCOTUS resolves this issue in the following:

“A law repugnant to the Constitution is void. **An act of Congress repugnant to the Constitution cannot become a law.**” *Marbury vs. Madison*, 5 U.S. 137 (1803).

“**An unconstitutional act is not law.** It confers no rights; it imposes no duties; affords no protection; it creates no office. It is, in legal contemplation, as inoperative as though it had never been passed.” *Norton vs. Shelby County*, 118 U.S. 425 (1886).

“An unconstitutional law is void and is as no law. **An offense created by it is not a crime.** A conviction under it is not merely erroneous but is illegal and void and cannot be used as a legal cause of imprisonment.” *Ex parte Siebold*, 100 U.S. 371 (1879).

“Where rights secured by the Constitution are involved, **there can be no rule-making or legislation which would abrogate them.**” *Miranda vs. Arizona*, 384 U.S. 436 (1966).

- The Inherent Rights of Mankind includes the “right” to life, liberty and the pursuit of happiness.
- The pursuit of happiness includes the **Right** to earn one’s living by labor, the arts, a business, a profession, etc., including “occupations of common right”.
- The practice of law is determined to be an occupation of common right.

The **Restatement of the Law** notes:

“... The “COMMERCIAL” practice of law, pleading for hire, should not be confused with the common law right to practice law. The former being fully subject to the regulation of law as a commercial endeavor, and the **latter being the exercise of a common right beyond legislation.**” *Sims v. Aherns*, 271 SW 720 (1925). **“The practice of law is an occupation of common right.”**

- The State legislature lacks any authority whatsoever to enact legislation that abridges, abrogates or diminishes the RIGHT to the pursuit of happiness via an occupation of common right.
- The practice of law CAN NOT be licensed by any state/State. *Schware v. Board of Examiners*, 353 U.S. 238, 239; ergo, “unauthorized practice of law” [42 Pa.C.S. A. § 2524] **is a legal fiction.**

“A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment.” *Schware*, supra, citing *Dent v. West Virginia*, 129 U.S. 114.

“It is a fair characterization of the lawyer's responsibility in our society that he stands “as a shield,” ..., in defense of right and to ward off wrong. From a profession charged with such responsibilities there must be exacted those qualities of **truth-speaking**, of a **high sense of honor**, of granite discretion, of the strictest observance of fiduciary responsibility, that have, throughout the centuries, been compendiously described as “moral character.”” *Schware*, supra.

- In the federal courts, the right of self-representation has been protected by statute ... , provided that “in all the courts of the United States, the parties may plead and manage their own causes personally **or by the assistance of . . . counsel . . .**”
- All prosecutorial “trustees” must be held to this same professional standard.
- A criminal prosecution under **42 Pa.C.S.A. § 2524 – Penalty** for unauthorized practice of law -- violates the equal protection of law afforded **occupations of common right** and is therefore repugnant to the Constitution. *Schware*, supra.

- The Criminal Division of a civil court must direct prosecutors to show cause as to why the court should not declare that it lacks jurisdiction to administer [or "try"] cases under 42 Pa.C.S.A. § 2524.
- Agents [i.e., “trustees”] acting on behalf of and under the lawful authority of government are granted qualified immunity for actions **in the lawful exercise** of their duties.
- Trustees serving in a judicial capacity have qualified immunity only so long as they act within the parameters of their authority. *i.e.*, to afford defendants their Inherent Rights under the Public Trust.
- Where a court lacks **jurisdiction** over the matter before it, the judge acts outside the parameters of his lawful authority when he acts in a judicial capacity.
- SCOTUS and other courts have spoken to this subject:

“Generally, judges are immune from personal liability for judicial acts within or in excess of their jurisdiction even if those acts have been done maliciously or corruptly; the only exception being for acts done **in the clear absence of all jurisdiction.**” *Gregory v. Thompson*, 500 F.2d 59 (C.A. Ariz. 1974).

“When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost.” *Rankin v. Howard*, (1980) 633 F.2d 844, cert den. *Zeller v. Rankin*, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326.

“In a jurisdictional vacuum, (that is, absence of all jurisdiction) the second prong necessary to absolute judicial immunity is missing.” *Stump v. Sparkman*, *id.*, 435 U.S. 349.

“A judge must act within his jurisdiction as to subject matter **and person**, to be entitled to immunity from civil action for his acts.” *Davis v. Burris*, 51 Ariz. 220, 75 P.2d 689 (1938).

“Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction.” *Piper v. Pearson*, 2 Gray 120, cited in *Bradley v. Fisher*, 13 Wall. 335, 20 L.Ed. 646 (1872).

“No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than **lawless violence.**” *Ableman v. Booth*, 21 Howard 506 (1859).

- When a trustee acts outside the lawful authority of his office, qualified immunity vanishes [is forfeited] and that individual [trustee] may be held personally liable for transgressions against the People or as against another individual. See *Yick Wo*, *supra*.

- Qualified immunity from personal liability extends to all “trustees” **only** to the extent that they perform their duty within the limits of the authority of their office.
- Prosecutorial misconduct is clearly outside the protected activities of a trustee, ergo, qualified immunity from personal liability becomes void; i.e., is forfeited. The state may not grant immunity to a “trustee” whose performance violates the law ... Cite omitted ...
- A trustee who knowingly and intentionally breaches his fiduciary responsibility acts “with an evil eye or a heavy hand” to deny the victim of due process and equal protection of law.
- Due process is the legal principle and a fundamental right that requires the government to respect, according to the law, all of the legal rights owed to a person under the Public Trust.
- Due process holds the government subservient to the law of the land and protects individuals, The People, from overly aggressive, tyrannical or oppressive actions by the state.
- When a government agent [“trustee”] **fails to follow the precise course of the law**, that trustee violates due process of law which offends against the CONTRACT -- Rule of Law.
- An offense against the CONTRACT is a breach of Contract and a breach of Trust, a failure to perform the fiduciary responsibility [**legal duty**] of a trustee under the Public Trust.
- Due process rights are those which are of such fundamental importance as to require compliance with due process standards of fairness and justice including but not limited to procedural and substantive rights of citizens **against government actions** that threaten or impose the denial of life, liberty, or property.
- Violating the due process rights of a beneficiary to the Public Trust places that trustee “at war” with the Constitution he has sworn to protect and defend; qualified immunity is forfeited.
- For the guarantees of procedural due process to apply, it must first be shown that a deprivation of a significant life, liberty, or property interest has occurred. This is necessary to bring the Due Process Clause into play.
- An **arrest** or **illegal arrest** is a deprivation of a significant life, liberty or property interest.
- Substantive due process is the doctrine requiring legislation to be fair and reasonable in content as well as application and that invokes the due process clauses of the Fifth and Fourteenth Amendments to the U.S. Constitution See *Yick Wo*, supra.

- The U.S. Const., Amend. VI, establishes a **constitutional right** of an accused to confront and to test the credibility of the witnesses against him; *i.e.*, accusers.

“In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses.” *Goldberg v. Kelly*, 397 U.S. 254, 269 (1970).

- The essence of due process is protection from **arbitrary** and unreasonable **action by the State**.
- Arbitrary actions include, but are not limited to acts done capriciously or at pleasure; without adequate determining principle; ...; absolutely in power; capriciously; tyrannical; despotic; *Cornell v. Swisher County*, Tex.Civ.App., 78 S.W.2d 1072, 1074 (19??). See Black’s Law Dictionary, 6th Ed. , p. 104.
- Ordinarily, “**arbitrary**” is **synonymous with bad faith** or failure to exercise honest judgment ..., *Huey v. Davis*, Tex.Civ.App., 556 S.W.2d 860, 865. Id, pp. 104-105.
- Equal protection of Law as enacted under the 14th Amendment secures the right of due process for each individual from arbitrary actions by the State among which are: when its courts are open to them on the same conditions as others, with like rules of evidence and modes of procedure, for the security of their persons and property, the prevention **and redress of wrongs**, ...; .
- Government employees for the Commonwealth of Pennsylvania owe a fiduciary responsibility [**legal duty**] to the beneficiaries to the Public Trust when serving in their official capacity.
- Governments act by and through public servants as “trustees”, not limited to judges, law enforcement officers and a vast assortment of positions necessary for efficient and effective administration of the Public Trust.
- All Respondents as named herein are, or were during the period in question, employees of the state government or a political subdivision thereof; ergo, all Respondents named above are “public servants” [“trustees”] within the Commonwealth who owe a fiduciary duty to the People.
- Judicial Trustees are required by Law to swear or affirm an Oath of Office that they will support and defend the afore-mentioned Constitutions. See **Pa.Const. Art. VI, section 3**.
- Trustees shall [“are required to”] perform their fiduciary responsibility in consonance with the People’s “intangible right to honest services”. See **18 U.S.C. § 1346**.

- Trustees are required to be **bonded** to protect the People from oppressive and tyrannical conduct by government agents acting outside the scope of the authority afforded their office.
- The Uniform Bonding Code, “UBC”, requires prosecutors and District Attorneys to produce on demand the name of the bonding company and the policy number. See UBC section 5.2 et al.
- The UBC requires prosecutors and District Attorneys to consider, answer and affirm or deny categorically all affidavits [filed with the court] point-for-point in writing. See UBC section 5.0, section 71.
- The government can **never** become a beneficiary of the Public Trust bequeathed [“given”] by the Creator to **We the People**, the *de facto* heirs of the Inherent Rights of Mankind.
- This endowment of the Creator is codified in the U.S. and Pennsylvania Constitutions.
- Government employees bearing the title of “judge” are public servants, a.k.a. “trustees”, with a fiduciary responsibility to secure for the use and exercise of the People those Inherent Rights [i.e., protection of the beneficiaries against/from the tyranny and oppression of the government].
- Trustees with the title of judge are subject to the UBC. See UBC, section 5.4 et al.
- Among the fiduciary responsibilities of trustee / judge is to ensure that government agents act **at all times** within the limits of the authority delegated to their office.
- The government owes a legal duty to the People to secure for them “due process of law” and to perform that duty including preserving the “intangible right to honest services”.
- Due process of law is a nebulous term that includes all necessary protections for a beneficiary from the extravagances of overly aggressive, tyrannical or oppressive government agents.
- Where the matter involves “criminal law”, government agents (operatives) must be held to the highest standard of performance to ensure that those trustees do not “breach their duty in trust”.
- Due process of law requires as the most fundamental elements of law: a) that a moving party must establish jurisdiction in the appropriate court; b) that the responding party be served notice of the **complaint** and the basis for that jurisdiction; and c) that the accused be afforded a full and fair opportunity to face his accuser and to test the credibility of his adversary.

- Affiant claims right of sovereignty under which the Inherent Rights of Mankind as endowed by our Creator are afforded the People pursuant to the U. S. Constitution, the Constitution of Pennsylvania, and the **Declaration of Independence** as follows:
“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, **deriving their just powers from the consent of the governed**, -- ...”
- Each Respondent named herein is a *de facto* agent for the Government, an employee of the Commonwealth or a political subdivision thereto, ergo, a “trustee” with a fiduciary responsibility to preserve and protect the rights of sovereignty as bestowed upon Affiant and all citizens.
- Failure of a trustee to perform the fiduciary responsibilities under the terms of the trust, such as any act contrary to those terms, or in excess of his authority, or the wrongful omission of any act required ... to the detriment of the trust [and the beneficiary], whether willful and fraudulent, or done through negligence, ... , constitutes a violation by the trustee of any duty which he owes to the beneficiary, a **breach of trust**, to which personal liability may and should attach.
- The roll of executor or beneficiary can never be bestowed upon the government [Cmwlth.], *i.e.*, courts, judges, prosecutors, law enforcement officers, etc.
- Courts comprise the forum where judicial trustees must discharge their fiduciary responsibility under the terms of the Public Trust.

Where Justice is DENIED anywhere,

Justice is THREATENED everywhere. Martin Luther King