AMERICAN BUSINESS LAW, Inc.

Members: American Bar Association & Federal Bar Association
David Carroll, Stephenson, FBA # 8830; ABA # 65490183
Kenneth Wayne, FBA # 8831; ABA # 65472494

C/o 7406—27th Street W. #17
University Place, Washington 98466
Phone: 253-460-7574 Toll Free: 800-213-8391 Fax: 253-565-4361

September 18, 2000

Re: Proof of lawful government

NOTICE: These documents provide proof of the existence and text of the constitution established and ordained for the Washington republic member of the union of the several united States of America. THOSE WHO ARE NOT DOMICILED AT WASHINGTON WILL NEED TO OBTAIN AND PUBLISH SIMILAR PROOF OF GOVERNMENT FOR THEIR STATE.

To confirm recording via internet:
http://www.co.pierce.wa.us/cfapps/auditor/documentsearch.cfm

To obtain a certified copy from the custodian of records, contact:
Pierce County Auditor
2401 S 35th St Room 200
Tacoma WA 98409
253-798-7427

For Washington state cases, this documentation provides proof of a federal question regarding the fact that the constitution published in the Revised Code of Washington is not the constitution for the republic member of the union, and that there is no republican form of government available to the inhabitants of Washington as guaranteed by the national constitution.

On September 11, 2000, Judge Culpepper, Pierce County District Court Number One, Cause #Y0C002193, Y0C002195, and Y0037012, declared for the record that "State of Washington" is not a republic. He further indicated that there was no recourse available in the ordinary course of law in the "State of Washington" courts, indicating that the inhabitants of Washington must look to the courts of the United States of America for a remedy under a republican form of government! Judge Culpepper then noted for the record the various documents presented to the record providing proof of the facts, and continued the case so that the "defendant" had time to prepare and file an interlocutory action for review of the trial court's actions, indicating that such review would not be available in the "State of Washington" appellate courts.

American Business Law, Inc.

When Recorded return to:
David Carroll, Stephenson
C/o 7406 27TH ST. W. # 17; The City of Tacoma; The State of Washington. [98466]

David Carroll, Stephenson Affiant/Grantor and The People of the State of Washington a Republic/Grantee of:

CONSTRUCTIVE PUBLIC NOTICE

AFFIDAVIT OF
David Carroll, Stephenson

OFFER OF PROOF OF LAWFUL REPUBLICAN FORM OF GOVERNMENT ESTABLISHED BY CONSTITUTION, ORDAINED AND RATIFIED NOVEMBER 5, 1878, BY THE PEOPLE OF THE TERRITORY OF WASHINGTON

DONE THIS THE 13TH DAY OF THE MONTH OF SEPTEMBER
THE YEAR 2000

200009130560

Affidavit of David Carroll, Stephenson

Pierce county

The State of Washington } **SS.,**

AFFIDAVIT OF
David Carroll, Stephenson

OFFER OF PROOF OF LAWFUL REPUBLICAN FORM OF GOVERNMENT ESTABLISHED BY CONSTITUTION, ORDAINED AND RATIFIED NOVEMBER 5, 1878, BY THE PEOPLE OF THE TERRITORY OF WASHINGTON

I David Carroll, Stephenson, hereinafter referred to as Affiant, affirm under penalty of perjury under the laws of the organic republics of the several united States of America and the organic republic of The State of Washington that the following is true and correct to the best of my knowledge understanding and belief.

The Affiant affirms:

That the Affiant is of the age of majority and competent to testify.

That the Affiant has first hand knowledge to the facts stated herein.

That the Affiant states that the Affiants affidavit is admissible as evidence under the rules of evidence. The Affiant states that the following citations are undisputed facts as per CR 8(d) and FRCP 8(d), that he Affiants affidavit is admissible as evidence;

a). "Indeed, nor more than affidavits is necessary to make a prima facie case, U.S. v. Kis, 658 F. 2d 536 (CA7, 1981)cert. den., 50 U.S.L.W. 2169 (1982): however, 'a declaration may be used instead of an affidavit, Summers v. U.S. Dept. of Justice, 776 F. Supp. 575, 577 (D.C.D.C., 1991)."

b). "To constitute complete **affidavit,** three essential features are requisite: **first,** the written oath embodying the facts sworn to by the affiant; **second** the signature of the affiant thereto; and **third,** the jurat of attestation, by an officer authorized to administer the oath, that the affidavit was actually sworn to and subscribed before him by the affiant." **Glenn v. Metropolitan Atlanta Rapid Transit Auth., 158 GA. App. 98, 279 S.E. 2d 481 (1981).**

c). "Affidavit which shows that it is not made on personal knowledge of affiant is insufficient to show to the court that there is a genuine dispute for the jury to decide." **Cochran v. Southern Bus Univ., Inc., 110 Ga. App. 666, 139 S.E.2d 400 (1964).**

d). "If it appears that any portion of the affidavit was not made upon the affiants personal knowledge, or if it does not affirmatively appear that it was so made, that portion is to be disregarded in considering the affidavit in connection with the motion for summary judgment." **Morris-Bancroft v. Colman, 188 Ga. App.912, 374 S.E.2d 544 cert. denied, (1988).**

e). "Affidavits not showing that they were made on personal knowledge must be disregarded." **Mica-Top Fixture Co. v. Frank G. Shattuck Co., 124 Ga. App. 100 183 S.E. 2d 15 (1971).**

f). "Affidavit considered on motion for summary judgment must show that the affiant has personal knowledge of facts stated therein, and must contain evidentiary matter which, if the affiant were in court and testified, would be admissible as part of his testimony." **Chandled v. Gately, 119 Ga. App. 513, 167 S.E. 2d 697 (1969).**

g). "Only facts within personal knowledge of witness and admissible in evidence may be considered on motion for summary judgment or in opposition thereto." **Summer v. Allison, 127 Ga. App. 217, 193 S.E. 2d 177 (1972).**

h). "Bare legal conclusions in affidavits create no issue of fact on motion for summary judgment." **Resolute Ins. Co. v. Norbo Trading Corp., 118 Ga. App. 737, 165 S.E. 2d. 441 (1968) (decided under Ga.L.1959, p.234 sec.1 et seq.).**

i). "When affidavits are offered in support of motion for summary judgment, only those portions which were made upon personal knowledge of affiant, which were not mere conclusions unsupported by facts, and which would be admissible under general rules of evidence upon trial should be considered." **Short & Paulk Supply Co. v. Dykes, 120 Ga. App. 639, 171 S.E. 2d 782 (1969).**

j). "Failure to object would constitute a waiver of any formal defects in an affidavit; however, where the deficiency is one of substance rather than form, the trial court errs in its grant of summary judgment even though the affidavit is not objected to." **Parlato v. Metropolitan Rapid Transit Auth., 165 Ga. App. 758, 302 S.E. 2d 612 (1983).**

k). "Affidavit is essential, and if the instrument treated by the court and the parties as an affidavit be void, there is no foundation for the proceeding; the whole trial is a nullity..." **Bickley v. State, 243 Ga. 488, 489, 255 S.E. 2d p.32.**

l). "Criminal proceedings in a court of special or limited Jurisdiction must show on their face the facts requisite to give the court authority, under the law, to try the

case, pronounce sentence, and inflict punishment." Scroggins v. State, 55 Ga. 380 (1875).

m). "However, in criminal cases, ...the affidavit upon which an accusation is based is void, unless the purported affidavit was in fact sworn to and the jurat signed at the time the affidavit was made, ...Since in a criminal case the accusation is void, unless the oath is properly administered and this appears from the record, the whole proceeding, under the decision in [Scroggins v. State, 55 Ga. 380 (1875)], is a nullity." **Dixon v. State, 155 Ga. App. 17, 270 S.E. 2d 192, p. 193, quoting Gilbert v. State, 17 Ga. App. 143, 145, 86 S.E. 415, 416 (1915).**

n). "Each of the defendants in an affidavit unequivocally states that the complaints were not signed or sworn to by the prosecuting attorney before the justice of the peace, as required by law, or at all. Neither the prosecuting attorney nor the justice of the peace made counter-affidavits. A justice of the peace in this state is not a court of record. State Constitution, section 11, art. IV; State ex rel. **Brockway v. Whitehead, 88 Wash. 549, 153 Pac. 349**, A justice court not being a court of record, its records are only prima facie correct and may be contradicted by competent proof. **16 R.C.L. 390**. ...There is no reason given why the prosecuting attorney or the justice of the peace did not file an affidavit controvert the affidavits of the appellants if the fact as therein stated was not corrected. **In view of this situation, we think the affidavits of the appellants were sufficient to overcome the prima facie showing made by the record of the justice of the peace." STATE v. ALBERG, 156 Wash. 397, 400, 401, 402 (April 17th, 1930).** And;

o). "**[1] It is the general rule that once the Affiant has filed affidavits controvert the pleadings, the non-Affiant can no longer rely upon his pleadings but must come forth with evidence, as long as it is available, which would justify a trial.** W.G. Platts, Inc.v. Platts, supra, Plaisted v. Tangen, 72 Wn.2d 259, 432 P.2d 647 (1967); Reeb v. Streib, 65 Wn.2d 700, 399 P.2d 338 (1965); Barron & Holtzoff, Federal Practice and Procedure section 1235 at 149." **FELSMAN v. KESSLER, 2 Wn.App. 493, 496, 468 P.2d 691 (April 1970)**. And;

p). CR 56(e) and FRCP 56(e); Form of Affidavits; Further Testimony. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein." **HENRY v. ST. REGIS PAPER CO., 55 Wn. (2d) 148, 151 [No. 34779. En. Banc. November 27, 1959.]** And;

q). "The evidence before the judge is that contained in the pleadings, affidavits, admissions and other material properly presented. State ex rel. Bond v. State, 62 Wn.2d 487, 383 P.2d 288 (1963); 3 Barron & Holtzoff, Federal Practice and Procedure section 1236. When a pleading or affidavit is properly made and is uncontroversial, it may be taken as true for purposes of passing upon the motion for summary judgment. Preston v. Duncan, 55 Wn.2d 678, 349 P.2d 605 (1960); Henry v. St. Regis Paper Co., 55 Wn.2d 148, 346 P.2d 692 (1959)." **CHASE v.**

DAILY RECORD, INC., 83 Wn.2d 37, 42, 515 P.2d 154 [No. 42664. En Banc October 25, 1973.] And;

r). "This has long been the prevailing view in the federal courts. Surking v. Charteris, 197 F. (2d) 77 (C.A. 5th); Whitaker v. Coleman, 115 F.(2d) 305 (C.C.A. 5th). In 1963 it was made part of the federal rule on summary judgment, Federal Rule of Civil Procedure 56(e), which provides:

> ". . . When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not respond, summary judgment, if appropriate shall be entered against him."

s). The whole purpose of summary judgment procedure would be defeated if a case could be forced to trial by a mere assertion that an issue exists without any showing of evidence. 3 Barron and Holtzoff, Federal Practice and Procedure section 1235, p.141." **REED v. STREIB, 65 Wn.(2d) 700, 706, 707 (February 18, 1965)** And;

t). [1] THE FUNCTION OF THE SUMMARY JUDGMENT IS TO AVOID A USELESS TRIAL. A TRIAL IS NOT USELESS BUT ABSOLUTELY NECESSARY WHERE THERE IS A GENUINE ISSUE AS TO ANY MATERIAL FACT. ...[4] THE PURPOSE OF THE RULE IS TO PERMIT THE COURT TO PIERCE FORMAL

u). ALLEGATIONS OF FACTS IN PLEADINGS, AND GRANT RELIEF BY SUMMARY JUDGMENT WHEN IT APPEARS FROM UNCONTROVERSIAL FACTS SET FORTH IN AFFIDAVITS, DEPOSITIONS, OR ADMISSIONS ON FILE THAT THERE ARE, AS A MATTER OF FACT, NO GENUINE ISSUES. ...[9] The summary judgment rule will best serve its purpose when we all, bench and bar alike, become aware that, as Judge Hutcheson has said,

v). " . . . Summary judgment procedure is not a catch penny contrivance to take unwary litigants into its toils and deprive them of a fair trial, it is a liberal measure, liberally designed for arriving at the truth. Its purpose is not to cut litigants off from their right of trial by jury if they really have evidence which they will offer on a trial, it is to carefully test this out, in advance of trial by inquiring and determining whether such evidence exists. . . . " Whitaker v. Coleman, (C.C.A. 5th, 1940), 115 F. (2d) 305, 307. [10] We need to understand, too, that pleadings, if properly challenged on the showing by the Affiant, will no longer carry a litigant to trial; for, in the words of Judge (later Justice) Cardozo:

w). " . . . The very object of a motion for summary judgment is to separate what is formal or pretended in denial or averment from what is genuine and substantial, so that only the later may subject a suitor to the burden of a trial. . . ." Richard v.

Credit Suisse 91926), 242 N.Y. 346, 152 N.E. 110, 45 A.L.R. 104." **PRESTON v. DUNCAN, 55 Wn. (2d) 678681, 682, 683, 684 (February 25, 1960).** And;

x). **The court has no authority to abrogate by rule a right guaranteed by the constitution." State v. Pavelich, 150 Wash. 411, 273 P.182 (1928).** And;

y). "Statute law, as adopted by the legislature, prevails over a restatement thereof in the code. RCW 1.04.020-.021." **STATE EX REL. ETC. v. MERCER ISL., 58 Wn. (2d) 141, 144 (April 20, 1961.)** And;

z). See your State's **CrRLJ 1.1 DECISIONAL CASE LAW** which states in part: "These rules govern the proceedings in the court of limited jurisdiction of the State of Washington in all criminal proceedings and supercede all procedural statutes and rules that may be in conflict. They shall be interpreted and supplemented in light of the common law and **the "decisional law"** of this state. **These rules shall not be construed to affect or derogate from the constitutional rights of any defendant."** See also **CrR 1.3 (a)** which states in part: "...any constitutionai rights are not impaired by these rules." and;

aa). **ARLJ 7: "Any willful failure to apply the provisions of these rules in his court, the failure to amend or vacate local court rules contradictory to those herein set forth, or the continuation of practices expressly forbidden in these rules by the judge of any court subject thereto who has received actual notice of their adoption may be considered a "CONTEMPT" OF THE SUPREME COURT OF WASHINGTON AND PUNISHABLE AS SUCH."**

OFFER OF PROOF OF LAWFUL REPUBLICAN FORM OF GOVERNMENT ESTABLISHED BY CONSTITUTION, ORDAINED AND RATIFIED NOVEMBER 5, 1878, BY THE PEOPLE OF THE TERRITORY OF WASHINGTON

That attached hereto is a copy of a State Archivists certified copy of the Constitution established and ordained by The people of the State of Washington creating the republic of The State of Washington, AD 1878. See Exhibit "A". Certified copies may be acquired from the State Archivists upon request for a modest fee.

That attached is a self authenticating evidence that on November 5, 1878, the people of the Territory of Washington established, ordained and ratified the Constitution of the State of Washington November 5, 1878 establishing a republican form of government for The State of Washington November 5, 1878, as evidenced by the certified election results of 1878 establishing the

State of Washington. See Exhibit "B". Certified copies may be acquired from the State Archivists upon request for a modest fee.

That attached is self authenticating evidence that the Congressional record of the House of Representatives of 1878, wherein the congress of the United States of America, recognized the delegates of the constitutional convention for the State of Washington. See Exhibit "C". Copies may be acquired from the public library.

That attached is self authenticating evidence that the Congressional record of the House of Representatives of April 21, 1879 wherein Mr. Brent introduced bill (H.R. No. 1290) for the admission of the State of Washington into the Union; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed. See Exhibit "D". Copies may be acquired from the state library.

That attached is self authenticating evidence that Mr. Voorhees January 18, 1889 addressed the congress of the United States of America, and informed the house that Washington did in fact adopt a constitution in 1878. See Exhibit "E". Copies may be acquired from the state library.

That attached is self authenticating evidence that Mr. Voorhees, January 28, 1889, presented the Constitution of the State of Washington established, ordained and ratified by the people of Washington November 5, 1878, to the Senate of The United States of America, which by order of the senate that said Constitution of the State of Washington be referred to the Committee on Territories, and ordered to be printed, to accompany Senate bill No. 185. See Exhibit "F". Copies may be acquired from the state library.

The attached is self authenticating evidence that a Mr. H. C. Walworth, January 24, 1889, on behalf of a committee for the "Admission to the United States" requested of Territorial Governor, Eugene Semple, that; See Exhibit "G". Certified copies may be acquired from the State Archivists upon request for a modest fee:

> "In the event the fiftieth Congress adjourns without passing an enabling act for the admission of Washington Territory, and in view of the fact that our territorial legislature can not legally convene before January 1890, and in the further event is should appear to your satisfaction that the people desire, and the public welfare demanded, the assembling of a Constitutional Convention, would

> you feel justified in exercising your official prerogative to the extent of making the call for such a convention by executive proclamation?"

That attached is self authenticating evidence that Territorial Governor Eugene Semple, on January 26th, 1889, responded to the correspondence of H. C. Wilwarth to wit: See Exhibit "G". Certified copies may be acquired from the State Archivists upon request for a modest fee.

> January 26, 1998.
> Respectfully referred to the Attorney General. Is there any authority of law, or precedent for such action on the part of the Executive as is suggested in the within letter.

That attached is self authenticating evidence that it was the official findings of Attorney General Metcalf that the Territorial Governor lacked the authority to call for a constitutional convention for the Washington Territory. See Exhibit "H". Certified copies may be acquired from the State Archivists upon request for a modest fee.

That attached is self authenticating evidence the fiftieth congress in February 22, published in volume 0 in the RCW, enacted the enabling act for the admission of several additional states to the union including but not limited The State of Washington, rendering the conditions upon which Mr. H. C. Wilmarth based the request of the Committee for "Admission to the Union of States" to Washington Territorial Governor, Eugene Semple, for the Governor by proclamation to call for a constitutional convention 1889, a moot issue. See Exhibit "I". Copies may be acquired from either the public library or the State Law library in Olympia Washington.

That the Affiant affirms that after diligent investigation and inquiry, that there is no record of any proclamation of Territorial Governor Eugene Semple to call a constitutional convention in the year 1889.

The Affiant affirms that the Affiant, that after diligent investigation and inquiry, can find no record in the State or the United States that any document purported to be the constitution established, ordained and ratified by the people of the Washington Territory other than The Constitution of the State of Washington established, ordained and ratified November 5th, 1878, was ever submitted to the Congress of the United States for admission to the union or that the certified election results of the first Tuesday October 1889 as a true statement of the votes for or against the Constitution for the State

of Washington refers to any other constitution than the Constitution of the State of Washington established, ordained and ratified November 5, 1878 and submitted to the Congress by Mr. Voorhees January 28, 1889.

That attached is self authenticating evidence from "STATE OF WASHINGTON, COMPREHENSIVE ANNUAL FINANCIAL REPORT For the Fiscal Year Ending June 30, 1999" published by the "Office of Financial Management" page 2 **GOVERNMENTAL STRUCTURE,** to the record of this court that the State of Washington was created by an act of congress in 1889: See Exhibit "J".

> "The state of Washington was created by an act of Congress in 1889".

The document published under seal of the enterprise State of Washington clearly establishes that the enterprise State of Washington was created by an act of congress in 1889 as a type of municipal corporation under the authority the municipal corporation of the District of Columbia and not by constitution.

That the evidence reveals that the enabling act was Approved in February 22, 1889.

That the text of the document published in book 0 purported is purported to be the Constitution of the State of Washington.

That the Affiant affirms the legislature of the territory of Washington in the year 1889 could not have lawfully by an act of the legislature convened a constitutional convention until the 1890 session, and that it was determined by the Attorney General Metcalf that Governor of the Washington Territory could not lawfully by executive proclamation to call a constitutional convention in the year 1889.

That the Affiant affirms that the Affiant, after diligent investigation and inquiry, can find no evidence that there was any lawful constitutional convention convened in the year 1889.

That the Affiant affirms that the document purported to be "Minutes of Proceedings of Constitutional Convention Assembled July 4th, 1889", copies of which can be acquired from the State Archivist, does not show under what authority said convention was convened if any.

The Affiant affirms that the final entry in the "Minutes of Proceedings of Constitutional Convention Assembled July 4th, 1889" is dated July 20, 1898, ten years after The Republic of Washington was admitted to the union in 1889.

The Affiant affirms that the following names purported to be delegates to the "Constitutional Convention Assembled July 4th, 1889", are also members of the "Committee for Admission to the Union of States" who sent a letter January 24, 1889, requesting Washington Territorial Governor, Eugene Semple if the fiftieth congress did not pass an enabling act for the admission of Washington Territory to call a constitutional convention by executive proclamation.

H. C. Wilwarth
M. M. Goodman
R. O. Dunbar
Geo H. Jones

The Affiant affirms that the Affiant, after diligent investigation and inquiry, can find no evidence in the records of the State or the United States that any document purported to be a constitution other than the Constitution of 1878 ordained and ratified by the people of the Washington territory was submitted to congress for the purpose of admission to the union.

That the Affiant affirms that the Affiant, after diligent investigation and inquiry, can find no evidence in the records of the State or the United States that the document published in volume 0 of the RCW purported to be the constitution of the State of Washington replaced, nullified, or repealed The Constitution of the republic, State of Washington 1878.

That the Affiant affirms, based on the records of the State and the United States that the documents attached hereto, that the Constitution of the State (republic) of Washington 1878, is the Constitution established and ordained, by the people of the Washington Territory submitted to the Congress in 1889 for the purpose of application for admission to the union upon which the proclamation that The State of Washington was admitted to the union is based, and not the Constitution published in volume 0 of the Revised Code of Washington.

That the Affiant affirms that the Affiant, after diligent investigation and inquiry, can find no evidence in the records of the State or the United States that the enterprise operating under the name "State of Washington or STATE OF WASHINGTON or the State of Washington or the STATE OF

WASHINGTON" herein after referred as "STATE OF WASHINGTON" has any standing as an entity within the geographical area of the republic of The State of Washington.

That the Affiant affirms that based in the evidence attached hereto, shows that "The Constitution of the State of Washington 1878" is the true and correct constitution established and ordained by the people of The State of Washington and as such renders every Legislative, Executive and Judicial act including but not limited all, session law established under the claim of authority of the document purported to be the Constitution of the State of Washington published in volume 0 of the RCW as void ab initio as those acts and session laws pertain to the geographical area of the republic of The State of Washington or the inhabitants of the republic of The State of Washington for want of a lawfully established legislative body under the authority of the 1878 Constitution of the State of Washington.

That the Affiant Affirms that the based upon the evidence attached hereto, that as clearly established therein, the organization doing business as "State of Washington" and "STATE OF WASHINGTON" and its political subdivisions is not the republic established and ordained by the people for the government of the republic of That State of Washington, and as such has no governmental powers or authority and meets the test for defacto government denying the people of the Republic of The State of Washington access to their express republican form of government established by constitution, ordained and ratified in the year 1878.

The Affiant has nothing further to state at this time.

I, David Carroll, Stephenson, affirms under the penalty of perjury under the laws of the organic republic of The State of Washington that the forgoing is true and correct to the best of my knowledge, understanding and belief.

Affirmed this the 13 day of the 9 month of 2000.

David Carroll, Stephenson, Affiant

On this the 13 day of the 9 month of 2000, David Carroll, Stephenson, known to me to be the party who affirmed the instrument entitled "Affidavit of David Carroll, Stephenson" as a free act and deed.

Notary Public Commission expires 4-9-04

[Seal]

200009130560