

*Q*

UNITED STATES DISTRICT COURT  
NORTHER DISTRICT OF OKLAHOMA

**FILED**  
SEP 22 2006  
Phil Lombardi, Clerk  
U.S. DISTRICT COURT

**We the People** )  
Eddie Andrews )  
Rodney D. Class )  
Angela S. Andrews )  
Richard Andrews )  
Carl Weston )  
Dwight L. Class )  
Maria Janet Moffat )  
Sherwood T. Rodriguez )  
William McDonald )  
John and Jane Doe )  
Plaintiffs, )  
Vs )

Case No. 06cv 460TCK - PJC  
Class Action

**UNITED STATES'S** )  
States Justice Institute ,Official Capacity )  
**State of Oklahoma,** )  
W. A. Drew Edmondson, individual )  
**State of Ohio,** )  
Jim Petro, individual )  
Betty Montgomery, individual )  
Bob Taft, individual )  
Deborah J. Groom, individual )  
William F. Downes, individual )  
Marsha J. Pechman, individual )  
Robert J. Bryan, individual )  
Lawrence K. Karlton, individual )  
Franklin D. Burgess, individual )  
Joe Heaton, individual )  
First National Bank, Official )  
**State of Washington,** )  
Rob McKenna, individual )  
**State of California,** )  
Bill Lockyer, individual )  
**State of Texas,** )  
Greg Abbott, individual )  
**State of North Carolina,** )  
Roy Cooper, Individual )  
CNA Surety, Official )  
Westfield Insurance, Official )  
Gretchen C. F. Shappert, individual )  
John and Jane Doe )  
Defendants )

**OBJECTION TO A MAGISTRATE AND THE DENIAL OF A TRIAL**  
**BY JURY**

We the People the Plaintiff's are filing an **OBJECTION TO A MAGISTRATE AND THE DENIAL OF A TRIAL BY JURY**. This is the reason for the **Class Action** being called DUE PROCESS. It is what the People are being denied in the courts. A magistrate is appointed without a trial by jury This is what court is presuming and calling due process. Below are the definitions from Wikipedia encyclopedia and Black's Law Dictionary sixth edition . The People, across the united States, are being denied due process in the courtrooms. From State supreme Courts, Bankruptcy Court, IRS, Mortgage foreclosure, Credit card fraud all the way down to the traffic court for jay walking constitutes the denial due process.

This Court is trying to usurpation it's authority by side stepping a judge to hear this case and the Plaintiff's are being denied a trial by an impartial jury of our peers not voters. Again due process is being side stepped.

#### **Due process**

##### **From Wikipedia, the free encyclopedia**

In United States law, **due process** (more fully **due process of law**) is the principle that the government must respect all of a person's legal rights instead of just some or most of those legal rights when the government deprives a person of life, liberty, or property. Due process has also been interpreted as placing limitations on laws and legal proceedings in order to guarantee fundamental fairness, justice, and liberty

#### **Procedural due process**

Procedural due process is essentially based on the concept of "fundamental fairness." As a bare minimum, it includes an individual's right to be adequately notified of charges or proceedings involving him, and the opportunity to be heard at these proceedings. In criminal cases, it ensures that an accused person will not be subjected to cruel and unusual punishment.

#### **The Fifth Amendment**

The Fifth Amendment contains a guarantee of basic due process applicable only to actions of the federal government: "No person shall be... deprived of life, liberty, or property, without due process of law..." (Indeed, this is the origin of the term *due process*.) The Fourteenth Amendment contains the same phrase, but expressly applied to the States. The Supreme Court has interpreted the two clauses identically, so under the

federal Constitution, there is no substantial difference in protection from federal or State action. However, State constitutions also have their own guarantees of due process that may, by their own terms or by the interpretation of that State's judiciary, extend even more protection to individuals than under federal law.

**Black's Law Dictionary Sixth Edition**

**Due Process of Law**

Embodied in the due process concept are the basic rights of a defendant in criminal proceedings and the requisites for a fair trial. These rights and requirements have been expanded by Supreme Court decisions and include, timely notice of a hearing or trial which informs the accused of the charges against him or her; the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge; the presumption of innocence under which **guilt must be proven by legally obtained evidence** and the verdict must be supported by the evidence presented; rights at the earliest stage of the criminal process; and the guarantee that an individual will not be tried more than once for the same offence (double jeopardy).

"Due process of law does not mean merely according to the will of the Legislature, or the will of some judicial or quasi-judicial body upon whom it may confer authority. It means according to the law of the land, including the Constitution with its guaranties and the legislative enactments and rules duly made by its authority, so far as they are consistent with constitutional limitations." *Ekern v McGovern*, 154 Wis. 157, 142 N.W. 595, 620 (1913), cases cited.

"'The law of the land,' as used in the constitution, has long had an interpretation, which is well understood and practically adhered to. It does not mean an Act of the Legislature; if such was the true interpretation, this branch of the government could at any time take away life, liberty, property and privilege, without a trial by jury." *Saco v. Wentworth*, 37 Maine 165, 171 (1852).

"The individual may stand upon his constitutional rights as a citizen." "His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution." *Hale v. Henkel*, 201 U.S. 43, 74 (1905).

The Plaintiff's filed a civil sheet which was marked for a jury trial (See Attachment A). Your clerk of court handed back that document because it needed to be filed as a recorded document. Again due process was being denied. As parts of the record being filed were being handed back to the People allowed the court to claim a trial by jury was never asked for. This assumption compounds the due process violation. The

name of the Class Action is called DUE PROCESS. It not called under a Title violation but is identified as a DUE PROCESS Action.

The united States Constitution Amendment VII the right of trial by jury shall be preserved. It does not say if we feel like it, or maybe we well give you one. It says THE RIGHT OF TRIAL BY JURY SHALL BE PRESERVED..... Amendment VI In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and in the district wherein the crimes shall have been committed.

Federal Rules Civil Procedure Rule 38 JURY TRIAL OF RIGHT. It is in your own rule book We the People are not asking for anything more then what the constitution gives use as protected rights under the first 10 Amendments or what is known as the Bill of Rights. That is all we are asking for. DUE PROCESS.....Nothing less, nothing more...

We the People, the Plaintiff's., Demand to be heard by a Judge who is fair and impartial and by a jury that is of our peers and fair and impartial. We have not even begun this case and already due process is being violated by the Court.

**The Judicial Code of 1911 (excerpted)**

**March 3, 1911.**

**36 Stat. 1087, 1167.**

**CHAPTER THIRTEEN.**

**GENERAL PROVISIONS.**

SEC. 289. The circuit courts of the United States, upon the taking effect of this Act, shall be, and hereby are, abolished; and thereupon, on said date, the clerks of said courts shall deliver to the clerks of the district courts of the United States for their respective districts all the journals, dockets, books, files, records, and other books and papers of or belonging to or in any manner connected with said circuit courts; and shall also on said date deliver to the clerks of said district courts all moneys, from whatever source received, then remaining in their hands or under their control as clerks of said circuit courts, or received by them by virtue of their said offices. The journals, dockets, books, files, records, and other books and papers so delivered to the clerks of the several district courts shall be and remain a part of the official records of said district courts, and copies thereof, when certified under the hand and seal of the clerk of the district court, shall be received as evidence equally with the originals thereof; and the clerks of the several district courts shall have the same authority to exercise all the powers and to perform all the duties with respect thereto as the clerks of the several circuit courts had prior to the taking effect of this Act.

SEC. 290. All suits and proceedings pending in said circuit courts on the date of the taking effect of this Act, whether originally brought therein or certified thereto from the district courts, shall thereupon and thereafter be proceeded with and disposed of in the district courts in the same manner and with the same effect as if originally begun therein, the record thereof being entered in the records of the circuit courts so transferred as above provided.

SEC. 291. Wherever, in any law not embraced within this Act, any reference is made to, or any power or duty is conferred or imposed upon the circuit courts, such reference shall, upon the taking effect of this Act, be deemed and held to refer to, and to confer such power and impose such duty upon, the district courts.

SEC. 292. Wherever, in any law not contained within this Act, a reference is made to any law revised or embraced herein, such reference, upon the taking effect hereof, shall be construed to refer to the section of this Act into which has been carried or revised the provision of law to which reference is so made.

SEC. 293. The provisions of sections one to five, both inclusive, of the Revised Statutes, shall apply to and govern the construction of the provisions of this Act. The words "this title," wherever they occur herein, shall be construed to mean this Act.

SEC. 294. The provisions of this Act, so far as they are substantially the same as existing statutes, shall be construed as continuations thereof, and not as new enactments, and there shall be no implication of a change of intent by reason of a change of words in such statute, unless such change of intent shall be clearly manifest.

SEC. 295. The arrangement and classification of the several sections of this Act have been made for the purpose of a more convenient and orderly arrangement of the same, and therefore no inference or presumption of a legislative construction is to be drawn by reason of the chapter under which any particular section is placed.

SEC. 296. This Act may be designated and cited as "The Judicial Code."

### CERTIFICATE OF SERVICE

We the People Plaintiff's , do hereby certify, that I have cause to be delivered to the Clerk of Courts of the **UNITED STATES NORTHTERN DISTRICT OF OKLAHOMA** a True, Correct, Certain and Not Misleading Document to be serviced upon this court with a **OBJECTION TO A MAGISTRATE AND THE DENIAL OF A TRIAL BY JURY** and to be serviced upon all named parties. By mail. On this 20 day of Sept 2006 A. D.

Prepared and submitted by Eddie Andrews  
Eddie Andrews  
P.O. Box 1132  
Catoosa ,OK 74015

Prepared and submitted by Rodney D. Class  
Rodney D. Class  
P.O. Box 435  
High Shoals, NC  
28077

**UNITED STATES'S** ,States Justice Institute ,**State of Oklahoma**, W. A. Drew Edmondson, **State of Ohio**, Jim Petro, Betty Montgomery, Bob Taft, Deborah J. Groom, William F. Downes, Marsha J. Pechman, Robert J. Bryan, Lawrence K. Karlton, Franklin D. Burgess, Joe Heaton, First National Bank, **State of Washington**, Rob McKenna, **State of California**, Bill Lockyer, **State of Texas**, Greg Abbott, **State of North Carolina**, Roy Cooper, CNA Surety, Westfield Insurance, Gretchen C. F. Shappert,

Prepared and submitted by: Eddie Andrews  
Name & Address Eddie Andrews  
P.O. Box 1132  
Catoosa, OK 74015

Prepared and submitted by: Rodney D. Class  
Name & Address Rodney D. Class  
P.O. Box 435  
High Shoals, NC 28077

Prepared and submitted by: \_\_\_\_\_  
Name & Address Angela Andrews  
P.O. Box 1132  
Catoosa, OK 74015

Prepared and submitted by: Richard Andrews  
Name & Address Richard Andrews  
P.O. Box 1132  
Catoosa, OK 74015

Prepared and submitted by: Dwight L. Class  
Name & Address Dwight L. Class  
1200 Hospital Drive Apt 13  
Angleton, TX 77515

Prepared and submitted by: Maria Janet Moffit  
Name & Address Maria Janet Moffit  
In C/o P.O. Box 4036  
Bremerton, Wash. [98132]

Prepared and submitted by: Carl Weston  
Name & Address Carl Weston  
2851 N Hwy 66 # 18  
Catoosa, OK 74015

Prepared and submitted by: Sherwood T. Rodrigues  
Name & Address Sherwood T Rodrigues  
C/o 1610 Shenandoah Court  
Petaluma, Calif. [94954]

Prepared and submitted by: William McDonald  
Name & Address William McDonald  
2851 N. Hwy 66 #18  
Catoosa, OK. 74015