

FIRST CITIZENS BANK & TRUST COMPANY,

Case Number: 2019-CP-22-00978

“Plaintiff”;

Personal Representative: Cynthia Moore, executrix,

“Defendant(s)”.

Theodore Von Keller, (SC Bar# 5718)

NOTICE, not a motion

Attorney for alleged “plaintiff”

Addressed to: Theodore Von Keller,
P.O. Box: 4216,
Columbia, South Carolina, [29240]

Jurisdictional Challenge

With Affidavit.

Cynthia Moore, executrix by limited appearance to this matter in this court of record with clean hands, without prejudice and with all rights reserved including UCC 1-308 in dealing with this court, in pro per, sui juris (Not Pro-Se), have not seen any evidence that proves how this court got its jurisdiction.

Cynthia Moore, executrix has the right to challenge the jurisdiction of any court that attempts to force compliance with its deceptive practices, procedures, rules, and word-smithing at any time, and this right has been upheld by numerous decisions by the Supreme Court of the United States. Once jurisdiction has been challenged, it is the mandatory obligation of the opposing party to prove the basis of the court having jurisdiction to proceed in the matter before it, and until that has been put on the Record of the court, the court can proceed no further.

Further, the Supreme Court of the United States has ruled that jurisdiction can be **challenged at any time** even as much as 15 (fifteen) years after a judgment has been entered. Decisions of the Supreme Court of the United States are mandatory requirement to be complied with by all courts, state and federal and leave those courts no discretion as to comply. The following Supreme Court cases set out the mandatory requirements that must be complied with.

"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action."

Melo v. US, 505 F2d 1026.

"Where there is no jurisdiction over the subject matter, there is no discretion to ignore that lack of jurisdiction." **Joyce v. US**, 474 F2d 215.

"Generally, a plaintiff's allegations of jurisdiction are sufficient, but when they are questioned, as in this case, the burden is on the plaintiff to prove jurisdiction." **Rosemond v. Lambert**, 469 F2d 416.

"Judgment rendered by court which did not have jurisdiction to hear cause is void ab initio." **In Re Application of Wyatt**, 300 P. 132; **Re Cavitt**, 118 P2d 846. "It is elementary that the first question which must be determined by the trial court in every case is that of jurisdiction." **Clary v. Hoagland**, 6 Cal.685; **Dillon v. Dillon**, 45 Cal. App. 191,187P. 27.

The **response** from the **Party/Petitioner/Plaintiff** asserting proper jurisdiction throughout this case must be made on a point by point basis for **all** the moving **Party/Petitioner/Plaintiff** actions, filings and motions are true and correct in relation to the proper State laws, codes, rules, regulations, statutes used to conduct this case that proper jurisdiction was always maintained from the record including the incomplete summons.

"A departure by a court from those recognized and established requirements of law, however close the apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is as much an "excess of jurisdiction" as where there exists an inceptive lack of power." **Wuest v. Wuest**, 53 Cal. App. 2d 339,127P.2d 934.

"A court has no jurisdiction to determine its own jurisdiction for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question in the first instance." **Rescue Army v. Municipal Court of Los Angeles**, 171 P2d; 331 US 549, 91 L. ed. 1666, 67 S. Ct. 1409.

"Where there is no jurisdiction there is no judge; the proceeding is as nothing. Such has been the law from the days of the Marshalsea." 10 Coke 68; also **Bradley v. Fisher**, 13 Wall 335,351." **Manning v. Ketcham**, 58 F.2d 948.

"A distinction must be here observed between **excess of jurisdiction** and the clear absence of all jurisdiction over the subject-matter any authority exercised is a **usurped authority** and for the exercise of such authority, when the **want of jurisdiction is known** to the judge, **no excuse is permissible**." **Bradley v. Fisher**, 13 Wall 335, 351, 352.

"Plaintiffs bear the burden of establishing subject matter jurisdiction." **KNAPP MEDICAL CENTER, et al. v. Eric D. HARGAN**, 875 F.3d 1125, (2017).

"**Jurisdiction**, once challenged, **is to be proven**, not by the court, but **by the party attempting to assert jurisdiction**. The burden of proof of jurisdiction lies with the asserter. The court is only to rule on the sufficiency of the proof tendered." **McNutt v. GMAC**, 298 US 178. Emphasis added. The origins of this doctrine of law may be found in Maxfield's **Lessee V Levy**, 4 US 308.

In a very recent decision, the Supreme Court unequivocally stated in *James v. City of Boise Idaho*, 136 S. Ct. 685 (2016):

"It is this Court's responsibility to say what a [federal] statute means, and once the Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law." *Nitro-Lift Technologies, L.L.C. v. Howard*, 568 U.S. —, —, 133 S.Ct. 500, 503, 184 L.Ed.2d 328 (2012) (*per curiam*) (quoting *Rivers v. Roadway Express, Inc.*, 511 U.S. 298, 312, 114 S.Ct. 1510, 128 L.Ed.2d 274 (1994) (internal quotation marks omitted)). And for good reason. As Justice Story explained 200 years ago, if state courts were permitted to disregard this Court's rulings on federal law, "the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable." *Martin v. Hunter's Lessee*, 1 Wheat. 304, 348, 4 L.Ed. 97 (1816)."

The court also said:

"The Idaho Supreme Court, **like any other state or federal court, is bound by this Court's interpretation of federal law**" [emphasis added]

Cynthia Moore, executrix at this time makes that challenge and demands that the order the so-called Plaintiff in this case provide direct evidence and proof on the Record that the **Court of Common Pleas of Georgetown County** *is* a judicial power court which was created by the Constitution for the State of South Carolina and operates in compliance with all of the provisions of the Constitution for the United States of America.

The Court would lack jurisdiction being that there is evidence to support the improperly contrived subject matter by proper legislative process; and the Eleventh Amendment of the United States Constitution removed all "judicial power" in law, equity, treaties, contract law and the right of the State to bring suit against the People, therefore the "alleged Defendant" now challenge jurisdiction for the record.

Standing must also be proven to show jurisdiction. In order to file a case in court, litigants must have "standing" to sue. To have standing, Supreme Court doctrine requires that parties have an "injury in fact." This injury must be specific and concrete - rather the speculative and abstract. Standing requires the violation of a legal right that causes damage. "A plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *Allen v. Wright*, 468 U.S. 737, 751 (1984)

All orders or judgments issued by a judge in a court of limited jurisdiction must contain the findings of the court showing that the court has subject-matter jurisdiction, not allegations that the court has jurisdiction.

Any explanations to the above-mentioned matters MUST be done on a point by point basis with verified facts that are referenced in law, Legislative acts, Federal and/or State constitutions. The **response** from the **Party/Petitioner/Plaintiff** asserting proper jurisdiction must be sworn to under the penalties of perjury of the United States of America that response is true and correct, certified by notarization, and must be able to be understood by any reasonable man/woman should understand.

Pleadings of this Party SHALL NOT BE dismissed for lack of form or failure of process. All the pleadings are as any reasonable man/woman would understand, and in support of that claim I submit the following:

“And be it further enacted. That no summons, writ, declaration, return, process, judgment, or other proceedings in civil cases in any of the courts or the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects or want of form in such writ, declaration, or other pleading, returns, process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and wants of form, other than those only which the party demurring shall express as aforesaid, and may at any time, permit either of the parties to amend any defect in the process of pleadings upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe. (a)” Judiciary Act of September 24th, 1789, Section 342, FIRST CONGRESS, Sess. 1, ch. 20,1789.

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**CONCLUSION with DIRECTIVE**

WHEREFORE, Cynthia Moore, executrix having duly challenged the jurisdiction and claim of judicial power of **Court of Common Pleas of Georgetown County, South Carolina**, does now demand and direct said Court to order the Plaintiff in said cause to prove on the Record of this instant case that the Declarations of Cynthia Moore, executrix are invalid and to prove that this Court was created by the Constitution for the State of South Carolina, holding judicial power. And that the judges who have presided over this case prove by certified archival documents that they had on file the required oath set forth by Act of Congress as 1 Stat. 23 before they issued the orders, which said judges claim to have judicial power to issue and to have enforced by any law enforcement agency. Cynthia Moore, executrix, serves Administrative/Judicial Notice on this Court, that unless and until the above

Affidavit is rebutted in its entirety, point by point, it stands as the Law of this instant case. Pursuant to **Melo v. US**, this Court **must**, once jurisdiction has been challenged, as it now has been, **halt all further proceedings and stay all Orders/Writs that this Court has issued**. Further, this Court shall issue an Order to the Plaintiff to prove jurisdiction on the Record of this case and rebut the above Affidavit, point by point, within **10 days** of the filing of this Challenge of Jurisdiction. Should this Court refuse to issue such order to the Plaintiff, this Court admits on the Record of this case that all orders which have been issued by any alleged judge of this Court in this instant case are VOID, not merely voidable. And, should this Court refuse to issue an order declaring **all Orders in this case VOID**, that such refusal or silence is a Tacit admission that the Court is intentionally and maliciously violating the unalienable civil rights of, Cynthia Moore, executrix, one of the People of South Carolina; and further, this Court, as a result of its Tacit admission agrees, that a Civil Rights complaint, against all perpetrators of the violations, would be an appropriate action.

**Approve as to form**

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**By: Cynthia Moore, executrix.**

**VERIFICATION**

I, Cynthia Moore, executrix, a South Carolina, State Citizen and one of the People of South Carolina, makes this Verification based on personal knowledge of matters set forth herein and appearing without waiving any rights or remedies, being competent in mind and body to testify, do hereby declare, verify and affirm that the facts stated herein are true, correct, and complete in all material fact, not misrepresented based on my own knowledge to the best of my current information, knowledge and belief under the penalty of perjury of the laws of the United States of America and the laws of South Carolina, and is admissible as evidence in a court of law or equity, except as to those matters that are therein made upon information and belief, and as to those claims or facts, I believe them to be true and admissible as evidence, and if called upon as a witness, I will testify as to the veracity of my statements.

Entered this \_\_\_\_\_ day of October, 2020.

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Cynthia Moore, executrix.

\_\_\_\_\_  
Notary Signature

Seal

\_\_\_\_\_  
Printed Notary Name

My commission expires \_\_\_\_\_