

JOHN VIDUREK, KIMBERLY VIDUREK, AND JAMES VIDUREK
1 South Drive, Hyde Park, New York, 12539
Phone (845) 229-0350, Fax (888) 891-8977;

JAN 21 2021

5
**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CASE NO. 7:20-CV-06714 cs

10 **ACTION AT LAW – COURT OF RECORD**

JOHN VIDUREK, ET AL, PLAINTIFFS, IN PRO PER

-v-

15 Steve Douglas CEO, CBE Group *(defaulted)*
PO Box 126 Waterloo, IA 50704

Mike Frost CLO, CBE Group *(defaulted)*
PO Box 126 Waterloo, IA 50704

20 Kamm "Randy" VP, CCO, CBE Group *(defaulted)*
PO Box 126 Waterloo, IA 50704

CBE Group Inc. *(defaulted)*
PO Box 126 Waterloo, IA 50704

Unrepresented

25 N Cassadine, DOT Small Business *(defaulted)*
J Melendez, Taxpayer Advocate Service *(defaulted)*
Susan Lamastro, DOT, IRS *(defaulted)*
Jeanette Willet, DOT Small Business *(defaulted)*
30 Frank J Chan, IRS ACS Correspondence *(defaulted)*
Charles P. Rettig, IRS *(defaulted)*
Bobbi S Martin, DOT, IRS *(defaulted)*

Represented by Brandon H Cowart,
Assistant US Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Phone: (212) 637-2693
Fax: (212) 637-2686
Email: Brandon.cowart@usdoj.gov

Defendants

**UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK**
• 300 Quarropas Street, White Plains, NY. 106011 •

John Vidurek, Kimberly Vidurek, and James Vidurek;
Plaintiffs

- against -

Steve Douglas, Mike Frost, Kamm Randy, CBE Group Inc.,
N Cassadine, J Melendez, Susan Lamastro, Jeanette Willet,
Frank J Chan, Charles P. Rettig, and Bobbi S Martin;

Defendants

JURISDICTION: Court of Record

Docket No. 7:20cv06714cs

ACTION AT LAW¹

Plaintiffs respond to defendants "non-answer to plaintiffs paper filed on October 31, 2020. Regardless of the "fabrications" by US Attorney Brandon Cowart and the defendants which is just another ploy to prevent justice for the plaintiffs in order to maintain the "Status Quo" via the repugnant rule 12 on behalf and in service of their masters. Plaintiffs have "NEVER" been heard, only repeatedly removed under said rule 12 as US Attorneys regurgitate the same LIES over and over.

"Due course of law, this phrase is synonymous with "due process of law" or "law of the land" and means law in its regular course of administration through courts of justice." - Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.

At the October 7th hearing as per Judge Seibel's direction to, "amend the complaint" plaintiffs filed a paper on October 31, 2020 of which the defendants again defaulted by not responding. Forty-nine days later on December 19, 2020, after "TWO DEFAULTS" defendants responded with a motion to dismiss under rule 12, which is unconstitutional because it denies due process.

Under the "Law of the Land" there is a Common Law Maxim that states, "*For every injury there must be a remedy*" and, "*An Affidavit unrebutted stands as Truth*"!

¹ **AT LAW:** [Bouvier's] This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

55 *"Indeed, no more than affidavits is necessary to make the prima facie case."* [United States v. Kis, 658 F.2d 526, 536 (7th Cir. 1981); Cert. Denied, 50 U.S. L. W. 2169; S. Ct. March 22, 1982]

DEFENDANTS OFFER "NO DOCUMENTARY EVIDENCE"

60 Plaintiffs' filed three "affidavits" uncontested and "CLEARLY" defines the injuries. Plaintiffs have not seen any documentary evidence (form 4490), from a competent fact witness, with firsthand knowledge, showing the existence of a proof of claim. Plaintiffs have not seen any documentary evidence (form 56), from a competent fact witness, with firsthand knowledge, showing the existence of any fiduciary relationship. Defendants ignored codes statutes and regulations that govern them and for vindictive reasons set out, exercising Marxist evil schemes, to destroy plaintiff John by going after his
65 wife and child, all without any merit.

SOVEREIGN IMMUNITY

 Defendants also try to claim "sovereign immunity" which belongs to the sovereign, not the government and its agents. The United States have a "clipped sovereignty" in relations to other nations² and cannot be lawfully claimed in order to hide their high crimes and misdemeanors as they
70 bully and oppress the People. *"There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign."* - Cooper v. O'Conner, 99 F.2d 133. And even *"a judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts."* - Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938).

75 *"The doctrine of Sovereign Immunity is one of the Common-Law immunities and defenses that are available to the Sovereign."* - Yick Wo v. Hopkins, 318 US 356, 371 and Terry v. Ohio, 392 US 1, 40.

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it." - U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882)
80

"Since the 14th Amendment to the Constitution states "NO State (Jurisdiction) shall make or enforce any law which shall abridge the rights, privileges, or immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law,

² CLIPPED SOVEREIGNTY: In the relations of the several states of the United States to other nations, the states have what is termed a clipped sovereignty. Anderson v. N. V. Transandine Handelmaatschappij, Sup., 28 N.Y.S.2d 547, 552.

85 ... or equal protection under the law", this renders judicial immunity unconstitutional. -
Marbury v. Madison, 5 U.S. (2 Cranch) 137, 180 (1803).

"Constitutionally and in fact of law and judicial rulings, state-federal "magistrates-judges" or
any government actors, state or federal, may now be held liable, if they violate any Citizen's
Constitutional rights, privileges, or immunities, or guarantees; including statutory civil rights."
90 - Forrester v. White, 484 U.S. at 227-229, 108 S. Ct. at 544-545 (1987); Westfall v. Erwin, 108
S. Ct. 580 (1987); United States v. Lanier (March 1997).

"Our own experience is fully consistent with the common law's rejection of a rule of judicial
immunity. We never have had a rule of absolute judicial immunity. At least seven circuits have
indicated affirmatively that there is no immunity... to prevent irreparable injury to a citizen's
95 constitutional rights..." "Subsequent interpretations of the Civil Rights Act by this Court
acknowledge Congress' intent to reach unconstitutional actions by all state and federal actors,
including judges... The Fourteenth Amendment prohibits a state [federal] from denying any
person [citizen] within its jurisdiction the equal protection under the laws. Since a State [or
federal] acts only by its legislative, executive or judicial authorities, the constitutional
100 provisions must be addressed to those authorities, including state and federal judges..." "We
conclude that judicial immunity is not a bar to relief against a judicial officer acting in her
[his] judicial capacity." - Pulliam v. Allen, 466 U.S. 522 (1984); 104 S. Ct. 1781, 1980, 1981,
and 1985.

JURISDICTIONS UNKNOWN

105 Plaintiffs proceed "under protest" because defendants have defaulted. Dishonorable Judge Seibel has
seized control of plaintiffs' Court of Law³ carrying plaintiffs away, under "constitutionally repugnant
rule 2", to jurisdictions known only to dishonorable Judge Seibel and US Attorney Brandon Cowart
and thus far refuses to identify the jurisdiction, for that reason alone dishonorable Judge Seibel must
recuse herself. Congress was clear in the "Rules Enabling Act of 1934" under §2072(b) which clearly
110 states "Such rules shall not abridge, enlarge or modify any substantive right, all laws in conflict with
such rules shall be of no further force or effect after such rules have taken effect." No further force or
effect, because clearly it abridges common law [Natural Law] and thereby our founding documents."
Any judge denying a "Natural Law Court" is concealing courts of Law. Any judge proceeding under
rule 2 wars against the Constitution. "That statute(s) [or rule] which would deprive a citizen of the
115 rights of person or property without a regular trial, according to the course and usage of common law,
would not be the law of the land."⁴

³ COURT OF LAW: [Blacks law 4th], In a narrow sense, a court proceeding according to the course of the common law
and governed by its rules and principles, as contrasted with a "court of equity."

⁴ Hoke vs. Henderson, 15, N.C.15,25 AM Dec 677.

"Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason." - Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958).

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

125 *"No... judicial officer can war against the Constitution without violating his undertaking to support it". - Sawyer, 124 U.S. 200 (188); U.S. v. Will, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821).*

130 *"By law, a judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). When a judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject-matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect. ... "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." - Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974)*

135 *"When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost." - Zeller v. Rankin, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326*

140 **DEFENDANTS DEFAULTED**

Defendants did in fact default but dishonorable Judge Seibel without authority "ignored the law" and waived said default. Defendants failed to plead or defend. Defendants admitted that they were served. Plaintiff showed that defendants defaulted by affidavit on the record. Default final judgment establishes allegations of complaint and concludes by way of estoppel.⁵

145 On October 7th 2020 a hearing was held where dishonorable Judge Seibel said: *"Defendants screwed up and did not respond within the time contemplated in the rules."* *"Defendants attributed their untimely response because of a holiday and a mistake by the clerk of the court seeking a filing fee, and requested an opportunity to respond."* *"That was a lame excuse. Being on vacation is no excuse, defendants had a responsibility and a US Attorney should know better."*

⁵ De Hoff v. Black, 206 N.C. 687, 175 S.E. 179.

150 Neither the law nor the rules provide that, "*defendants' negligence was not willful*" as a provision to
excuse the default. CPLR§317⁶ states that; "*Unless the defendant can show they (1) did not receive
personal delivery and (2) have meritorious defense, they cannot [be allowed to defend the action].*" As
per CPLR§317 "*The court may direct and enforce restitution of a case only if the defense is successful
in proving "both" that they did not receive personal delivery to him or to his agent and that they have*
155 *meritorious defense.*"

FRAUD ON THE COURT

US Attorney Brandon Cowart witnessed and allowed a "Fraud on the Court", making him a co-
conspirator to a crime in open court, when he accepted dishonorable Judge Seibel unlawful decision to
step outside the law and supersede rule 55 and made her own rule. And when US Attorney Brandon
160 Cowart filed motion to dismiss under rule 12 instead of standing up for the Law he chose to entered
into a conspiracy with dishonorable Judge Seibel to silence the plaintiffs.

US Attorney Brandon Cowart and dishonorable Judge Seibel, via judicial machinery, conspired under
rule 2 to unlawfully conceal plaintiffs' "Common Law Court" and removed plaintiffs' "Court of
Record"⁷ to jurisdictions unknown under "civil law" a/k/a Roman civil law founded under Babylonian
165 law in violation of USC Title 28 §132.

CIVIL LAW (Blacks Law): "*Civil Law, Roman Law and Roman Civil Law are convertible
phrases, meaning the same system of jurisprudence. That rule of action which every particular
nation, commonwealth, or city has established peculiarly for itself; more properly called
"municipal" law, to distinguish it from the "law of nature," and from international law.*" See
170 Bowyer, Mod. Civil Law, 19; Sevier v. Riley, 189. Cal. 170, 244 P. 323, 325.

USC Title 28 §132: *Creation and composition of district courts: (a) There shall be in each
judicial district a district court which shall be a court of record known as the United States
District Court for the district.*

⁶ **CPLR §317:** A person served with a summons other than by personal delivery to him or to his agent for service
designated under rule 318, within or without the state, who does not appear may be allowed to defend the action within one
year after he obtains knowledge of entry of the judgment, but in no event more than five years after such entry, upon a
finding of the court that (1) he did not personally receive notice of the summons in time to defend and (2) has a meritorious
defense. If the defense is successful, the court may direct and enforce restitution in the same manner and subject to the
same conditions as where a judgment is reversed or modified on appeal.

⁷ **COURT OF RECORD:** A judicial tribunal having attributes and exercising functions independently of the person of the
magistrate designated generally to hold it Proceeding according to the course of common law Jones v. Jones, 188 Mo.App.
220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y.
406, 155 N.E. 688, 689

175 Dishonorable Judge Seibel unlawfully ignored the rules that govern her and thereby placed herself
above the law. And US Attorney Brandon Cowart, who has admitted that he defaulted in open court, in
collusion with dishonorable Judge Seibel proceeded with the unconstitutional and therefore repugnant
rule 12 to prevent justice. Both dishonorable Judge Seibel and US Attorney Brandon Cowart are guilty
of fraud on the court and obstruction of Justice, whereas at the October 7th hearing dishonorable Judge
Seibel rescued the defendants from a default with a 'rule that doesn't exist' when dishonorable Judge
180 Seibel said and I quote, "I do not find the defendants negligence to be willful and see no prejudice so I
am not going to enter a default." in contrast to CPLR§317.

FRAUD UPON THE COURT: In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985),
the court stated "*Fraud upon the court is fraud which is directed to the judicial machinery itself
and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It
185 is where the court or a member is corrupted or influenced or influence is attempted or where
the judge has not performed his judicial function --- thus where the impartial functions of the
court have been directly corrupted.*"

OBSTRUCTION OF JUSTICE 18 USC § 1505: "*Whoever corruptly... obstruct[s], or impede[s]
the due and proper administration of the law under which any pending proceeding is being had
190 before any department or agency of the United States, ... Shall be fined under this title;
imprisoned not more than 5 years.*"

CONCEALMENT 18 USC § 2071: (a) *Whoever willfully and unlawfully conceals, removes ... with intent
to do so, takes and carries away any ... proceeding ... filed or deposited with any clerk or officer of
any court of the United States ... shall be fined under this title or imprisoned not more than three
195 years, or both. (b) Whoever, having the custody of any such record, proceeding ... willfully and
unlawfully conceals, removes ... the same, shall be fined under this title or imprisoned not more than
three years, or both; and shall forfeit his office and be disqualified from holding any office under the
United States.*

PLAINTIFFS DEMAND FOR OATHS OF OFFICE

200 Article VI⁸ bound every judge to yield to the "Supreme Law of the Land" and are bound by oath.

As per 5 USC §3332 Officer affidavit which states; "*An officer, within 30 days after the
effective date of his appointment, shall file with the oath of office required by section 3331 of
this title an affidavit that neither he nor anyone acting in his behalf has given, transferred,*

⁸ Article VI: "*This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all
treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and
the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary
notwithstanding.*"

205 *promised, or paid any consideration for or in the expectation or hope of receiving assistance in securing the appointment."*

210 And, Article VI: *"This Constitution, and the laws of the United States... shall be the supreme law of the land; and the judges in every State shall be bound thereby; anything in the Constitution or laws of any State to the contrary notwithstanding... All executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."*

WHEREFORE, plaintiffs "AGAIN" Demand that Acting United States Attorney Audrey Strauss, Assistant United States Attorney Brandon H. Cowart and dishonorable Judge Seibel file in this Court of Law their oaths and bonds immediately.

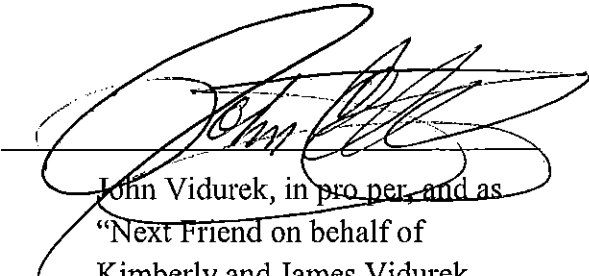
215 Plaintiffs' demand that dishonorable Judge Seibel honor her oath and rule the only lawful summary judgement she has the authority to exercise on behalf of the plaintiffs namely, a default judgment against the defendants with prejudice which would then return to plaintiffs their Court of Law.

220 *"Summary proceeding: Any proceeding by which a controversy is settled, case disposed of, or trial conducted, in a prompt and simple manner, without the aid of a jury, without presentment or indictment, or in other respects out of the regular course of the common law."* - Sweet. And see Phillips v. Phillips, 8 N.J.L. 122.

"By the law of the land is more clearly intended the general law, a law which hears before it condemns; which proceeds upon inquiry and renders judgment only after trial." - Dartmouth College Case, 4 Wheat, U.S. 518, 4 ED 629.

225 Seal New York, Dutchess County, January 15, 2021

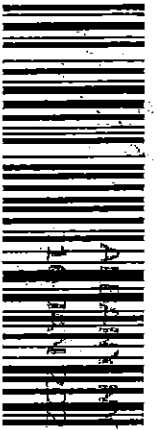



John Vidurek, in pro per, and as
"Next Friend on behalf of
Kimberly and James Vidurek



John E. Vidurek
1 South Dr.
Hyde Park, NY 12538

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United States District Court for
The Southern District of New York
300 Quarropas Street
White Plains, NY. 10601

