

considering plaintiff's personal action of trespass for damages and specifically: "Default Judgment disposing of all controversies herein associated to include but not be limited to Judgment for damages as set forth in the above referenced Action, a writ of Replevin or writ of Right, whichever is most applicable, for the return of all of Plaintiff's property taken by defendants without plaintiff's consent, an order terminating the underlying action in the Kansas City Municipal court as described in said action, an order of the court demanding defendant provide to plaintiff and this court his social security number, his security bond information and bond number thereon attached, a declaratory judgment barring similar future actions by defendant and his agents as being against Plaintiff's Right of action, and writs of execution on each."

Present were: The Honorable Anthony Rex Gabbert designated generally to hold the hearing, The Tribunal^{3,4}, Plaintiff, in personam, defendant was absent, as was defendant's counsel; the Missouri Assistant Attorney General: EMILY DODGE (MAAG).

The magistrate then called the *Duff v Frazier*⁵ case to the bench. The record will show that the magistrate did not conduct the hearing in accordance with either the stated rules of court (Federal Rules of Civil Procedure, specified in Plaintiff's Action of Trespass, Page 9 of 11 Para; 40:Line 3) or the foundation rules of a court of record (Judicial Notice, Page 1, Lines 17-20) and (Exhibit F Page 5; lines 225 – Page 7; line 300). Instead, the magistrate conducted his own court, without notice or concurrence of the parties, and without due process. In fact, as if he had not read the

³ TRIBUNAL

The seat of a judge; the place where he administers justice. The whole body of judges who compose a jurisdiction; a judicial court; the jurisdiction which the judges exercise. See *Foster v. Worcester*, 16 Pick. (Mass.) 81. Black's Law Dictionary, 4th Ed., 1677

⁴ INTERNATIONAL LAW

COURT: The person and suite of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be. In the Conflict of Laws, **lex causae** (Latin: lex+causa, "cause [for the] law") is the law or laws chosen by the forum court from among the relevant legal systems to arrive at its judgement of an international or interjurisdictional case. The term refers to the usage of particular local laws as the basis or "cause" for the ruling, which would itself become part of referenced legal canon. Conflict of Laws is the branch of public law which regulates all lawsuits involving a "foreign" law element, where a difference in result will occur depending on which laws are applied. Once the forum court has ruled that it has jurisdiction to hear the case, it must then decide which of the possible laws are to be applied to resolve the dispute.

⁵ **Note; The magistrate's first comment to plaintiff was that MAAG was in route to the hearing and would arrive forthwith. Whereupon plaintiff sat down to wait for said arrival.**

documents filed in this case prior to said hearing refused to cognize the nature of Plaintiff's action. The magistrate made it clear that he believed he was acting in a statutory jurisdiction. Not satisfied with the lawful rules of this court, he imposed his own rules and rules of another jurisdiction foreign to this court without the assent of this tribunal or the parties.

In the exchange between plaintiff and magistrate, following his complete silence from the outset of this action, the magistrate made it perfectly clear that the fact that this is a court of record was of no consequence to him.

Further, without proper authority, the magistrate stepped out of his function as a magistrate and, by his actions and statements, figuratively assumed the cloak of a tribunal by declaring that the court was the 'clay county circuit court'⁶, in response to plaintiff's statement that it was the "Duff court". the magistrate's correction respecting the "Duff court" statement which would by any normal measure be an irrelevant comment not due serious consideration is some evidence that the magistrate, in fact, did understand and object to the nature and structure of this court and was attempting to subvert same and authority as outlined in the action and all the documents filed therein in favor of the benefit of a summary or statutory jurisdiction that may be founded upon Statutory, chancery or Admiralty principles but was certainly not founded upon the principles of a court of record proceeding according to the common law^{7, 8, 9} sitting to determine a Right. Further, when plaintiff objected the magistrate merely ignored the objection.

⁶ This court presumed this meant in accordance with Missouri Rules of Court and in comprehension of Missouri Statutes, those being foreign jurisdictions to this court of record by declaration of the law of the case, supra.

⁷ The genius of a court of record is not to be undermined. It is the birthright of every American to settle controversies in a court of record proceeding according to the common law, if he so chooses. Not only is that an element of the fundamental due process guaranteed to the American people by the controlling constitutions but it is the law of the land, the Field Code as enacted by the Missouri legislature notwithstanding. The common law is a right retained by the people and the State may not diminish it without the lawful consent of each and every one of the people retaining it. William Duff does not so consent.

⁸ The court recognizes that the statutes claim to take precedence over the common law but they must be inferior to this court and the common law where they fail to provide quid pro quo of the common law structure and procedure, especially when rights are involved, as here. Common law maxim; *Where a thing is concealed generally, this exception arises, that there shall be nothing contrary to law and right. 10 Co. 78 (the thing concealed in this case is "by what authority to abrogate a right of action do defendants act? This is the very same question that the discretion used in the municipal or circuit courts of Missouri will not typically allow answered, MAAG'S claims, in its motion to dismiss, to the contrary notwithstanding).*

⁹ HISTORY: common law superior to parliament. Respecting right or reason; they turned to a 1609 or 1610 defense argument used by Coke: superiority of the common law over acts of Parliament. Coke claimed "When an act of parliament is against common right or reason, or repugnant, or impossible to be performed, the common law will control it and adjudge such an act void. Because the Stamp Act seemed to tread on the concept of consensual taxation, the colonists believed it, "according to Lord Coke," invalid.

Further, plaintiff, after leaving the courtroom, remembering the order of this court staying the municipal action contemplated in this action needed to be dealt with, returned to the courtroom door within 5 minutes to find it locked. Plaintiff went to the circuit clerk's window and asked her to explain to the magistrate that an important matter needed to be dealt with, now, respecting the staying of the municipal action. The clerk returned and reported to plaintiff the judge would not hear the matter. That the hearing was over since all parties were not present and since the magistrate had ruled that service of notice of hearing was not by US mail and therefore not adequate notice.

The record will show that the rules of this court were not followed; that the magistrate attempted to function as a tribunal, and that the court was ineffective in furthering the goal of justice for all. These failures to follow the prescribed procedures are sufficiently disruptive to the goal of providing fair justice that the court finds it necessary to issue a writ of error quae coram nobis residant, as follows:

THE COURT, HAVING REVIEWED THE FACTS, THE RECORD, AND THE PROCESS BY WHICH THE RULINGS WERE ISSUED, and;

Finding that the magistrate rendered rulings by applying rules from several jurisdictions foreign to this court without leave of this court; and finding that the orderly decorum of the court was replaced by defective impromptu process and usurpation of legislative and court powers without leave of this court, and;

Finding that notice to defendant's attorney as done by Plaintiff provides reasonable assurance that defendant did receive said notice where the mode of delivery, that being email as advised by the Attorney Generals office, was reasonably calculated to inform defendant of said hearing, was therefore sufficient notice to defendant of the hearing scheduled, and;

The colonists were enraged. Benjamin Franklin and others in England eloquently argued the American case, and Parliament quickly rescinded the bill. But the damage was done; the political climate was changing. As John Adams later wrote to Thomas Jefferson, "The Revolution was in the minds of the people, and this was effected, from 1760 to 1775, in the course of 15 years before a drop of blood was shed at Lexington."

Finding merit in Plaintiff's immediate need for relief from further injury at the hands of the Kansas City Municipal Court respecting the charges and acts this action arises from, and; This court¹⁰ recognizing that without an adjudication in this court respecting Plaintiff's Rights of Action being first adjudicated prior to said inferior municipal court adjudicating a matter plaintiff claims is a trespass upon his right of action would expose Plaintiff to further unnecessary injury should the rights adjudicated here be in plaintiff's favor and would unnecessarily double the cost of scarce resources of the court;

That being manifest, this court has previously ordered the suspension of the municipal action, identified by this action, until the full adjudication of this action whereupon the magistrate was invited to agree therewith or file a brief in this action showing cause why that order should not take effect or should be modified (see order filed in this case 8/01/2007). Neither the magistrate nor any other party offered notice of intent to file said brief nor did they file said brief or request more time in which to do so. As such said order for the inferior court to suspend dated 8/01/2007 stands with the tacit agreement of the magistrate and parties hereto and further that plaintiff therefore has a right to the power of the judiciary of Missouri being extended to this action at law respecting an order issuing to said inferior court to suspend its action until such time as this court has determined the right of action of plaintiff.

NOW THEREFORE, THE COURT issues this **WRIT OF ERROR QUAE CORAM NOBIS RESIDANT**, to wit:

The court rescinds all rulings entered August 29, 2007, including but not limited to; the nature of this court and the effectiveness of service for Notice of Hearing to MAAG.

Further, by order of this court a writ of preceape shall immediately issue to the clerk of this court to issue writ of execution upon the seal of the **7TH JUDICIAL CIRCUIT COURT OF MISSOURI** containing the previous order of this court filed into this action August 01, 2007, to be sent to the Kansas City, Missouri Municipal Court - Room A advising the judge of that court

¹⁰ In praesentia majoris potestatis, minor potestas cessat. In the presence of the superior power, the minor power ceases. Jenk. Cent. 214

of the suspension of case numbers; State Driver License case# 224354(4), Valid State License plates case# 2243355(1) and proof of financial responsibility case# 2243356(9) pending the full adjudication of Rights of Actions of William Duff in this court, Further, that writ of execution be issued to the Sheriff of Clay county ordering the finding, seizure and return of plaintiff's property, by whatever means necessary, as described in the order filed in this action dated 08/01/2007 with costs being assessed against defendants;

Further, afore mentioned Hearing will be re-scheduled for September 12, 2007, in this court at 9:00 A.M. or as soon thereafter as clerk of the court can set, unless for good cause shown by the parties.

Further, the magistrate, plaintiff, and defendants are invited to each file and serve on all other interested parties a brief no later than ten (10) days after receipt of this order to show cause to this court why this order should not take effect or should be modified and notice of intent to file said brief must be filed within three (3) days of receiving this order either by email or by fax or by filing same into the record of this case. The court, mindful of the rights of the parties and the importance of fair play, will liberally construe the arguments presented.

IT IS SO ORDERED,.

THE COURT by

WITNESS: the SEAL of the COURT

This September 4, 2007.

William Duff

Private Attorney

CC: PLAINTIFF, DEFENDANT COUNSEL BY EMAIL WHERE SUCH NOTICE IS REASONABLY CALCULATED TO PROVIDE NOTICE OF THIS DOCUMENT.