COMMUNITY SUPPORT FOUNDATION
Filed in behalf of an ad hoc group of Americans by:
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IN THE FOUTH DISTRICT COURT OF UTAH COUNTY

STATE OF UTAH

STATE OF UTAH,	/	**MOTION TO BE ADMITTED**
Plaintiff	/	**BRIEF AMICUS CURIAE**
vs.	/	**SUPPORTING DEFENDANTS** as authorized by
PAUL KENNETH CROMAR a.k.a. Paul-Kenneth: Cromar, and	/	Amendment I to the Constitution
BARBARA ANN CROMAR a.k.a Barbara-Ann: Cromar	/	JUDGE CHRISTINE JOHNSON
Res Defendants	/	Case Nos. 201402860 & 201402868

BRIEF AMICUS CURIAE OF COMMUNITY SUPPORT FOUNDATION, SUPPORTING DEFENDANTS

OVERVIEW

Pursuant to the case of ***State of Utah vs. Paul Kenneth and Barbara Ann Cromar***, as authorized by Amendment I of the Constitution, we of The Community Support Foundation, an ad hoc grassroots organization involving people across the country, present this ***"petition for redress of grievances"*** in the form of this **Amicus Curiae** on behalf of the Defendants otherwise known as "Barbie and Ken", who in two separate lawsuits against the Commissioner of the IRS filed in US Tax Court Washington DC, the IRS Commissioner admits there are **no lawful federal income tax claims against the Defendant Cromars from 1990**

through 2020 – for which reason his counsel's Motions "to dismiss for lack of jurisdiction" were accepted by Chief Judge Maurice B. Foley. (see Exhibits "A" & "B") Barbie and Ken happily accepted the IRS's rare admission of error, as it finally exonerates them of the original Complaint in US District Court that began November 22, 2017, and by extension this instant case the nonsensical attempt to incarcerate them for "burglary" of **their own home.**

To be clear, we believe the vindication by the US Tax Court means that the last 4.5 years of 15 court cases wherein *Barbie and Ken* have simply attempted to defend their *Life, Liberty, Honor and Property* from those trying to steal their home, doing so *sui juris* (without attorney, as they are competent to handle their own affairs), maintaining their claim to being "100% innocent", should have never commenced, and that the judicial malfeasance that has resulted in this harm and damage to the Cromars includes, but is not limited to the following actionable injustices for which remedy and damage may be sought:

- **Barbie & Ken are falsely accused of $1,053,028.65 liability** in federal income tax and hit with "UNITED STATES OF AMERICA vs. PAUL KENNETH CROMAR, BARBARA ANN CROMAR, et all";
- **Barbie & Ken** were given a **now void DEFAULT JUDGMENT** by the same court that has denied *due process*, hearing, and trial before its presiding Chief Judge Robert J. Shelby;
- **Barbie & Ken are victimized** again by the same court which Orders a **US Marshal led SWAT** team of at least 13 to remove the Cromars from their land / home of near 30 years;
- **Barbie & Ken** witnessed the **unlawful auctioning off their home** to the highest bidder – who **defaulted 30-days later** when he could not come up with his total bid money (and as per policy forfeiting the $31,000 paid day of auction, and a subsequent "sale" of their home in a **questionable transaction outside of IRS procedure** and IRS Title 26 requirements;
- **Barbie & Ken are** terrorized a **second SWAT** months later, by a paramilitary, "multi-jurisdictional" **75-man SWAT team** that terrorized the Defendant Cromars' peaceful neighborhood and included 2 helicopters, 2 MRAPs, numerous snipers, and the **arrest (kidnapping)** of the Cromars **without presentment of Warrant** despite numerous requests, **false imprisonment (assault)**, and in Ken's case a **second false arrest** due to error by the County jail after bail was posted, with neither time being read his Miranda rights;
- Virtually all of **Barbie & Ken's earthly possessions**, including Ken's professional filmmaking and editing equipment, were **stolen from their home and "discarded"** in some unknown landfill, reportedly in "at least 7 large dumpsters", **depriving the Cromars' ability to make a living** without all of his tools of his trade;
- Through constructive fraud and false-swearing, **Barbie & Ken face the potential** of being convicted and **imprisoned up to 15 years**, which with Ken at 62 and Barbara at 59 years of age could be the rest of their lives, under **false claims "Burglary" of their own home**;
- **Barbie & Ken are** the actual **victims of numerous injustices**, which injustice may be better addressed by the Prosecutor in filing **charges for misprision of felony** and possible **RICO violations** against a web of government actors who have violated their oath of office and played their part to facilitate now proven ***fatal errors*** **discovered within fifteen cases**.

In the interest of JUSTICE, and avoidance of potential charges of Malicious Prosecution, Abuse of Process, Misprision of Felony, this court would be well advised to acknowledge the fatal

errors highlighted by the US Tax Court admissions and exonerate **Barbie & Ken** immediately and instead consider launching an investigation into what appears to us a ***weapon-ization*** of the powerful IRS machinery launched by fraudulent "anonymous" claims of "tax fraud" against the Cromars, by their political enemies from his years on the Cedar Hills City Council and after, wherein he led groups of Cedar Hills neighbors in researching and GRAMA requesting public records, and exposing the entrenched corruption surrounding misuse of taxpayer money, particularly with the ongoing failed Cedar Hills golf course. www.CedarHillsCitizens.org

[Jesus said,] "So in everything, do to others what you would have them do to you, for this sums up the Law and the Prophets." (BIBLE – Matthew 7:12)

If **Barbie & Ken** are harmed by a court, then ALL *"We the people"* are harmed.
If **Barbie & Ken** can secure justice in court, then ALL *"We the people"* enjoy justice.

If this could happen to "Barbie and Ken", it could happen to you.

FATAL ERRORS VOIDS ACTIONS AGAINST THE DEFENDANTS

The Commissioner of Internal Revenue's admission of 31-year exoneration of the Cromars in the original Complaint and this current action. (see again Exhibits "A" & "B")

Additionally, now a NEW second **fatal error** has recently been discovered with the mishandling of the defendant Cromars' Appeal the Tenth Circuit Court of Appeals regarding an Order to Foreclose and Sell. The Community Support Foundation *(We the people)* report herein that numerous tyrannical, unlawful abuses of power occurred during a 13-month period of time which should have protected the Cromars until the appeal was answered. On **May 17, 2019** the Cromars filed an Appeal to the Tenth Circuit Court of Appeals (docket # 112) regarding the **"Order granting #103 Motion for Order Foreclosure and Judicial Sale"** (docket #104), BUT it was NOT answered until over 13-months later on **June 23, 2020** when the Circuit's Mandate was Affirmed (see docket #128), thus **making VOID all actions** taken against the Cromars **during those 13-months** until their Appeal was answered. This judicial malfeasance creates a clear *Deprivation of Rights Under Color of Law* (18 U.S. Code § 242) and a *Conspiracy to Deny Rights* (18 U.S. Code § 241), subject to the pains and penalties detailed therein, as well as actionable RICO violations by numerous government officials who appear to have acted in concert to cover the error up in hopes the Cromars, terrorized and traumatized, doing the best they could to defend themselves while without home or resources, without professional BAR attorneys who might take note of, and object to the fatal error. However, we, the Community Support Foundation have noticed and we hereby strenuously OBJECT to this injustice.

PROTECTING GOD-GIVEN LIBERTY

Community Support Foundation promotes public involvement wherever needed to the relief to the unjustly distressed. This ad hoc organization encourages *We the people* Americans

to participate in the protecting and defending of each others' God-given rights, through education regarding the Supreme Law of the Land the Constitution (and state Constitution) – and other activities that help development and support of equal justice for all in Law and Order.

Therefore, The Community Support Foundation (some of *We the people*) take great interest in oversight of this criminal proceeding of *State of Utah vs. Paul Kenneth and Barbara Ann Cromar,* as "community advocates" and we believe this Amicus by the Foundation can provide an important perspective in this ongoing debate.

Additionally, this Amicus submission will help remind that judges ARE Still REQUIRED To *Serve the people*. The Constitution stipulates that judges shall hold office *"during good behavior."* (Article III Section 1) Our judges are bound by Article VI of the Constitution, which describes the "supreme law of the land." The clause in United States Constitution's Article VI, states that all laws made "furthering the Constitution" and "all treaties made ... under the authority of the United States are the *supreme law of the land*".

We observe that the defendants Cromar have suffered a *"a long train of abuses and usurpations"* (Declaration of Independence) through 15 court cases, by a number of judges and officers of the court that are not honorably acting in "good behavior". We have also discovered that the Cromars' 14th and 15th cases were their suits against the Commissioner of Internal Revenue resulted in admissions by the Commissioner of the IRS that it had no legitimate claim (as required and lawfully signed in *Notices of Deficiency* and *Notices of Determination*) over the Defendants Cromar from 1990 through 2020 (31-years straight), and pressed for "Dismissal for lack of jurisdiction" – with which the Cromars agreed 100%. We, of the Foundation also agree with the Cromars and the Commissioner of the IRS, that the Cromars lacked jurisdiction in US Tax Court, because the Commissioner wasn't claiming jurisdiction over the Cromars from 1990 though 2020. Everyone wins! That is except every officer of every court that **did not uphold the Cromars' unalienable rights and *"innocence until proven guilty"***, and thus having bitten from the poisonous fruit of the US District Court's fatal errors, spreading poison into other cases, whose orders and judgment are now VOID, with need to VACATE *ab initio*.

Therefore, we offer that very few Americans are even aware of their right to present a **Motion to be Admitted as an Amicus** and offer their thoughts and opinions pursuant to specific cases before our courts. Through this process of **Motion to be Admitted as an Amicus** in this case, Community Support Foundation is informing the people that they can participate in this process. Therefore, we *"Petition for Redress of Grievances"* herein as authorized by Amendment I of the Constitution, the Supreme Law of the Land, hence requiring no inferior state (Utah Rule 14-705) or federal statute to do so.

Finally, the Court's ruling will confirm the Court's position as to whether the opinion of *We the people* does, in fact, matter.

"Nothing offends the human conscience more that the attempt by one member of society to advance at the expense of another." And, as a Maxim of Law declares, *"No man ought to derive any benefit of his own wrong."*

PLAINTIFF ARGUMENT REQUIRMENTS

In America, we have always championed the importance and expectation of a level playing field. During Supreme Court Justice Elena Kagan's confirmation hearing in 2010, she described the courts as *"level playing fields"* where people receive *"equal justice"* - An ideal that is engraved in marble on the front of the Supreme Court building: *"Equal Justice Under Law"*. (see Exhibit "C" – picture of relief on SCOTUS Building)

Just to be clear, we were given a Constitutional Republic and any officer of this court who believes ours a "democracy" should be fired for judicial ignorance and malfeasance. Democracy is accurately described as "mob rule by the majority". The beauty of the actual Constitution, for those educated enough to understand it, know that it is the greatest document *"ever struck off at a given time by the brain and purpose of man,"* (William Gladstone), for one simple reason: The Constitution of the United State of America protects the rights of the individual from the tyranny of the majority (or democracy). God is the sovereign, followed by the individual, NOT government. Government was established by the Founders to be the servant to protect the sovereign (the people), – but only just as far as it can go before it affects another's rights.

The people of this community are asking to be heard.

The community has been adversely affected by the actions of the plaintiff far beyond the defamation and economic losses of the defendants. Therefore, in this case, we see Two of the *"We the people"* (the defendant Cromars), being greatly harmed by government tyranny. **We believe if one is harmed by government tyranny, then ALL of *"We the people"* are harmed**. As individuals, businesses and nations we are bound together by a vast web of treaties, laws and rules of engagement. Though sometimes complex and inefficient, the Rule of Law has prevented us from completely devolving and dropping into complete chaos created by the falable Rule of Men. The Supreme law of the Land supports and protects our civilization and our very existence. The prosecution's blatant violations of trust have weakened the fabric of confidence that binds the community together.

However, the most tragic impact has been the deliberate and calculated attempt of the prosecution to advance their plan, at the expense of another, with the aid of legal counsel and officers of the Court; because their participation has allowed the Courts and the Law to be wielded as instruments of abuse.

The following are the plaintiffs' position, fatal though they are, as best we can decipher them:

PLAINTIFFS ALLEGED "MATERIAL FACTS"

1. THE PLAINTIFFS ALLEGE - Before September 2019, the defendants "were" the owners of the subject property at 9870 North Meadow Drive, Cedar Hills, Utah ("Meadow Drive property"). They refused, were not lawfully required, to pay federal income taxes for years which led the Internal Revenue Service ("IRS") to file a federal tax lien on the Meadow Drive property and were established as *"dishonest federal*

income tax cheats". When the IRS moved to foreclose on the lien, the defendants "represented themselves *pro se*" and employed "questionable" legal strategies in trying to defeat the foreclosure process. The ultimate result of this contest was an Order of Foreclosure and Judicial Sale ("foreclosure order") in the United States District Court for the District of Utah. (see **Order granting #103 Motion for Order Foreclosure and Judicial Sale** as found in docket #104 in U.S. District Court case number 2:17-cv-01223-RJS, **March 20, 2019**.) The foreclosure order gave the defendants 15-days to vacate and divested themselves of their title and interests in the Meadow Drive property. (Plaintiff's docket #104 at ¶ 3, 5, 9.) The defendants were forcibly removed under court order from the property / home on the morning of **June 25, 2019** at approximately 9:24 a.m. by US Marshal led SWAT team of no less than 13 agents. ***REMEMBER:*** *The Defendant Cromars' APPEAL to the Tenth Circuit Court was filed May 17, 2019 (docket #112), and would not be answered for 13-months until June 15, 2020 (docket #127), thus making VOID numerous adverse actions during that time.*

2. THE PLAINTIFFS ALLEGE - The Meadow Drive property was sold at public auction pursuant to the foreclosure order on **September 10, 2019**, with Nathan Eddington declared the winning bidder at $330,000 by sworn affidavit of IRS agent "Gary Chapman" (pseudonym - Employee ID #10000324786). **April 15, 2020,** the federal government moved the U.S. District Court for an **Order Confirming Sale and Distributing Proceeds** ("sale order"). (see Docket #119). The defendants objected. In granting the sale order, the federal court noted that the defendants' objection *"relies on the same frivolous arguments the Cromars have raised throughout this case, i.e., that their due process rights have been violated and this court lacks subject matter jurisdiction over this case."* The federal court rejected the defendants' objection, observing that *"this court and the Tenth Circuit have repeatedly rejected these arguments"* and declining to address them further *"other than to note that they unequivocally fail."* (see Docket #119 at 2.) The sale order extinguished all prior *"interests in, liens against, or claims to the property (including the* ***June 25, 2019*** *NOTICE OF LIS PENDENS* that Paul Kenneth Cromar filed in US District Court on Civil Claim case #2.19-cv-00255 and filed on the Utah County Record the next day June 26, 2019*)."* (Id.) The sale order delivered the Meadow Drive property to the IRS "free and clear of the interests of all parties to [the federal] action." (Id.) ***REMEMBER:*** *The Defendant Cromars' APPEAL to the Tenth Circuit Court was filed May 17, 2019 (docket #112), and would not be answered for 13-months June 15, 2020 (docket #127), thus making VOID numerous adverse actions during that time.*

3. THE PLAINTIFFS ALLEGE - On **April 29, 2020**, the IRS executed a "Deed for Real Property" designed to transfer ownership of the Meadow Drive property to Copper Birch Properties LLC ("Copper Birch"). (see Utah County Record at #47:059:0003) ***REMEMBER: The defendant Cromars' LAND PATENT claims predated this attempt to have an inferior, questionable now uninsurable "abstract" title, particularly in light of the now VOID judgment as established by US Tax Court through IRS Commissioner admissions of no lawful federal income tax claim over Cromars from 1990 through 2020.***

4. THE PLAINTIFFS ALLEGE – In the week prior to issuance of the above deed, the defendants reentered the Meadow Drive property and continued residing there in defiance of the federal court's eviction. The defendants refused multiple demands by Copper Birch to vacate the Meadow Drive property through the spring and summer of 2020. The defendants remained there [unlawfully] until they were forcefully evicted and arrested on **September 24, 2020** led by Utah County Sheriff Mike Smith over a 75-man multi-jurisdictional SWAT team. Consequently, they were charged with felony burglary and wrongful appropriation, which resulted in this instant case. ***REMEMBER: The defendant Cromars' superior LAND PATENT title claims, now VOID original Default Judgment, as established by US Tax Court through IRS Commissioner admissions of no lawful federal income tax claim over Cromars from 1990 through 2020.***

5. THE PLAINTIFFS ALLEGE - During almost every court appearance and in most of their pleadings, the defendants have argued repeatedly that they should not be charged with property crimes on a property that they still own. They have repeatedly denied the validity of the federal foreclosure of the Meadow Drive property they claim is protected under "Land Patent #392 part and parcel thereof", "attacked" the court process that resulted in foreclosure, and attacked the process of the public auction at which Copper Birch acquired the property. ***REMEMBER: The Commissioner of Internal Revenue and US Tax Court Chief Judge Maurice B. Foley agree with Barbie & Ken that the IRS no lawful federal income tax claim on them at any time from 1990 through 2020.***

FRIENDS OF THE COURT'S OBSERVATIONS AND FACTS

Few can argue against the understanding that the Criminal Justice System is broken. America's prison population has exploded to become the largest per capita in the world now that the U.S. has more prisoners than China, whose population is four times of the U.S.

The Criminal Justice System has become dysfunctional and inefficient, at best and very corrupt at its worst. **The prison system has become a highly profitable growth industry**. Certain laws have been passed that, in effect, reward (pay money or subsidies) to those jurisdictions that have more people in jail. Some judges have been discovered to profit directly from those they have found "guilty" and incarcerated. More people in jail, means more federal financial assistance. This way the system is always looking for more revenue to justify its budget for jails, police, parole officers and the like.

As a society it seems that we have allowed a classist division to separate us, and it is time to question whether or not our system of justice has become a frightening reminder of Ayn Rand's warning in her bestselling novel "Atlas Shrugged." She writes,

> *"Did you really think that we wanted those laws to be observed? ... We want them broken. You'd better get it straight that it's not a bunch of boy scouts you're up against - then you'll know that this is not the age for beautiful gestures. We're after power and we mean it."*

For the Defendant Cromars in this case, they are of humble means, as are many others who have been before this Court; there should be concern about the Criminal Justice System's dependence upon the motivation to prosecute. After all, the easiest people to arrest are those who have become part of the system - either in court, jail or the parole system.

One only needs to review the local news sources to see that something is greatly amiss. In fact, those sources have been the main reference to the concerns raised herein. *"Where there is smoke, there must be fire!"* The Cambridge Dictionary of American Idioms suggests the meaning of this phrase is, "if it looks like something is wrong, something is probably wrong."

Utah's numerous victims of this broken judicial for-profit industry: It is said that the first casualty in war is the truth. Similarly, we observe that the first casualty in today's judicial system is the "presumption of innocence until proven guilty". The opposite appears true, because there's money to be made by those connected to the courts. More and more vindications are being exposed, but not before a heavy burden is placed on lives of innocents, through expensive wrongful convictions, including these individuals:

- Debra Brown – Weber County
- Jared Allen Gressman – Juab County
- Bruce Dallas Goodman – Beaver County
- Christopher Wickham – Salt Lake County
- Warren Hales – Salt Lake County
- Dail Stewart – Salt Lake County
- Harry Miller – Salt Lake County
- Robert Weitze – Davis County
- Ken Peterson – Davis County

All of these people who were wrongfully convicted through the judicial system here in Utah including those (Conrad Truman & Ted Petrossi) tried in the Fourth District Court in Utah County, have been a "cruel and unusual punishment" in the extreme as the supposed protectors of justice – the courts – too often have become the vehicle to deny justice – to their personal profit. Therefore, we the people of this community raise our voice of warning that something appears to be seriously amiss in the Utah State Court System! – And in this instant case with defendant Cromars here in this Utah District Court.

Ironically, this concern appears to be echoed by Utah County Attorney David O. Leavitt's office, which is prosecuting the defendant Cromars in this case, while simultaneously starting a system to investigate convictions where someone might have been innocent. According to the public relations reports by the Utah County Attorney the following is admitted:

> "The **Conviction Integrity Unit** ... consists of nine people of different backgrounds including attorneys, a judge, police chief, and other experts in various fields. "More than anything else this is me as the elected county attorney that we need everyone's

participation in this process," Utah County Attorney David Leavitt said during an announcement of the program. "One of the highest obligations for government is to acknowledge when the government gets it wrong," he said… "Because **today nearly 100% of all criminal cases are decided by plea-bargain**'s and not by jury's that means that **I have**… as does every other elected prosecutor in the state within our own jurisdictions **nearly unfettered power**," Leavitt said, "I have said many times **it is too much power to invest in one person**." ("Conviction integrity unit created in Utah County to investigate wrongful convictions" – By Spencer Joseph - Fox13 News - March 17, 2021)

Hypocritically, the Utah County Attorney's use of the media, creative reporting, and other divisive tactics included an almost immediate violation of Judge Johnson's GAG ORDER of October 2, 2020, when "anonymous" Utah County officers were quoted in a lengthy one-sided Deseret News article October 14, 2020. While effective in advancing political careers and agendas (Leavitt appears focused on continued political ambitions), has added significantly to an increase of prosecutorial misconduct in the State of Utah, clever PR notwithstanding.

The Utah County Attorney Office has gone to great effort to paint the defendants as "dishonest", "dangerous", "tax cheats", who have aligned themselves with other "domestic terrorists" like the "Bundy gang", intent on the overthrow of the government and destruction of our "democracy." Yet, as the facts and evidence will show, just **the opposite is true!**

For example, the October 14, 2020 Deseret News article has a headline of: "***Cedar Hills house in standoff was heavily fortified inside, police say***" It continues, "Weapons, sandbags and **possible bomb-making materials** were all found inside a Cedar Hills home that was being fortified by a couple who returned to the house after being evicted, according to new court documents." (NOTE: emphasis added in Desertet News article in **bold** reflects what we believe questionable reporting, hyperbole and/or wild speculation)

The article further alleges, "As SWAT began to clear the house on Sept. 24, they discovered 'wood 2x4s had been placed in strategic locations so as to block the ingress and egress of anyone attempting to gain access,' the warrant states. They found sandbags immediately upon entering the house, 'which in some spots **ran from the floor to the ceiling**,' according to the affidavit, which describes the sandbags as being arranged in a '**fighting position.**' …In one bedroom on the second floor there was a handgun, shotgun and an AK-47 with loaded magazines **strategically placed** near them,' the warrant states. The basement was also fortified with wooden boards and sandbags, according to police. 'Upon entering one of the basement rooms, SWAT operators encountered a large amount of **hydrogen peroxide, magnesium metal and matches and match heads**. Based upon specialized training ... regarding **domestic terrorism and homemade explosives** I recognize these items as items that can be used to make homemade explosives. It is **unreasonable for normal people to possess such large quantities** of these specific items,' officers noted in the warrant. 'Based upon my training and experience I know that **far-right-leaning groups** such as the groups associated with **constitutionalists** will oftentimes use items such as **metal powder, hydrogen peroxide and matches to make**

homemade explosives to further carry out their agenda and/or cause terror to those who oppose them,' the affidavit states."

The article then claims, "according to a statement from the sheriff's office on Sept, 25, 'the Cromars have aligned themselves with people who support their effort to oppose lawful court orders and to get their former home back. ... At least one supporter had said he was willing to lay down his life in defense of the Cromars' home against the government.' The warrant further notes that some of the people helping **the Cromars were 'directly involved with the standoff in Nevada with the Bureau of Land Management at the Bundy Ranch in 2014 and the standoff in Oregon at the Malheur National Wildlife Refuge in 2016.'** Investigators began holding surveillance on the Cedar Hills house after a neighbor reported seeing 'a large group of adult males in the backyard wearing military camouflage **practicing 'movements,'** the warrant says."

In the Bail Waiver Hearing for Paul Kenneth Cromar the following is revealed that raises suspicion of the accuracy of the Deseret News article and the motive behind its publication.

During opening statements at that hearing, the Prosecutor, Mr. Perkins, stated:

> "In the meantime over the summer the Cromars invited **known violent anti-government activists, for example the Bundys** and other armed people calling themselves a militia vowing to protect the Meadow Drive property warning against trespassing, asserting their alternative legal claims to the property and indicating a refusal to leave. ... Neighbors reported **armed citizen patrols around the neighborhood** during the summer that made them nervous."

Mr. Cromar's opening response included,

> "**We've been waiting for two years and nine months to actually have a proper opportunity to defend ourselves** and to protect our life, liberty and property. Our home has been stolen. Dumpsters are being filled with our property over the last few days and carted away. Our reputations and honor have been compromised. We have been vilified. Mr. Perkins is vilifying us right now. We have never harmed anybody. We have never threatened anybody. ... We have no idea about the comments that he's making and trying to connect to us with someone else. ...With regard to the Bundys ... I would question, '*Are militias illegal? Is it illegal to invite a militia member to your home?"* The Constitution that Mr. Pomeroy the other day and Mr. Perkins in the court have sworn to protect and defend specifically – calls and allows for militia. Why? To protect 'we the people' from tyrannical government or from tyranny generally. – "*Is it illegal to have guns in your home? Is there a limit on the guns that you lawfully have in your home? Don't most Utahn have guns in their homes? Do you have guns in your home? Do you have a gun on you right now?'*
>
> Mr. Pomeroy the other day [previous hearing] said "Ammon and Cliven Bundy" as though those words were a bad thing. Mr. Perkins said so again here today. **And I must**

tell you that I take it as a high, high compliment to be mentioned in the same breath as Ammon and Cliven and Ryan Bundy. – These are honorable men. The prosecutors act as though the Bundys lost in court. The only thing they lost was what prosecutors like you, Mr. Pomeroy and Mr. Perkins, stole from them through **false accusations** and unlawful imprisonment. Deceit. It cost them two years of their lives in prison, almost one year total for each of them in solitary confinement. Deceit that cost them everything. Their reputations. And when they had no history of violence or danger that they were accused of. – **What happened to the Bundy's? 100 percent acquitted on all charges by juries of their peers in Oregon despite Judge Kate Brown's best efforts to deny them justice. What happened in Nevada? Judge Gloria Navarro found that the prosecution's conduct was 'grossly shocking and flagrant' and found herself dismissing [their case.]"**

Prosecutorial Misconduct that is 'grossly shocking and flagrant' in an effort to sway the public and the court through the use of gossip, rumor and innuendo is what lays at the heart of this case and the public's outcry in this Amicus Curiae.

Utah County Attorney David Leavitt's hypocritical statement, "One of the highest obligations for government is to acknowledge when the government gets it wrong," is **a damning indictment** of his office and his personal lack of judicial oversight in the case against Barbie & Ken Cromar.

A Research Summary conducted for Bureau of Assistance U.S. Department of Justice, *The juries are finding these guys guilty?,* dated January 24, 2011, revealed three specific findings that reflect the prosecutions in the State of Utah:

"The overwhelming majority (90 to 95 percent) of cases result in plea-bargaining.

1. "Prosecutorial discretion in plea-bargaining is known to cause discrepancies in sentencing outcomes.
2. "Those who go to trial rather than accept a plea are more likely to receive harsher sentences."

District attorneys are called upon to play a dual role, serving both as advocates for victims as well as ministers of justice. The U.S. Supreme Court has explained: *"Society wins not only when the guilty are convicted but when criminal trials are fair; our system of the administration of **justice suffers when any accused is treated unfairly.**"* (emphasis added) The types of Prosecutor Misconduct can assume many forms, including:

- Charging a suspect with more offenses than is warranted
- Withholding or delaying the release of exculpatory evidence
- Deliberately mishandling, mistreating, or destroying evidence
- Allowing witnesses they know or should know are not truthful to testify

- Pressuring defense witnesses not to testify
- Relying on fraudulent forensic experts
- During plea negotiations, overstating the strength of the evidence
- Making statements to the media that are designed to arouse public indignation
- Making improper or misleading statements to the jury
- Failing to report prosecutor misconduct when it is discovered

The public is awakening to the existence of the problem, as well. According to a 2013 national survey:

- 42.8% of respondents say prosecutor misconduct is widespread
- 71.8% believe new laws are needed to curb prosecutor misconduct

Houston Criminal Lawyer John Floyd and Paralegal Billy Sinclair have maintained a continuing interest in Brady violations and prosecutorial misconduct and have compiled a comprehensive list of federal and other cases dealing with these issues that are important to the Court. These two individuals remind their profession that,

> *"It is important to occasionally review these cases to remember the egregious depths to which some rogue prosecutors will stoop to* ***"convict at any cost".*** *This is not our soap box, it is a reality. Some prosecutors have forgotten, or never learned, that their primary duty is to do justice, not simply convict those unfortunate souls caught in the cross-hairs. Prosecutorial misconduct, either through* ***deliberate Brady violations*** *or the knowing* ***use of perjured testimony or inflammatory arguments before a jury****, is* ***designed to deprive a defendant of a fair and impartial trial****, and this unethical behavior must be understood and ever guarded against."* (emphasis added)

Hypocritically, Utah County Attorney David Leavitt agrees abuse of judicial prosecutorial powers is a problem – at the exact same time his office is doing what he says is wrong, in his prosecuting the defendant Cromars. The following Supreme Court cites list areas of concern in this specific case due to known and suspected indiscretions in the handling of this case (for additional cites including Circuit Court rulings, see Exhibit "D"):

BRADY VIOLATIONS

U.S. SUPREME COURT – (emphasis added)

Brady v. Maryland (U.S. 1963) held that a prosecutor **under the Fifth and Fourteenth amendments has a duty to disclose favorable evidence to defendants** upon request, if the evidence is "material" to either guilt or punishment.

Kyles v. Whitley (U.S. 1995): Accused entitled to a new trial because of the

prosecution's failure to comply with the **due process obligation to disclose material evidence favorable to the accused** concerning his possible innocence of the crime because **the net effect of the withheld raised a reasonable probability that the evidence's disclosure to competent counsel would have produced a different result.** Even if the prosecutor was not personally aware of the evidence, **the State is not relieved of its duty to disclose** because "the State" includes, in addition to the prosecutor, other lawyers and employees in his office and members of law.

Strickler v. Greene (U.S. 1999): Held that a ***Brady* violation** occurs when: (1) evidence is favorable to exculpation or impeachment; (2) the evidence is either **willfully or inadvertently withheld** by the prosecution; and (3) **the withholding of the evidence is prejudicial to the defendant**.

The Defendant Cromars have made requests **on the record** for all Discovery including audio, photos, bodycam footage, and Brady evidence soon after being arrested, but outside of a few basic narrowly constrained items mostly serving purposes of prosecution, most of the requested evidence has been withheld under the claim that the Defendants' request is disproportionate to the scope of the case. Well that's convenient! Where is the State's Constitutional obedience to *due process* and the providing of ALL Brady material as required for justice? And in that this court has blocked the defendant Cromars access to the court record, and has stricken their filings by a wildly un-Constitutional requirement that they have "state licensed BAR attorney" representation, they have recently had to resort to make GRAMA requests (Utah's version of Freedom of Information Act – FOIA) in an effort to obtain the Discovery and Brady evidence. (Note: The court claims it has forced a public defender Lisa Maxine Estrada onto the Cromars, but they have never accepted the offer, and have contracted a non-BAR Eugene Richardson as counsel. In fact, four times in court hearing transcripts and in writing they have officially **rejected all BAR attorney assistance,** explaining in part, that BAR association ("club") attorneys are in a *conflict of interest* because their first allegiance is to the court, NOT to the "client" they supposedly "represent".

PROSECUTORIAL MISCONDUCT IS OBSTRUCTION OF JUSTICE

U.S. SUPREME COURT

Mooney v. Holohan (U.S. 1935): Misconduct through "knowing use" of perjured testimony to convict a criminal defendant in violation of "due process" of law. Acts and omissions by a prosecutor can violate "the fundamental conceptions of justice which lie at the base of our civil and political institutions."

Napue v. Illinois (U.S. 1959): Held that "the failure of the prosecutor to correct the testimony of the witness which he knew to be false denied petitioner due process of law in violation of the Fourteenth Amendment."

Sadly, there is little evidence to show that "Creative Prosecution" (actually prosecutorial misconduct) is NOT an active component of the Judicial System here in the State of Utah and

the voice of the people is suffering under its oppression, as in this case with the Defendants.

However, the 'Creative Prosecution' legacy was seriously marred on May 2, 2011, when Weber County District Court Judge Michael Direda ruled that Debra Brown was factually innocent. **The judge vacated Brown's murder conviction and dismissed the case**. On May 9, 2011, Debra was released from prison after serving 15 years. The prosecution appealed the ruling and on July 14, 2013, the Utah Supreme Court upheld Judge Direda's finding of innocence. Under Utah law, Debra Brown was eligible for more than $500,000 in compensation for the damages she suffered. - A pretty significant price to pay for a prosecution's rush to conviction! But certainly not enough compensation for 15 years of life lost, that she could never buy back at any price.

More recently the Utah Court of Appeals overturned the conviction of a Providence doctor who was found guilty of sexually abusing a child in December of 2020. The court ruled that Brevan Baugh, 44, was not fairly represented by his defense attorney, Greg Skordas... Baugh's appeal asserted that the jury was prejudiced. He claimed they were not instructed correctly that they were to unanimously agree as to which of the alleged incidences constituted each of the two charged crimes. Judge Mortensen's opinion agreed with Baugh. He wrote that it was entirely possible that some of the jurors convicted on count two based on the belief that the alleged abuse occurred during one particular instance, while other jurors convicted based on the belief that the abuse occurred during a different instance. The court concluded that because defense counsel performed deficiently when they didn't request that the jury receive proper unanimity instruction, and because that deficiency prejudiced Baugh's defense, it undermined the court's confidence in the trial's outcome. **The decision vacated Baugh's conviction** and remanded it back to Cache County First District Court Judge, Angela Fonnesbeck.

Lord Acton reminds us that *"Power tends to corrupt and absolute power corrupts absolutely.* This serves as a reminder of a local vernacular which states: *"We have learned by sad experience that it is the nature and disposition of almost all men, as soon as they get a little authority, as they suppose, they will immediately begin to exercise unrighteous dominion."*

WEAPONIZED ABUSE of POWER

"LEGALIZED" WEAPONIZATION Of I.R.S. (NOT TO BE CONFUSED WITH *LAWFUL*)

In 2010, the Defendant Paul Kenneth Cromar was previously prosecuted in an IRS Tax Liability case, filed against him in US District Court in Salt Lake City (2:09-cv-01102-DAK), which was dismissed without proper explanitation, neither "with prejudice" or "without prejudice" on **May 25, 2010** by veteran Judge Dale A. Kimball. However, seven and one half years later, just as the second and final half of the "Notices of Tax Liens" (not actual "Tax Liens") were about to expire the US DOJ / IRS suddenly decided to seize the Cromar home to "off set" part of the alleged "federal income tax liability" by filing the the above cited Civil Complaint on **November 22, 2017**. We ask why the sudden change of course when the claim was about to expire? Could it be poltical enemies from the City of Cedar Hills where Ken Cromar served as a City Counselman from 1994 to 2000, where he and fellow members of an ad hoc group of *Cedar Hills*

Citizens for Responsible Government, who regularly pursued open and honest government by exposing politial corruption through Utah's "freedom of information" GRAMA requests. Could it be that those who saw him as their political enemy "anonymously" reported and encouraged prosecution of the Cromars as "tax protestors" or "tax cheats" using the unproved accusations as a way to punish and sideline Ken and his friends at www.CedarHillsCitizens.org from continued exposure of local government corruption? Regardless, the fact remains that defendant Cromars were surprised by this unexpected case:

UNITED STATES of AMERICA vs. PAUL KENNETH CROMAR, BARBARA ANN CROMAR, UTAH HOUSING FINANACE AGENCY, UNIVERSAL CAMPUS CREDIT UNION, and UTAH COUNTY, UTAH

Chief Judge Robert J. Shelby - **Civil Complaint**: Federal Income Tax liabilities

Cause: "26:7401 IRS Tax Liability" - **Demand:** $1,053,028.65

The Defendants presenting themselves *(sui juris)*, who have always maintained they are innocent of all charges and claims against them want to prove it, have never entered entered a plea or answer, nor were they allowed entry to, a hearing in, or a trial by jury before Chief Judge Robert J. Shelby's court.

A long court battle ensued, in which Judge Shelby refused to compel the Plaintiff (US DOJ / IRS) to clarify their Complaint based on legal statutes alone, despite the two different possible avenues of jurisdiction; either **Article 1, Section 8, clause 1** -OR- the **Sixteenth Amendment**. It can only be one or the other. The Defendants argued the "impossibility" placed on them to "Answer" the complaint without knowing which "any tax" the Defendants were being accused of violating. Judge Shelby demanded the Defendants provide an "Answer" without clarification of jurisdictional access via Constitution, Congressionally passed law, and specific statutes thereunder, as evidenced in numerous docket entries.

The Defendants repeated Motions and requests for clarification of which jurisdiction was entered on the record, but were summarily denied by Judge Shelby. The Defendants Motion for Hearing was denied and no trial was allowed. The Defendants were threatened with sanctions for "frivilous" filings and blocked from filing Motions to defend themselves without his permission. Then Chief Judge Shelby issued a Default against the Defendants for failure to "answer" and then Orders were rendered on **July 12, 2018** (granting #56 MOTION FOR DEFAULT at docket #63) without the Defendants ever having seen the judge, heard his voice or entered his courtroom, in what we can only declare as a clear denial of *due process* and *justice*, wherewith the court VOIDED its own authority.

The Defendants filed an Appeal with the Tenth Circuit Court in Denver Colorado (19-4075) on May 17, 2019 (docket #112) regarding the court's **"Order granting #103 Motion for Order Foreclosure and Judicial Sale".** (docket #104) In RESPONSE to the Defendants Appeal, the Plaintiff (US DOJ / IRS) finally provided a clarification of their claim of jurisdiction being the Sixteenth Amendment, but in so doing proved that they had never done so on the record of the district court, which if acknowledged would have required the case to be dismissed – requiring the DOJ/IRS to start their process against the Cromars

from a proper claim of jurisdiction, not an undeclared one. Instead, the Court ignored the defendant Cromars' appeals, and Affirmed in favor of Judge Shelby's Default Judgment and Orders to sell the Defendants Barbie and Ken's home at auction.

On **June 25, 2019** – 13+ US Marshals were sent in at approximately 9:24 a.m. and forcibly removed the Defendants from their land/house – making them homeless for 10 months, living on the kindness of friends and family, while they sought *due process* from the US District Court and Tenth Circuit Court of Appeals which never materialized.

On **September 10, 2019** – 10:00 am. – The Defendants home was auctioned on the US district court house steps in Salt Lake City, to the highest bidder, Nathan Eddington, a Utah Highway Patrolman living two houses south of the Cromars' home, -- for $330,000. As required by IRS regulations the sucessful bidder was required to put 10% ($33,000) down and the total remaining balance was to be paid off in 30 days. Bidders are warned that they must be prepared to follow the rules or lose all moneys paid. It was later discovered that Eddington's 10% of $33,000 was not put down on day of auction as required, but rather $31,000, nor was the total balance paid off within 30-days as mandated in IRS regulations. The court sworn testimony by IRS PALS special unit agent "Gary Chapman" (alias of the agent who acted as the auctioneer - Employee ID #10000324786) declared Eddington as the winner, but there is no record made available to the defendant Cromars, though a Motion for Discovery was filed to ascertain if Eddington ever took title to the property (not on Utah County Record), and how a defaulted auction bidder lost his $31,000 or not, and how a new sale was illegally obtained outside of Circuit Court acknowledged / required legal IRS process.

Over 130-days after auction a new party came into the picture as alleged buyer Brett J Belliston representing COPPER BIRCH PROPERTIES LLC, which is when the Defendants learned of Bellinston's illegal negotiations outside of USC Title 28 section 2001(b) which represents a new public purchase upon the default of Eddington, and was not Noticed to all interested parties as required by the IRS regulations. Why was the district court public record regarding the purchase process "secreted" (hidden – which we understand to be a felony) from the victims of this theft of their land / home, based on a fraud on the court committed by DOJ / IRS attorneys, despite their Motion for Discovery?

In **April 17, 2020** – the Defendants realizing that they would not receive due process and that the court was going facilitate the sale of their home, finalized and preemptively filed on the Utah County Record, their lawful claim to **LAND Patent #392 part and parcel thereof**, and followed up with a Notice of Acceptance of the allodial, pure title, which was posted on the Public Notice board by the Cedar Hills Fire House for 60-days as required Public Notice, thereby giving anyone an opportunity to contest and challenge the defendant Cromars' Land Patent claim in an Article III court, as well giving **Notice of Information** on May 18, 2020 to the US District Court (docket #120, see pages 27 thru 38 particularly). Effectively the Defendants lawfully moved back into **their home,** prevailing and as court and county records show no lawful challenges to the Defendants' as the only legal owners to their land/home backed by an unprecented 180-years of unanimous Supreme Court decisions. Only the US Attorney General (or his designee) could lawfully challenge Cromar claim and had to do so in an Article III court. – Of course,

no challenge from anyone or the court was ever received, closing forever the opportunity to challenge.

May 29, 2020, Belliston approached the court with a SEALED Ex Parte Writ of Assistance (see docket #122), requesting to have Marshal surprise the Cromars and remove them from their home without Notice. Six times Belliston was advised by the clerk, the Cromars, and finally Judge Shelby that he was required to provide service copies of the SEALED documents to the Defendants, which outlined a plan to forceably remove the Defendants. He never answered the judge and did not provide the documents. On August 17, 2020, Judge Shelby gave Belliston 72 hours to reply to his ORDER TO SHOW CAUSE (see docket #133), and then on Augsut 21, 2020 (see docket #135), he signed an **ORDER of Unsealing**, and released copies to the Cromar through the Manager of Office of Clerk, when Belliston did not answer the sixth demand in defiance of the courts requirments. (see docket #135)

Around **September 10, 2020**, (see docket #136 through #138) the Defendants filed a Motion for Temporary Restraining Order to address the violations of the IRS regulations in the auctioning of their home. But on **September 18, 2020**, once again Judge Shelby denied the Defendants' hastily prepared emergency Motions trying to pause the judicial freight train barreling towards them at their home (see docket #142) without success, as Judge Shelby denied the Motion for Temporary Restraining Order.

On the evening of **September 24, 2020** a 75-Man SWAT team comprised of 2 helicopters, 2 MRAPs, multiple snipers, surrounded the Defendants' home, evacuating the terrorized neighborhood and arrested unarmed 58 year old grandmother of eight, defendant Barbara Cromar, without presentment of warrant, though requested. Defendant Ken Cromar, unarmed, had been arrested an hour or so earlier without warrant, despite numerous requests, in the nearby Pleasant Grove Macey's grocery store parking lot, ironically underneath their famously large American flag.

September 25, 2020, the Criminal Cases #201402860 & 201402868 were filed against the Defendants in STATE OF UTAH vs. PAUL KENNETH CROMAR and BARBARA ANN CROMAR, with the charges of ***Felony 2 – Burglary of Dwelling*** (1-15 years) and ***Felony 3 – Wrongful Appropriation*** (1-5 years) on a property that was still titled under the Defendants' name and which should never have been in question. More accurately the felony *Burglary of Dwelling* and *Wrongful Appropriation* should be charged against government officials who have falsely accused Barbie and Ken, in that the Commissioner of Internal Revenue and US Tax Court Chief Judge Maurice B. Foley agree with the Defendant Cromars and have admitted in separate rulings that there was **no lawful tax claim** (with the required lawfully signed Notices of Deficiency and Notices of Determination) **at any time from 1990 through 2020!**

THE FUTURE PROVES THE PAST

On **May 26, 2021**, in **Barbara-Ann Cromar, Plaintiff vs. Commissioner of Internal Revenue, Respondent**, the United State Tax Court (Washington DC) in case #3063-21, the Commissioner of the IRS's counsel filed a Motion to dismiss for lack of Jurisdiction to the

delight (counter intuitively so) of Plaintiff Barbara-Ann Cromar because of his admissions therein of having no lawful claim of unpaid federal income taxes over Barbara from 1990 through 2020. The Motion in part declares the following:

(1) "...This case be dismissed for lack of jurisdiction upon the ground that no statutory notice of deficiency, as authorized by I.R.C. § 6212 and required by I.R.C. § 6213(a) to form the basis for a petition to this Court, has been sent to petitioner with respect to taxable years 1990 through 2020, nor has respondent made any other determination with respect to petitioner's taxable years 1990 through 2020 that would confer jurisdiction on this Court;

(2) "This Court state in its Order of Dismissal that the basis for the dismissal for taxable years 1990 through 2020 is that "no notice of deficiency or notice of determination was issued to petitioner within 150 days or 30 days, respectively, of the filing of the petition...". (see Exhibit "A")

On October 20, 2021 in **Paul-Kenneth Cromar, Plaintiff vs. Commissioner of Internal Revenue, Respondent**, the United State Tax Court (Washington DC) in case #15701-21, the Commissioner of the IRS's counsel filed a Motion to dismiss for lack of Jurisdiction to the delight (counter intuitively so) of Plaintiff Paul-Kenneth Cromar because of the Commissioners' admissions therein of having no lawful claim of unpaid federal income taxes over Ken from 1990 through 2020. The Order declares the following:

> "This case is before the Court on respondent's motion to dismiss for lack of jurisdiction, filed September 9, 2021, on the grounds that: (1) no notices of deficiency or other notices of determination was issued to petitioner for taxable years 1991 through 1995, 1998, and 2006 through 2020, that would permit petitioner to invoke the Court's jurisdiction in this case; and (2) no notices of deficiency or notices of determination concerning collection action was issued in such time for taxable years 1996 through 1997 and 1999 through 2005, that would permit petitioner to invoke the Court's jurisdiction in this case." (see Exhibit "B")

The troubling fact in all of this is that the above lawsuits against the Commissioner of Internal Revenue prove that the original Complaint in US District Court should have never been filed against the Defendants in the first place and the enormous amount of effort expended to prosecute the Defendants and over four years the Cromars have been forced to protect and defend their rights and innocence without benefit of expensive, clever attorneys, in the face of a cold calculated criminal conspiracy to deprive the Defendants of their Life, Liberty and Pursuit of Happiness (Property) as guaranteed them by the Constitution of the United States.

THE I.R.S. Does NOT Have Clean Hands: Furthermore, it is beyond troubling to realize that the IRS has AGAIN been weaponized against *We the people* – in this case apparently to punish and deter two people of humble means just trying to keep a watchful eye out on their local

government – and keep them honest. Theirs is not an uncommon story:

> "In 2013, the United States Internal Revenue Service (IRS) revealed that it had **selected political groups** applying for tax-exempt status for intensive scrutiny based on their names or political themes. This led to wide condemnation of the agency and **triggered several investigations**, including a Federal Bureau of Investigation (FBI) criminal probe ordered by United States Attorney General Eric Holder. Conservatives claimed that they were specifically targeted by the IRS, but an exhaustive report released by the Treasury Department's Inspector General in 2017 found that from 2004 to 2013, the IRS used both conservative and liberal keywords to choose targets for further scrutiny.
>
> "Initial reports described the selections as nearly exclusively of conservative groups with terms such as 'Tea Party' in their names. According to Republican lawmakers, liberal-leaning groups and the Occupy movement had also **triggered additional scrutiny**, but at a lower rate than conservative groups. The Republican majority on the House Oversight Committee issued a report, which concluded that although some liberal groups were selected for additional review, the scrutiny that these groups received did not amount to **targeting** when compared to the **greater scrutiny received by conservative groups**. The report was criticized by the committee's Democratic minority, which said that the report ignored evidence that the IRS used keywords to identify both liberal and conservative groups.
>
> "In January 2014, James Comey, who at the time was the FBI director, told Fox News that its investigation had found no evidence so far warranting the filing of federal criminal charges in connection with the controversy, as **it had not found any evidence of 'enemy hunting'**, and that the investigation continued. On October 23, 2015, the Justice Department declared that no criminal charges would be filed. On September 8, 2017, the Trump Justice Department declined to reopen the criminal investigation into Lois Lerner, a central figure in the controversy.
>
> "In October 2017, the Trump Administration agreed to settle a lawsuit filed on behalf of more than **four hundred conservative nonprofit groups who claimed that they had been discriminated against by the Internal Revenue Service** for an undisclosed amount described by plaintiffs' counsel as 'very substantial.' The Trump Administration also agreed to settle a second lawsuit brought by forty-one conservative organizations with an apology and an admission from the IRS that subjecting them to "heightened scrutiny and inordinate delays" was wrongful."
>
> (See https://en.wikipedia.org/wiki/IRS_targeting_controversy May 18, 2022 edition)

*"...Its Trump today, it could be you or me tomorrow, and imagine, ladies and gentlemen, **if they can do this to the candidate for the President of the United States, what could they do to you?**"*
(Senator Lindsey Graham - Opening statement at the IG hearing on the FISA report December

10, 2019)

UTAH ATTORNEYS ARE REQUIRED TO PRACTICE JUDICIAL ETHICS

The actions of the claimants and prosecutors in this case of STATE OF UTAH v PAUL KENNETH CROMAR and BARBARA ANN CROMAR, appear to be a *"win at all costs"* attitude in direct conflict with Utah's Judicial Ethics standards (see Exhibit "E"), that may be found actionable in a **Deprivation Of Rights Under Color Of Law** in violation of 18 U.S. Code § 242, and **Conspiracy To Deny Rights** under 18 U.S. Code § 241, designed to defraud the Defendants. Additionally, 42 U.S. Code § 1983 may also be considered:

> 42 U.S. Code § 1983 - Civil action for deprivation of rights
>
> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. (R.S. § 1979; Pub. L. 96–170, § 1, Dec. 29, 1979, 93 Stat. 1284; Pub. L. 104–317, title III, § 309(c), Oct. 19, 1996, 110 Stat. 3853.)

There is ample evidence presented in this Friend of the Court Brief to show that the Defendants' claims have plausible merit, and that they've been systematically **denied the presumption of innocence until proven guilty**. The Plaintiff(s) in concert with others have conspired to cause harm and have sought the destruction of the Defendants, their business interests, and their credibility, which lies at the heart of this matter.

The public corruptions discussed herein, when combined and interconnected, may well fall under The RICO Act, which focuses specifically on racketeering, and it allows the leaders of a syndicate to be tried for the crimes, which order others to do or assisted them in doing, closing a perceived loophole that allowed a person who instructed someone else to, for example, murder to be exempt from the trial because they did not actually commit the crime personally.

Therefore, it is incumbent upon you, Your Honor, (or any other member of the legal profession) as an officer of the Court and Servant of the people, to demonstrate worthiness of that title, by bringing this out into the light of day so the maters provided herein can be properly addressed – and indeed consider launching an investigation of the Plaintiffs possible fraud upon various courts, or face possible Misprision of Felony. (see 18 U.S. Code § 4)

CONCLUSION

In summary, this Amicus Brief is designed to provide a public response to the Court's 1 year and 9 month long delayed *"quick and speedy"* trial by a jury of the Cromars' peers in *State of Utah vs. Paul Kenneth and Barbara Ann Cromar,* is anticipated by the court for June 27 through July 1, 2022. If the Trial by Jury of Peers does occur, despite the Malicious Prosecution detailed herein, we of The Community Support Foundation want to remind this court of it Constitutionally sworn requirements regarding the *"Rights of the Accused"*:

> **"The Framers of the Constitution had fresh memories of a government that accused people of crimes they did not commit and then convicted them in unfair trials.** Consequently, they went to great lengths to assure that the new government they established would not engage in such practices. Toward that end, **the Constitution and the Bill of Rights guarantee a series of important protections for individuals accused of committing crimes in the United States.**" (emphasis added - Exhibit "F")

It is a fact that this court did NOT create the problem of injustice the Defendants suffer here today. That began 4.5 years ago in a US District Court filled with proven *fatal errors* and now VOID judgments and orders. However, this court must decide whether to END the injustice here and now, or continue chewing on the "fruit of that poison tree". Even to the casual observer, there appears to be a preponderance of evidence to show that basic unalienable Constitutional rights afforded the Defendants have been repeatedly violated.

Edmund Burke warned, *"The only thing necessary tor the triumph of evil is for good men to do nothing."* But evil will not easily succeed today! The voice of the people is demanding to be heard on this matter. Collectively we are speaking up and shouting, ***"Where there is Smoke, there must be fire!"*** In the case of the Defendants Cromar, *"If there's a 75-man SWAT team being unleashed on Barbie & Ken, the government officials must have something to hide."*

Clearly the Defendant Cromars are not guilty of intention to commit the felonies (intent is required for conviction) they are charged. And the flagrant violation to their Constitution Rights is glaringly apparent. It's time to throw this case out with prejudice. Justice demands it!

We call upon this Court, the County Attorney's Office, the Utah State Bar Association, The Attorney General for the State of Utah, as well as all of our civic and political leaders to get to the bottom of this abusive behavior that so adversely affects this community – and to champion JUSTICE at all costs, starting with the Cromars.

In 1776, the people made a similar demand in their solemn Declaration of Independence:

> *"**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. -- That whenever any Form of Government becomes destructive of these ends. it is the ***Right of the People to alter or to abolish it....*** *laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed (or 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, and to provide new Guards for their future security.*** *-- Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them... To prove this, let Facts be submitted to a candid world."*

But in all of this let us remember, ***"The greatness in America lies in her ability to repair her faults."*** - Alexis de Touquerville

Recognizing that *Amicus Curiae* is uncommon in these proceedings, public opinion should play a significant role in the course of this case. We agree with the admissions by the Commissioner of the IRS and the Chief Judge of the US Tax Court, that the Cromars had no lawful tax claim against them, which makes VOID all actions (orders and judgments) against *Barbie and Ken* by all courts including this one. Together, we stand to urge the Court to rule in favor of the Defendants, by moving to satisfy any claims, dismiss this case with prejudice, and facilitate a process that will restore them back to their home immediately, and reconfirm the belief that communities are bound together by a common unity in principles, such as the *"Principles of Good Business©,"* and that "good conduct" is a mandatory requirement by the courts and community at large.

Attested to in this form of Affidavit filing upon the Fourth District Court, in Provo, Utah, for and in behalf of Community Support Foundation, and in defense of justice for *We the people* generally,

Respectfully and in Honor,

Jeff Besendorfer
c/o 1921 S Casperville Rd
Heber, Ut [84032]
Jeff Besendorfer

Michael L Bronson
c/o 70 S. Center
Midway Utah [84049]
Michael Bronson

Exhibit "A"

United States Tax Court (Washington DC)

Chief Judge Maurice B. Foley in case #3063-21

Barbara-Ann Cromar vs. Commissioner of Internal Revenue

United States Tax Court
Washington, DC 20217

Barbara-Ann Cromar

Petitioner

v.

Commissioner of Internal Revenue

Respondent

Docket No. 3063-21

ORDER

Upon due consideration of the Motion To Dismiss for Lack of Jurisdiction, filed May 26, 2021, by respondent in the above-docketed case, it is

ORDERED that, on or before June 25, 2021, petitioner shall file an objection, if any, to respondent's just-referenced motion. Failure to comply with this Order may result in the granting of respondent's motion and dismissal of the instant case or other appropriate action by this Court.

(Signed) Maurice B. Foley
Chief Judge

I certify that this document is a true copy of the original.
Stephanie A. Servoss, Clerk of the Court

Served 05/28/21

Exhibit "B"

United States Tax Court (Washington DC)

Chief Judge Maurice B. Foley in case #15701-21

Paul-Kenneth Cromar vs. Commissioner of Internal Revenue

&

Exhibit "BB"

Subpoena of IRS Commissioner (no show) – with $80 witness fee

With related case #9023-21 (2nd of 3 on the same suit against Commissioner of IRS)

United States Tax Court
Washington, DC 20217

Paul Kenneth Cromar

Petitioner

v.

Commissioner of Internal Revenue

Respondent

Docket No. 15701-21

ORDER OF DISMISSAL FOR LACK OF JURISDICTION

This case is before the Court on respondent's motion to dismiss for lack of jurisdiction, filed September 9, 2021, on the grounds that: (1) no notices of deficiency or other notices of determination was issued to petitioner for taxable years 1991 through 1995, 1998, and 2006 through 2020, that would permit petitioner to invoke the Court's jurisdiction in this case; and (2) no notices of deficiency or notices of determination concerning collection action was issued in such time for taxable years 1996 through 1997, and 1999 through 2005, that would permit petitioner to invoke the Court's jurisdiction in this case. In his motion, respondent further requests that the Court warn petitioner it may impose an I.R.C. section 6673 penalty. That section authorizes the Court to require a taxpayer to pay to the United States a penalty not in excess of $25,000 whenever it appears that proceedings have been instituted or maintained by the taxpayer(s) primarily for delay or that the position of the taxpayer(s) in such proceeding is frivolous or groundless.

On October 15, 2021, petitioner filed his objection to respondent's motion. Petitioner essentially does not object to the dismissal of the case upon the grounds stated in respondent's motion.

Taking into account statements made in the petition, statements made in petitioner's objection, and for reasons set forth in respondent's motion, it is

ORDERED that so much of respondent's motion that seeks dismissal of the case is granted. It is further

ORDERED that with respect to each year placed in issue in the petition, this case is dismissed for lack of jurisdiction upon the ground stated in respondent's motion.

Although an I.R.C. section 6673 penalty will not be imposed here, petitioner is admonished that the Court will consider imposing such a penalty in future cases commenced by petitioner seeking similar relief under similar circumstances.

(Signed) Maurice B. Foley
Chief Judge

I certify that this document is a true copy of the original.

Stephanie A. Servoss, Clerk of the Court

Entered and Served 10/20/21

United States Tax Court

WASHINGTON, D.C. 20217

Paul-Kenneth: Cromar,
Petitioner(s),

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Docket No. 9023-21

SUBPOENA

# # # # # # #

To Commissioner of Internal Revenue

# # # # # # #

YOU ARE HEREBY COMMANDED to appear before the United States Tax Court

Paul-Kenneth Cromar – Petitioner / Executor of Estate by same name / sui juris
(or the name and official title of a person authorized to take depositions)

at 10:00 a.m. (Time) on the Monday the 13th (Date) day of December (Month), 2021 (Year)

at Remote proceeding via www.zoomgov.com / Meeting ID: 161-445-2803 / Passcode: 937935
(Place)

then and there to testify on behalf of Respondent (Petitioner or Respondent) in the above-entitled case,

and to bring with you all Petitioner related records and information regarding IRS, Notices of Deficiency & Notices of Determination and complete and current Master File(s) for Petitioner for all years from and including 1990 through 2021, and also up to and including day of sworn testimony.

and not to depart without leave of the Court.

Date: 30th day of November, 2021

by: Paul-Kenneth: Cromar

Counsel for Petitioner Paul-Kenneth Cromar – sui juris

/s/ Stephanie A. Servoss
Clerk of the Court

RETURN ON SERVICE

The above-named witness was summoned on _____ (Date) at _____ (Time)
by delivering a copy of this subpoena to (him)(her) and, if a witness for the petitioner, by tendering fees and mileage to (him)(her) pursuant to Rule 148 of the Rules of Practice of the Tax Court. Note: $80 for 2 days testimony provided at service.

Dated _____ Signed _____

Subscribed and sworn to before me this _____ day of _____, 20____

_____ [SEAL]
Name Title

Form 14 (Rev. 7/19)

Exhibit "C"

"Equal Justice Under Law"

– picture of relief engraved on the Supreme Court of the United States building

Exhibit "D"

BRADY VIOLATIONS

The following provides additional Supreme Court and Circuit Court cites highlighting Brady Violation areas of concern in this specific case due to known and suspected indiscretions in the handling of this case against Defendant Cromars:

U.S. SUPREME COURT

Brady v. Maryland (U.S. 1963) held that a prosecutor under the Fifth and Fourteenth amendments has a duty to disclose favorable evidence to defendants upon request, if the evidence is "material" to either guilt or punishment.

United States v. Bagley (U.S. 1985): Refined *Brady* by holding that a prosecutor's duty to disclose material favorable evidence exists regardless of whether the defendant makes a specific request. The Court said "favorable evidence" is "material" if there is a reasonable probability that disclosure of the evidence would have produced a different outcome. A "reasonable probability" is "a probability sufficient to undermine confidence in the outcome."

Kyles v. Whitley (U.S. 1995): Accused entitled to a new trial because of the prosecution's failure to comply with the due process obligation to disclose material evidence favorable to the accused concerning his possible innocence of the crime because the net effect of the withheld raised a reasonable probability that the evidence's disclosure to competent counsel would have produced a different result. Even if the prosecutor was not personally aware of the evidence, the State is not relieved of its duty to disclose because "the State" includes, in addition to the prosecutor, other lawyers and employees in his office and members of law.

Strickler v. Greene (U.S. 1999): Held that a *Brady* violation occurs when: (1) evidence is favorable to exculpation or impeachment; (2) the evidence is either willfully or inadvertently withheld by the prosecution; and (3) the withholding of the evidence is prejudicial to the defendant.

Cone v. Bell (U.S. 2009): Observed, without specifically holding, that a prosecutor's pre-trial obligations to disclose favorable or impeaching evidence, either to guilt or punishment, "may arise more broadly under a prosecutor's ethical or statutory obligations" than required by the *Brady/Bagley* post-conviction "materiality" standard of review. The court distinguished the post-conviction setting where the reviewing court must make a constitutional determination of whether the withheld evidence is material to the prosecutor's pre-trial broader ethical obligations to disclose, which requires a "prudent prosecutor [to] err on the side of transparency, resolving doubtful questions in favor of disclosure."

United States v. Agurs (U.S. 1976): Prosecutor has a due process duty to disclose

evidence about a victim's criminal record, *except* (1) when the victim's record was not requested by defense counsel and no inference of perjury by witness created; (2) if the trial court remains convinced of defendant's guilt after the withheld evidence is reviewed in light of entire trial record; and (3) the trial judge's firsthand appraisal of the record is thorough and reasonable.

FIRST CIRCUIT COURT OF APPEALS

Mastracchio v. Vose: Brady violation because knowledge of witness payments or favors made by the Witness Protection team is discoverable.

SECOND CIRCUIT COURT OF APPEALS

Disimone v. Phillips (2nd Cir. 2006): *Brady* violation because exculpatory statement would have allowed the defense to investigate another party's involvement.

THIRD CIRCUIT COURT OF APPEALS

Virgin Islands v. Fahie (3d Cir. 2005): Prosecutorial "bad faith" is "probative to materiality" as well as relevant to determining a remedy.

FOURTH CIRCUIT COURT OF APPEALS

Spicer v. Roxbury (4th Cir. 1999): *Brady* violation because prosecutors did not disclose witness's prior inconsistent statement that he did not see the defendant.

Monroe v. Angelone (4th 2003): That while some *Brady* material which comes to light post-trial may not constitute a violation because of redundancy, this does not "excuse [pre-trial] discovery obligations." While "materiality" may exist as a prosecutorial defense in the post-trial setting, it is not a license to make "materiality" determinations pre-trial.

FIFTH CIRCUIT COURT OF APPEALS

Guerra v. Johnson (5th Cir. 1996): *Brady* violation for failure to disclose police intimidation of key witnesses and information regarding suspect seen carrying murder weapon minutes after shooting.

United States v. Sipe (5th Cir. 2004): *Brady* violation because the cumulative effect of undisclosed statement, criminal history of witness, and benefit to testifying aliens undermined credibility of a key witness.

LaCaze v. Warden La. Corr. Inst. For Women (5th Cir. 2011): *Brady* violation because prosecution withheld material concerning promise made to co-defendant.

SIXTH CIRCUIT COURT OF APPEALS

Joseph v. Coyle (6th Cir. 2006): *Brady* violation because witnesses' undisclosed testimony transcripts, notes on witness interviews, and immunity agreement would have impeached prosecution's crucial witness.

O'Hara v. Brigano (6th Cir. 2007): *Brady* violation because undisclosed written statement by victim could have been used to impeach victim's testimony.

EIGHTH CIRCUIT COURT OF APPEALS

The Eighth Circuit White v. Helling (8th Cir. 1999) found a *Brady* violation in a 27 year old murder case because the Government did not disclose that its chief eyewitness had originally identified someone else and identified the defendant only after several meetings with the police.

NINTH CIRCUIT COURT OF APPEALS

Singh v, Prunty (9th Cir. 1998): *Brady* violation because of a "favorable deal" given to a star witness and not disclosed.

D.C. CIRCUIT OF APPEAL§.

United States v. Brooks (D.C. Cir. 1992): Brady violation if a specific request is made by defendant and Government does not search records of police officer/witnesses.

United States v. Cuffie (D.C. Cir. 1996): *Brady* violation because undisclosed evidence of witness's prior perjury could have impeached witness, even though the witness had been impeached by a cocaine addiction, cooperation with prosecution, incentives to lie, and violation of oath as police officer.

PROSECUTORIAL MISCONDUCT IS OBSTRUCTION OF JUSTICE

U.S. SUPREME COURT

Mooney v. Holohan (U.S. 1935): Misconduct through "knowing use" of perjured testimony to convict a criminal defendant in violation of "due process" of law. Acts and omissions by a prosecutor can violate "the fundamental conceptions of justice which lie at the base of our civil and political institutions."

Berger v. United States (U.S. 1935): Prosecutor engaged "misconduct" through his trial tactics by "misstating the facts in his cross-examination of witnesses; of putting into the mouths of such witnesses things which they had not said; of suggesting by his questions that statements had been made to him personally out of court in respect of which no proof was offered; of pretending to understand that a witness had said something which he had not said, and persistently cross-examining the witness upon that basis; of assuming prejudicial facts not in evidence; of bullying and arguing with witnesses; and, in general, of conducting himself in a thoroughly indecorous manner."

Alcorta v. Texas (U.S. 1957): Due process violated by prosecution's "passive" use of perjured testimony.

Napue v. Illinois (U.S. 1959): Held that "the failure of the prosecutor to correct the testimony of the witness which he knew to be false denied petitioner due process of law in violation of the Fourteenth Amendment."

Exhibit "E"

UTAH ATTORNEYS ARE REQUIRED TO PRACTICE JUDICIAL ETHICS:

The Utah State Rules of Professional Conduct Preamble states:

" [5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and **not to harass or intimidate others**. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance and therefore, all lawyers should devote professional time and resources and use civic influence in their behalf to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the Bar regulate itself in the public interest.

[12] The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to ensure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the Bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves." - Clearly there appears to be a contradiction between rule and practice that has been evidenced in this case.

Exhibit "F"

Rights of the Accused

Jonathan Mort, Ph.D. through ThisNation.com, a repository of basic information, resources and historical documents related to American Government and Politics, has provided the following basic rights of the accused. ThisNation.com has been widely recognized as one of the best sources of American government and politics information on the web. Dr. Mott has taught introductory American Government, American Political Thought, American Political Processes, the American Presidency, Congress and the Legislative Process, Campaign Management, Transitions from Campaigning to Governing, Cyber politics, Political Analysis and Public Policy at the University of Oklahoma and at Brigham Young University.

Rights of the Accused

The Framers of the Constitution had fresh memories of a government that accused people of crimes they did not commit and then convicted them in unfair trials. Consequently, they went to great lengths to assure that the new government they established would not engage in such practices. Toward that end, **the Constitution and the Bill of Rights guarantee a series of important protections for individuals accused of committing crimes in the United States. ...**

Given the high rates of crime in this nation, some have suggested that the rights of the accused be curtailed. There have been, in fact, several efforts at the national level and in the states to enact "victims' rights" laws, to limit the number of appeals that can be brought by convicted criminals and to make the penalties for crime more severe. In terms of balancing liberty and order, these efforts are clearly aimed at promoting more order. The Constitution, however, keeps the balances tipped decidedly in favor of the accused. In this nation's criminal judicial system, the assumption is that mistakes will be made. Instead of erring on the side of punishing the innocent, however, it is a system that is more likely to let a guilty person go unpunished.

Protections for the Accused

When an individual is arrested and charged with a crime, he or she is guaranteed a variety of rights aimed at insuring that the legal proceedings which follow will be fair.

The Writ of Habeas Corpus

From the outset, the burden of proof is on the government to justify the arrest and detention of a suspect in a crime. Article I, Section 9 of the Constitution guarantees the privilege of a writ of habeas corpus. One of the most serious abuses of governmental power that the Framers sought to prevent was the imprisonment or detention of citizens [people] without an indication of why they were being held. Habeas corpus is a Latin term literally meaning "you have the body." A writ of habeas corpus is a directive from a court requiring the government to justify the imprisonment of a citizen [living man or woman]. Because of the writ of habeas corpus guarantee, an individual cannot be held for more than a short period of time without being formally charged with a crime.

Of the habeas privilege, the Supreme Court has declared that the "government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release" (see Fay v. Noia (1963)). Indeed, a large number of criminal conviction appeals are raised under the habeas corpus privilege. Individuals who have been convicted of crimes in spite of their professed innocence or a purportedly flawed trial may demand that the government justify his or her physical confinement. To justify the incarceration, it is often necessary to review the record of the trial that produced the guilty verdict as well as the evidence that was presented. In some cases, a court may conclude that an individual is being wrongfully imprisoned and his or her "immediate release" will be ordered.

Trial by Jury

One of the most important rights of an individual [man or woman] formally charged with a "serious crime" is the right to a jury trial. This right is guaranteed in Article III of the Constitution and by the Sixth Amendment. Persons [a man or woman] accused of crimes have the right to have their guilt or innocence determined by a panel of fellow-citizens [their peerage]. In federal cases, formal charges cannot even be filed unless a grand jury is convened and issues an indictment. **The jury trial and grand jury guarantees are intended to protect private citizens [people] from over-zealous police officers, prosecutors and judges.** By interjecting the wisdom and judgment of other private individuals into the process, an effective check on law enforcement and on the judicial system is maintained.

In its rulings, the Supreme Court has recognized the importance of jury trials and has set a high threshold for maintaining the impartiality of jurors. In one famous case, a bailiff was overheard by some members of a jury to say, "Oh that wicked fellow, he is guilty." The Court ruled that the comment had unfairly biased the jury against the

defendant and a new trial was ordered (see Parker v. Gladden (1966)).

While jury trials are guaranteed by the Constitution, there are several instances in which a trial is conducted without a jury. First, persons accused of crimes can waive their right to a jury trial, perhaps believing that a judge will be more understanding of the situation. Additionally, the Court has ruled that "serious crimes" are only those that carry a possible penalty of at least a $500 fine or six months in jail (see Blanton v. North Las Vegas (1989)).

Self-Incrimination

In addition to the guarantee of a jury trial, the Fifth Amendment states that no person "shall be compelled in a criminal case to be a witness against himself." The accused, however, cannot simply avoid testifying because of potential embarrassment. Rather, they must have a legitimate concern that their testimony will contribute to their conviction of a crime. Persons accused of crimes or witnesses in legal proceedings will often invoke this right by "pleading the Fifth" or by "claiming their Fifth Amendment rights."

Most Americans (at least those who have watched any "cop" shows), know that when someone is arrested, they must be "read their rights." The "reading of rights" to an accused individual is often referred to as the "Miranda warning." (The warning is named after an individual who maintained that he was not aware of his Fifth Amendment rights when he confessed to a crime immediately after being arrested.) In Miranda v. Arizona, the Supreme Court concluded:

The Fifth Amendment privilege is so fundamental to our system of constitutional rule and the expedient of giving an adequate warning as to the availability of the privilege so simple, we will not pause to inquire in individual cases whether the defendant was aware of his rights without a warning being given. Assessments of the knowledge the defendant possessed, based on information as to his age, education, intelligence, or prior contact with authorities, can never be more than speculation; a warning is a clear cut fact. More important, whatever the background of the person interrogated, a warning at the time of the interrogation is indispensable to overcome its pressures and to insure that the individual knows he is free to exercise the privilege at that point in time.

In many instances, a prosecutor or investigator would rather hear what an individual has to say than attempt to prosecute them based on their testimony. In such cases, individuals may be granted immunity in exchange for providing information about a crime. For example, in the investigation of President Clinton's relationship with Monica Lewinsky, Lewinsky was granted immunity in exchange for her testimony about her

relationship with Clinton. Prosecutors commonly grant immunity to persons suspected of committing lesser crimes if their testimonies might help convict a more prominent suspect of a more serious crime.

"Double Jeopardy"

Persons accused of crimes are also protected from what is called "double jeopardy." In the words of the Fifth Amendment, no person shall "be subject for the same offence to be twice put in jeopardy of life or limb." If the result of a jury trial is an acquittal (the jury finds the defendant "not guilty"), there can be no further legal action taken against the defendant for that crime. One exception to this rule occurs when a defendant challenges his or her guilty conviction and is granted a new trial (typically because of some procedural error in the original trial). In this case, the "jeopardy" posed by the first trial is eliminated and a new trial can be convened, putting the defendant in jeopardy as if for the first time for the alleged crime.

Another exception to the double jeopardy provision is really not an exception. It is possible for an individual, such as OJ. Simpson, to be tried in criminal court for a crime and then be sued in civil court for damages caused by the same criminal act. The laws and rules that apply to the two different legal systems are sufficiently different that, for the purposes of the Fifth Amendment, they are considered distinct. Additionally, an individual may also be tried for different crimes committed in the course of one action or set of actions. For example, when Timothy McVeigh was tried in Federal Court for bombing the Murrah Federal Building in Oklahoma City, he had been charged with murdering federal government employees and with destroying federal government property. The possibility remains that McVeigh could still be tried in Oklahoma state court for the murders of the other people killed in the bombing. Because they are separate crimes (as defined in the law), another trial would not bring about "double jeopardy."

No Excessive, Cruel or Unusual Fines or Punishments

The Eighth Amendment forbids the government from imposing excessive bail, fines or "cruel and unusual" punishments. Given the era during which the Eighth Amendment was drafted and ratified, one of its obvious intents was to prohibit torture. Under the limitations imposed by the Constitution, penalties for crimes may include fines or incarceration, but not excessively painful or physically harmful penalties such as whippings or branding, both common practices in the 1700s. The Court has also interpreted the Eighth Amendment to prohibit imprisonment in unsanitary or inhumane conditions. However, the Court has been reluctant to define such conditions too

broadly. In Rhodes v. Chapman (1981), the Court reversed a lower court's decision that declared "double ceiling," the housing of two prisoners in one small cell, was unconstitutional:

The double ceiling made necessary by the unanticipated increase in prison population did not lead to deprivations of essential food, medical care, or sanitation. Nor did it increase violence among inmates or create other conditions intolerable for prison confinement. Although job and educational opportunities diminished marginally as a result of double ceiling, limited work hours and delay before receiving education do not inflict pain, much less unnecessary and wanton pain; deprivations of this kind simply are not punishments. We would have to wrench the Eighth Amendment from its language and history to hold that delay of these desirable aids to rehabilitation violates the Constitution.

One of the most important standards the Court has used in determining whether a punishment or fine violates the Eighth Amendment is a test of proportionality. The Court has ruled that, under certain circumstances, the death penalty may be a "cruel and unusual" punishment, but only where it is not proportionate to the crime committed.

Search Warrants

The Fourth Amendment forbids the search or seizure of an individual's private property without a warrant. In practice, this means that a police officer or other government agent cannot enter your home to search it and seize evidence unless he or she has the permission of a judge to do so. When a law enforcement official is investigating a crime, he or she must assemble enough evidence to convince a judge that the violation of a suspect's privacy and property is "warranted." The standard for demonstrating the need for a warrant is that the government must show that it has "probable cause." Of this standard, the Supreme Court observed:

> In dealing with probable cause ... as the very name implies, we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act. ... Probable cause exists where "the facts and circumstances within [the arresting officers'] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that" an offense has been or is being committed (see Draper v. United States (1959)).

The "Due Process of Law"

The Constitution and the Bill or Rights guarantee several specific rights of the accused, many of which have been discussed above. In addition to these narrowly defined rights, the Fifth and Fourteenth Amendments also provide the broad guarantee that no one shall be deprived of "life, liberty, or property, without due process of law."

The "due process" guarantee includes the rights outlined in the Constitution as well as others not specifically mentioned. In fact, some observers have referred to the due process clauses as the "wild card" of the Constitution because of the opportunity they provide for the judiciary to interpret individual rights expansively. In the most simple of terms, however, the due process guarantees of the Constitution guarantee that individuals accused of crimes will be given a fair trial. This includes the guarantee of a jury trial, the right against self-incrimination and others already discussed. Other specific due process guarantees include the right of the accused to confront their accusers and to compel favorable witnesses to testify in their behalf (Sixth Amendment).

Perhaps the most significant expansion the Supreme Court has made to the due process rights of the accused came in its landmark decision in Gideon v. Wainwright. Gideon had been charged with breaking and entering and, appearing before a Florida judge, requested a court appointed attorney because he did not have the money to hire one himself. Under Florida law at the time, public defenders could only be provided for capital offense cases, cases in which the accused be sentenced to death if found guilty.

Gideon defended himself as best he could but was convicted nonetheless. In a later appeal of his conviction, the Supreme Court ruled that Gideon's due process rights had been violated when he was not granted his request for legal counsel. Commenting on its ruling, the Court observed:

> That government hires lawyers to prosecute and defendants who have the money hire lawyers to defend are the strongest indications of the widespread belief that lawyers in criminal courts are necessities, not luxuries. The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer [counsel] to assist him.

On the basis of this ruling, all persons accused of felonies must be provided court appointed attorneys if they cannot afford to hire them on their own. This ruling is emblematic of a system which extends a significant menu of rights to persons accused

of crimes in the United States of America. Through these rights, the people of this nation are provided significant protections from unfair and unjust accusations and punishments.

Summation

For a society to work, the members of the society must have a common agreement between them; One which would allow the attainment of what each individual needs; physically, emotionally, intellectually, economically and spiritually. In return each individual is responsible to serve society to the best of that individual's talents and abilities.

The *"Principles of Good Business©"* seemingly reflect a common thought that each of us must have: 1) A Stewardship of Responsibility; 2) Adherence to Ethical Standards; 3) The creation of Abundance; 4) A Pledge to Do No Harm; and 5) A Duty to give Back to the Community. Simple principles, that when followed, form the moral basis of a free society and guarantee the trust and confidence of our communities through a common acknowledgement of our expectations.

NOTARY JURAT

So to attested this 24th day of May, 2022.

by: _____ and _____ Community Advocate(s) – Community Support Foundation, and *We the people*, as concerned Americans of the Republic of the Utah, presented the above, declaring it to be true and factual to the best of our knowledge, as:

MOTION TO BE ADMITTED
BRIEF AMICUS CURIAE
SUPPORTING DEFENDANTS
As authorized by
Amendment I to the Constitution

I certify that Jeffrey Besendorfer & Michael Bronson, who is known to me or who presented satisfactory identification, has, while in my presence and while under oath or affirmation, voluntarily signed this document before me and declared that it is true on this 24 day of May of this year of our Lord 2022.

(Seal)

CAROLYN A PRICE
Notary Public - State of Utah
Comm. No. 703810
My Commission Expires on
Dec 21, 2022

_____
Notary Public

COPY

FILED
MAY 24 2022
4TH DISTRICT
STATE OF UTAH
UTAH COUNTY

CERTIFICATE OF SERVICE

FOR THE VERIFICATION IS FOR THE TRUE AND CORRECT-COPY OF THE ORIGINAL OF THE

BRIEF AMICUS CURIAE OF COMMUNITY SUPPORT FOUNDATION, SUPPORTING DEFENDANTS,

AS INDICATED BELOW.

DAVID O. LEAVITT (Counsel of record)
Utah County Attorney
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Respectfully,

Jeff Besendorfer
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