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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

DEC 14 2021

CLERK, U.S. DISTRICT COURT  
ST. PAUL, MINNESOTA

Melissa Lynn Hanson  
82299 200<sup>th</sup> Street  
Hayward, Minnesota  
email: Melissa@myAbest.com,

Petitioner,

v.

Sheriff Kurt Freitag  
411 Broadway Av S  
PO Box 170  
Albert Lea, MN 56007

And

Sheriff Lon Thiele  
204 EAST PEARL STREET  
OWATONNA, MN 55060

Respondents.

Case No. 21-CV-002651-001

**Amended**

**Petition for Writ of Habeas  
Corpus**

**(28 U.S.C. § 2241)**

**And**

**Declaratory Judgment**

**(28 U.S.C. § 2201(a))**

**And**

**Equitable Relief**

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**RE: Unlawful Custody**

*State Court Cases*

**Case No. 24-CR-21-137**

**And**

**Case No. 24-CR-21-188**

I, Melissa Lynn Hanson, *sui juris*, a woman and one of the People of Minnesota petition this Court for Writ of Habeas Corpus seeking remedy for my unlawful and shared detention between two different counties and to issue – to both Kurt Freitag, seated in the Office of Sheriff for the county of Freeborn in the state of Minnesota, and to Lon Thiele, seated in the Office of Sheriff for

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U.S. DISTRICT COURT ST. PAUL

the county of Steele in the state of Minnesota – a Writ of Habeas Corpus to show cause why I should not be immediately released from the one's or the other's custody upon fidelity to the constitutional Oath of Office; and further seeking declaratory judgment and equitable relief as set forth herein. In support, I claim the following:

***Jurisdiction and Venue***

1. Jurisdiction and venue are conferred by 28 U.S.C. § 2241(c)(3) and by 28 U.S.C § 2201(a).

***Parties***

Melissa Lynn Hanson

2. I, Melissa Lynn Hanson, am a woman and one of the People of Minnesota and the named Petitioner.
3. I live on the soil and land within the exterior boundaries of Minnesota, one of the several States of the Union party to the Constitution for the United States of America.
4. I have 100% legal interest in MLH Enterprises L.L.C. d/b/a The Interchange ("Business") that operated in the licensed capacity of a restaurant and bar.
5. The building in which I conducted my Business is located within the territorial jurisdiction of the city of Albert Lea in the county of Freeborn in the state of Minnesota.

Sheriffs

6. Kurt Freitag, a named Respondent, seated in the Office of Sheriff for the county of Freeborn, a territorial and political subdivision within the exterior boundaries of the state of Minnesota.
7. Lon Thiele, a named Respondent, seated in the Office of Sheriff for the county of Steele, a territorial and political subdivision within the exterior boundaries of the state of Minnesota.

***Custody "Shell Game" - Who Has Melissa Lynn Hanson?***

8. I was remanded into Sheriff Freitag's custody upon conviction in a trial by jury in case no. 24-CR-21-137 on December 9, 2021.
9. I was moved into the custody of Sheriff Thiele on December 10, 2021 at approximately 1:00 p.m. purportedly for processing and detention of 20+ I.C.E. Detainees and to whom the original Petition for Writ of Habeas Corpus was directed.
10. Sheriff Thiele's Deputies knew or had reason to know that I was filing the Writ of Habeas Corpus on December 13, 2021 having executed the documents by my signature at 8:32 a.m.
11. I was returned to the custody of Sheriff Freitag on December 13, 2021 at approximately 10:45 a.m.

12. Sheriff Freitag is the person who is currently charged with maintaining my physical custody on the date and time of the execution of this document.

***Reasonable Cause for Direct Application for Relief in Federal Court***

13. During the course of proceedings in case nos. 24-CR-21-137 and 24-CR-21-188, presiding Judge Joseph Buelstel would not recuse himself as disqualified for violations of the Minnesota Code of Judicial Conduct on the record for the appearance of bias and for not upholding the law and applying it impartially and for denial of procedural and substantive due process rights under the state and federal constitutions.
14. I filed Notice of Official Misconduct in both cases.
15. Judge Buelstel entered orders denying his recusal.
16. I petitioned the chief judge of the Third Judicial District with a request for disqualification of Judge Buelstel; the chief judge denied the request for removal without addressing the issues presented for the disqualification; I petitioned the Appellate Court for Writ of Prohibition — **Case A21-0843**; the Appellate Court denied the petition for Writ of Prohibition without addressing the due process issues squarely before it; I petitioned the Supreme Court for review of the Appellate Court Decision — **Exhibit A**.
17. The Supreme Court denied review. See **Exhibit B**.



18. Upon reasonable belief from the forgoing effort to seek relief in the supervisory courts of Minnesota in the disqualification of Judge Joseph Bueltel who exercised jurisdiction of the district court while in want of jurisdiction, the same courts will reasonably avoid providing relief in appealing the conviction from the state district court on the same grounds, else be tacit of admission to the lack of judicial integrity in the impartial administration of justice in the courts of this state in the denial of the request for disqualification of Judge Bueltel.

***Procedural Statements of Fact***

19. The criminal actions under case nos. 24-CR-21-137 and 24-CR-21-188 commenced in a state court of record<sup>1</sup> ("State Court").
20. In State Court case no. 24-CR-21-188, I was charged with two counts in my personal capacity under Minn. Stat. § 12.45 for operation of my Business in violation of executive orders issued by the governor; I was charged with one count in my personal capacity under Minn. Stat. § 609.74(1) for violation of an executive order in relation to a public nuisance.

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<sup>1</sup> A **court of record** has four essential elements, two of which are that the judicial tribunal has attributes and exercises functions independently of the person of the magistrate designated generally to hold it and that **it proceeds according to the course of common law**. Black's Law Dictionary, 4th Ed., 425, 426.

21. In State Court case no. 24-CR-21-137, I was charged with six counts in my personal capacity under Minn. Stat. §12.45 for operation of my Business in violation of executive orders issued by the governor.
22. In each of these cases and before entering a plea to the charges, I challenged the subject matter and personal jurisdiction of the State Court.
23. In accordance with proceedings according to the course of the common law, I did not enter a plea to the charges in either case with the unopposed documents in the nature of a demurrer filed on the record and pending disposition by the State Court.
24. In each of these cases, I made my first challenge to jurisdiction of the State Court in the arraignment hearing.
25. On February 3, 2021, I filed in case 24-CR-21-137 a written challenge to the personal and subject matter jurisdiction of the State Court.
26. On February 4, 2021, I filed in case 24-CR-21-188 a written challenge to the personal and subject matter jurisdiction of the State Court.
27. On February 16, 2021, I filed in both cases a Motion to Dismiss.
28. On February 27, 2021, I filed in both cases an Objection to the Plaintiff appearing as a constitutional misnomer.

29. On March 1, 2021, I filed in both cases a demand for a bill of particulars as to the nature and cause of the accusations.
30. On May 11, 2021, I filed in both cases a motion to strike the Complaint.
31. On November 22, 2021, I filed in both cases an Amended Notice of Legal Issues/Defenses - Motion to Dismiss. See **Exhibit C**.
32. A pretrial conference held on November 24, 2021 under criminal Rule 12.01 to hear and determine all motions made by parties under criminal Rule 12.02 and to hear and determine constitutional, procedural, and other issues that may be resolved before trial under criminal Rule 12.03.
33. At pretrial conference held on November 24, 2021, I was heard on the Amended Notice of Legal Issues/Defenses and Motion to Dismiss.
34. As of the date of the pretrial conference, the prosecution had neither responded on the record to the legal challenges to the jurisdiction of the State Court made since the commencement of each case nor had offered a legal rebuttal at the hearing on November 24, 2021.
35. At pretrial conference held on November 24, 2021, I was given the option by the State Court to combine the charges of the two charging documents of case nos. 24-CR-21-137 and 24-CR-21-188 and have a trial joined or separated into two trials.

36. On December 1, 2021, I filed Notice of Demurrer and Motion for Continuance of trial establishing succinct questions of law testing the legal sufficiency of the complaints and the competency of the district court to exercise its original jurisdiction. See **Exhibit F**. I further established that if the State Court would not dismiss the cases, **that the charges from each charging document be joined under provisions of Minn. R. Crim. Proc. Rule 17.03, Subd. 4.**
37. The State Court entered an order on December 3, 2021 to deny every challenge to the jurisdiction of the court and every challenge to the legal sufficiency of the complaints on the record by creating its own legal rebuttal on behalf of the prosecution.
38. On December 5, 2021, I filed the Objection and Exception to Void Order Denying Motion to Dismiss and **Revised Motion for Dismissal** on the grounds that the court's rebuttal created legal issues in its attempt to conclude original jurisdiction as relates to facts of the record and the plain statutory language of state law, that the record established violations of due process in obtaining personal and subject matter jurisdiction including but not limited to: **1)** insufficient process and insufficient service of process in case number 21-CR-21-137, **2)** the unlawful practice of law by a public official acting without an executed oath of office in the commencement



of case. Nos. 21-CR-21-137 and 21-CR-21-188, **3)** the unauthorized commencement – in the nature of the real party in interest of the Plaintiff named in the said cases as the state government rather than the commencement of said cases in the name of the local jurisdiction of the City of Albert Lea, **4)** the statutorily unauthorized declaration of a peacetime emergency on an “act of nature”, **5)** the absence of authority for a city attorney to prosecute for a violation of an executive order that is not a state law, **6)** the absence of authority for a city attorney to prosecute in the name of the state government, **7)** the prosecution of crime for the exercise of 1<sup>st</sup> Amendment rights not otherwise in violation of state law, **8)** the undisclosed financial scheme producing gain for undisclosed persons, **9)** the unconstitutionally vague charging statutes of § 12.45 and § 609.74(1), **10)** the unconstitutional act of the governor purporting authority to control the private conduct of the People and private-sector businesses by executive order, **11)** the usurpation of power granted by the express terms of the statutes under Minn. Stat., Chapter 12. See **Exhibit D.**

- 39.** On unsupported objection of the prosecution to the joinder of the charges into one trial, the State Court proceeded to trial on each case separately starting with case 24-CR-21-137.

***Trial Proceedings: Case No. 24-CR-21-137***

40. At the scheduled trial date of December 6, 2021 at **8:30 am**, the court heard the prosecution's Motions in Limine and I was personally served by a law enforcement officer with an Amended Complaint and summons signed by Judge Bueltel on December 6, 2021 **at 8:41 am** after the time scheduled for the trial date.
41. I objected to the surprise service of the Amended Complaint and moved for a recess of the court to review the Amended Complaint.
42. The prosecution objected stating that there were no substantive changes in the Amended Complaint.
43. The State Court denied my motion for a recess.
44. I authorized service of documents electronically by the State Court's electronic filing system and have been served in that manner throughout these proceedings.
45. Amended Complaints do not require personal service of legal process by a law enforcement officer authorized to serve legal process if the court obtained personal jurisdiction over the defendant at the commencement of the case.

46. Upon reasonable belief from the record and paragraphs 40 through 45, this was an effort conducted in concert between Judge Bueltel and the prosecution to correct the fatal defect of court jurisdiction for the insufficiency of process and insufficiency of service of process at the commencement of the case and tacit admission by the act that each knew or had reason to know that the court never obtained *in personam* jurisdiction but knew or had reason to know of the personal liability to money damages inuring to each for realized harm to me for acts without jurisdiction.
47. The State Court granted the prosecution's request made in Limine for an order prohibiting me from inquiring, offering evidence, or commenting in the presence of the jury on the constitutionality of the governor's executive orders.
48. On December 6, 2021 the court summarily denied my Objection and Exception to Void Order Denying Motion to Dismiss and the Revised Motion for Dismissal on the grounds that they were untimely, that many of the motions had been decided in prior orders, that other new [unspecified] claims were without legal merit; further denying all [unspecified] claims in the motion.

49. On the second day of trial proceedings, December 7, 2021 and in open court, I moved to strike the Amended Complaint as untimely under Minn. R. Crim. Proc. Rule 12.05 which states that "the complaint, if any, may be amended at the pretrial conference as prescribed by these rules".
50. The Complaint amended after the pretrial conference had closed.
51. The State Court DENIED the Motion to Strike Amended Complaint stating without citation that case law establishes that a complaint may be amended at any time even in the middle of a trial but would not cite to the authority upon my request.
52. Minn. R. Crim. Proc. Rule 17.05 permits the State Court to allow the complaint to be amended at any time before verdict or finding if no additional or different offense is charged **conditioned upon whether the amendment prejudices substantial rights of the defendant.**
53. The Amended Complaint added to each count the specific executive order allegedly violated and denied to me the substantive right of sufficient notice of specific facts upon which each charge relied and to which I might have had time to prepare for an adequate defense upon the fact details added in the amended complaint.
54. The referenced executive orders were not attached to the Amended Complaint.



55. I then moved the State Court for dismissal of case 24-CR-21-137 on the ground of insufficient service and insufficient service of process of the original summons and complaint – at issue since commencement of the case.
56. The State Court denied the motion to dismiss as one previously ruled upon.
57. The court entered into pretrial evidence a copy of the summons and complaint as personally served by the prosecuting attorney showing no signature of the court, no signature of the complainant, and no signature of the prosecuting attorney.
58. Proposed jury instructions were issued by the State Court before the close in the taking of evidence on the record before the jury.
59. I objected to the proposed jury instructions on the ground that the element of legally defined “person” – under Minn. Stat. §12.45 upon whom a duty was imposed to execute and enforce orders issued by the governor was **conclusively presumed** and as such denied to me due process of law. See **Exhibit E** attached.
60. I was convicted of all six counts in a trial by jury with the jury instructions **conclusively presuming** – over my objection and counter proposed jury instructions – the primary element of the offense of a duty to execute and enforce the instructions of a governor’s order.

***General Statements of Fact and Declarations in Support of Violations  
of Due Process Rights***

61. There is no provision in the Constitution of the state of Minnesota for the governor to unilaterally create any rule, order, or law to generally direct or control the private conduct of the People or the conduct of private sector businesses and private-sector organizations within the exterior boundaries of the state of Minnesota. See Minnesota Constitution, Article V, § 3 – Powers and Duties of the Governor
62. The Minnesota Constitution prohibits the governor from creating general law applicable to the People and private-sector businesses and private-sector organizations in this state. Minn. Const. Art. III, § 1.
63. The Minnesota Constitution prohibits the legislature from delegating authority to the governor to create general law applicable to the People and private-sector businesses and private-sector organizations in this state. Minn. Const. Art. III, §1.
64. No executive order was enacted as state law by the legislature.

65. Under Minn. Stat. § 12.31, Subd. 2 "a peacetime declaration of emergency may be declared only when an **act of nature**<sup>2</sup>, a technological failure or malfunction, a terrorist incident, an industrial accident, a hazardous materials accident, or a civil disturbance endangers life and property and local government resources are inadequate to handle the situation.
66. The governor declared a peacetime emergency on the condition of "act of nature" under authority of Minn. Stat. § 12.31, Subd. 2.
67. The legislature had removed the condition of "public health emergency" as a condition upon which a peacetime emergency may be declared in the year 2005.
68. A virus (the SARS-COV2 virus as purportedly the source of the COVID-19 public health emergency) in its common usage and acceptance is not within natural forces properly embraced within an "act of nature"; it is a pathogen that causes a public health emergency.
69. "Act of nature" does not have a legislative definition.
70. Minn. Stat. § 12.45 sets forth that a "person" who willfully violates a provision of Chapter 12 or a rule or order having the force and effect of law issued under authority of this chapter is guilty of a misdemeanor.

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<sup>2</sup> An act of nature is an event which could not be predicted and occurred outside human control. This term is often used interchangeably with "act of God" in legal terminology. ... Acts of nature can include things like hurricanes, tornadoes, wildfires, earthquakes, floods, and lightning strikes.

71. Minn. Stat. § 12.03, Subd. 7a defines "person" to include an individual, firm, corporation, association, limited liability company, partnership, limited liability partnership, and other business organizations.
72. The Minnesota Court of Appeals set forth in *dicta* the application of Minn. Stat. § 12.45 (1996) as "(providing misdemeanor penalties for officials who violate duties imposed by emergency management laws)". *Manteuffel v. City of North St. Paul*, 570 NW 2d 807, 812 (Minn. App. 1997).
73. Minn. Stat. § 12.21, Subd. 1 grants **general direction and control** of "**emergency management**" legislatively defined to mean the preparation for and the carrying out of emergency functions, other than functions for which military forces are primarily responsible, **to prevent, minimize and repair injury and damage resulting from disasters, from acute shortages of energy, or from incidents occurring at nuclear power plants that pose radiological or other health hazards.**



74. Under Minn. Stat. § 12.21, Subd. 3(7)(iv) grants specific authority to direct and control the conduct<sup>3</sup> of "persons" in this state conditioned upon cooperation **in matters pertaining to "emergency management"** with the president and the heads of the armed forces, the Emergency Management Agency of the United States and other appropriate federal officers and agencies.
75. There is no evidence of a request for cooperation by president and the heads of the armed forces, the Emergency Management Agency of the United States and other appropriate federal officers and agencies.
76. No executive order pertained to the emergency function of preventing, minimizing or repairing injury and damage resulting from disasters, from acute shortages of energy, or from incidents occurring at nuclear power plants that pose radiological or other health hazards.
77. Minn. Stat. § 12.28 is the only state law that imposes the duty to execute and enforce orders made by the governor under authority of Chapter 12 and does not generally impose said duty upon the People, private-sector businesses, or private-sector organizations.

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<sup>3</sup> Conduct including entrance or exit from any stricken or threatened public place, occupancy of facilities, and the movement and cessation of movement of pedestrians, vehicular traffic, and all forms of private and public transportation.

78. The Complaint in each case alleged no particularized claim of injury or harm suffered in fact and having proximate causation to the operation of my Business.
79. The Complaint in each case made upon enforcement of executive orders by an agent of Minnesota's Alcohol and Gambling Enforcement Division ("AGED").
80. AGED has no statutory authority for the enforcement of executive orders.
81. AGED did not adopt any executive order by a duly promulgated rule.
82. AGED not established for emergency management under Minn. Stat., Chapter 12.
83. The Complaint in each case failed to allege the state law that imposed the duty to execute and enforce orders issued by the governor under the emergency management laws codified under Minn. Stat., Chapter 12 for application of the penalty set forth at Minn. § 12.45.
84. The executive orders **conclusively presumed** a duty of my Business to execute and enforce the orders of the governor issued under a declaration of a peacetime emergency.
85. I affirmatively assert the non-existence of any state law imposing a duty upon my Business to execute and enforce orders issued by the governor having the force and effect of law.

86. The operation of my Business complied with the terms of the business licenses during the time at which the charges made.

**COUNTS IN VIOLATION OF DUE PROCESS**

- I. The State Court lacked competency to exercise its original jurisdiction for enforcement of executive orders generally directing and controlling the private conduct of the People, private-sector businesses, and private-sector organizations in this state absent any grant of power in the Minnesota Constitution providing for said unilateral power.
87. Paragraphs 1 through 86 incorporated herein as fully restated.
88. "An unconstitutional law is void and is as no law. An offense created by it is not crime. A conviction under it is not merely erroneous but is illegal and void and cannot be used as a legal cause of imprisonment." *Ex parte Siebold*, 100 U.S. 371, 376 (1879).
89. "An unconstitutional act is not law. It confers no rights; it imposes no duties; affords no protection; it creates no office. **It is, in legal contemplation, as inoperative as though it had never been passed.**" *Norton v. Shelby County*, 118 U.S. 425, 442 (1886).

II. The State Court lacked competency to exercise its original jurisdiction for enforcement of executive orders affecting the obligation of contract in violation of the state and federal constitutions.

90. Paragraphs 1 through 86 incorporated herein as fully restated.

91. "An unconstitutional law is void and is as no law. An offense created by it is not crime. A conviction under it is not merely erroneous but is illegal and void and cannot be used as a legal cause of imprisonment." *Ex parte Siebold*, 100 U.S. 371, 376 (1879).

92. "An unconstitutional act is not law. It confers no rights; it imposes no duties; affords no protection; it creates no office. It is, in legal contemplation, as inoperative as though it had never been passed." *Norton v. Shelby County*, 118 U.S. 425, 442 (1886).

93. The business licenses under which my Business operated established terms for which to operate.

94. I gave the state of Minnesota valuable consideration in exchange for the privilege to sell alcoholic beverages and to serve food to the public-at-large.

95. The executive orders adversely changed the terms of the licenses without my consent.



III. The State Court lacked competency to exercise its original jurisdiction for enforcement of executive orders having the effect of ex post facto law<sup>4</sup> in violation of the state and federal constitutions.

96. Paragraphs 1 through 86 incorporated herein as fully restated.

97. **"An unconstitutional law is void and is as no law.** An offense created by it is not crime. A conviction under it is not merely erroneous but is illegal and void and cannot be used as a legal cause of imprisonment." *Ex parte Siebold*, 100 U.S. 371, 376 (1879).

98. **"An unconstitutional act is not law.** It confers no rights; it imposes no duties; affords no protection; it creates no office. **It is, in legal contemplation, as inoperative as though it had never been passed.**" *Norton v. Shelby County*, 118 U.S. 425, 442 (1886).

99. The executive orders generally directed and specified conduct of the People, certain private-sector businesses, and certain private-sector organizations of this state.

100. No executive order was enacted as state law.

101. The executive order specified conduct adverse to the licensed operation of my Business prior to enactment of law specifying said conduct.

102. The executive orders disadvantaged the operation of my Business by preventing its operation in accordance with the terms of the business licenses.

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<sup>4</sup> See *Miller v. Florida*, 482 U.S. 423 (1987)

103. I was criminally penalized for alleged violation of the governor's orders for non-compliance with conduct specified therein prior to any enacted law specifying said conduct.

IV. **The State Court lacked competency to exercise its original jurisdiction over both cases commenced by a Public Official who failed to execute the required oath of office specified by Minn. Stat. § 358.05 and as such are acts in the unlawful practice of law by a person exercising the power of Public Office.**

104. Paragraphs 1 through 86 incorporated herein as fully restated.

105. Minn. Stat. § 358.05 "every person elected or appointed to any other public office, including every official commissioner, or member of any public board or body, before transacting any of the business or exercising any privilege of such office, shall take and subscribe the oath defined in the Constitution of the state of Minnesota, article V, section 6."

106. The office of the city attorney is a public office.

107. The office of city attorney is the head of the legal department for the City of Albert Lea. Ordinance, Article IV, § 2.078.

108. All city department heads shall be appointed by the city manager and confirmed by council. Ordinance, Article IV, § 2.074.

109. Kelly Dawn Martinez exercises the office of city attorney for the City of Albert Lea.

110. Kelly Dawn Martinez commenced both cases in the capacity of city attorney.

111. Kelly Dawn Martinez failed to execute the oath of office required by Minn. Stat. § 358.05.

112. The State Court allowed the case 24-CR-21-137 to go to trial having evidence on the record of the non-existence of an executed oath of office for Kelly Dawn Martinez.

V. **The State Court lacked competency to exercise its original jurisdiction over both cases founded upon alleged violation of executive orders not enacted as state law and the application of a state penalty as neither the executive order nor the state penalty were adopted into local ordinances of the City of Albert Lea under authority of a city attorney to prosecute; city attorney may only prosecute for violations of state law or city ordinances.**

113. Paragraphs 1 through 86 incorporated herein as fully restated.

114. The People, businesses, and organizations within territorial jurisdiction of the city of Albert Lea are governed by a municipal government under provisions of Minn. Stat., Chapter 412 and local ordinances.

115. The City of Albert Lea has all powers that is [are] now or hereafter possible for a municipal corporation in the State of Minnesota to exercise in harmony with the Constitutions of the State of Minnesota and of the United States. It is the intention of this Charter that every power that the people of the city might lawfully confer upon themselves as a municipal corporation by specific enumeration in this Charter is deemed to have been so conferred by this section. Ordinance, § 1.02.

116. The city may not exercise a power conferred by general law on statutory cities unless that power is specifically granted by this Charter. Ordinance, § 1.03.

117. "...[V]iolations of state law that are petty misdemeanors or misdemeanors must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred". Minn. Stat. § 484.87, Subd. 3.

118. No order issued by the governor alleged to have been violated in the Complaints was a law enacted by the legislature.

119. The governor's executive orders are not alleged in the Complaints to have been adopted by city ordinance.

120. The penalty under Minn. Stat. § 12.45 was not alleged to have been adopted by city ordinance.

**VI. The State Court lacked competency to exercise its original jurisdiction over both cases commenced by the city attorney upon the complaints absent the allegation of the state law that imposed a duty to execute and enforce orders issued by the governor under Minn. Stat., Chapter 12.**

121. Paragraphs 1 through 86 incorporated herein as fully restated.

122. The Complaints made no allegation of the state law that imposed the duty upon me or my Business to execute and enforce the orders issued by the governor to be the "person" upon whom a penalty may be charged under Minn. Stat. § 12.45.



**VII. The State Court lacked competency to exercise its original jurisdiction over a Complainant in agency of the Alcohol and Gambling Enforcement Division who had no statutory right to complain about any violation of an executive order absent the statutory right for the enforcement thereof; the Complainant had no standing.**

123. Paragraphs 1 through 86 incorporated herein as fully restated.

**VIII. The State Court lacked competency to exercise its original jurisdiction over case 24-CR-21-137 for insufficiency of process and insufficiency of service of process.**

124. Paragraphs 1 through 86 incorporated herein as fully restated.

125. A summons and complaint was served on January 28, 2021 at approximately **1:48 pm** upon being ushered into a hearing when I was at the court for other matters.

126. The summons and complaint electronically filed and indexed as #1 in the record of the State Court set forth the date and time for appearance as January 28, 2021 at **1:30 pm**.

127. Said summons and complaint was served by the city attorney Kelly Dawn Martinez.

128. The city attorney is not an officer authorized to personally serve legal process and to serve legal process in a case to which she is the prosecutor.

129. The summons and complaint served by the city attorney did not have the signature of the court, the signature of complainant or the signature of the prosecutor.

130. The summons and complaint electronically filed and indexed as #1 is fully executed excepting certification of service by a law enforcement officer.

131. There is no certificate on record made by a law enforcement officer of the service of the summons and complaint.

132. The issue of insufficiency of process and insufficiency of service of process first established in the jurisdictional challenge on February 2, 2021.

**IX. The State Court lost any purported competency for exercise of its original jurisdiction over case number 24-CR-21-137 and 24-CR-21-188 for an act inconsistent with due process of law<sup>5</sup>.**

133. Paragraphs 1 through 86 incorporated herein as fully restated.

134. Prosecuting attorney, Kelly Dawn Martinez, applied for a warrant of arrest in respect of both case 24-CR-21-137 and 24-CR-21-188 on February 9, 2021 on new allegations in violation of executive orders.

135. Judge Beutel denied the application for warrant of arrest by order dated February 16, 2021.

136. Judge Beutel stated in said order "Summons Defendant into court on this allegation. Set this up for a Zoom hearing, I do not want to issue a warrant at this time."

137. No summons issued by a judge of the district court.

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<sup>5</sup> *Bode v. Minn. Dept. of Nat. Resources*, 594 NW 2d 257, 261 (Minn. App. 1999) (A judgment is void if the issuing court lacked jurisdiction over the subject matter, lacked personal jurisdiction over the parties through a failure of service that has not been waived, or acted in a manner inconsistent with due process); *Bradley v. St. Louis Terminal Warehouse Co.*, 189 F.2d 818, 824 (8th Cir. 1951) (A judgment obtained without due process is a nullity and may be attacked directly or collaterally by parties or strangers.); *Bass v. Hoagland*, 172 F.2d 205, 208-209 (5th Cir. 1949) (We believe that a judgment, whether in a civil or criminal case, reached without due process of law is without jurisdiction and void), cert. denied 338 U.S. 816, 70 S.Ct. 57, 94 L.Ed. 494 (1949); see 11 Wright and Miller, *Federal Practice and Procedure* § 2862 at 199-200.

138. No summons issued by a court administrator under order of the district court.
139. Kelly Dawn Martinez knew or had a duty to know that she was responsible for facilitating the issuance of a summons in accordance with the rules of criminal procedure.
140. Judge Beutel had the duty to know whether a summons had issued to compel my appearance for a bail hearing on March 10, 2021 prior to executing a warrant for my arrest for non-appearance.
141. Judge Beutel issued the warrant of arrest without findings of fact from the record to conclude the jurisdiction of the court as a matter of law against the written challenges thereto on the record.
142. Judge Beutel issued the warrant of arrest without exercising due diligence to establish that a summons had issued to compel my appearance for a bail hearing on March 10, 2021.
143. An Objection and Exception to Void Warrant of Arrest and Motion for Recusal of Judge Bueltel filed into each of cases 24-CR-21-137/188 on March 11, 2021.
144. Judge Bueltel denied the Motion for Recusal as one not timely by order filed on March 12, 2021.
145. On March 17, 2021, Kelly Dawn Martinez filed a communication to Judge Bueltel urging issuance of an order to Sheriff Freitag to execute on warrants of arrest for failure to appear as issued

by Judge Beultel having been noticed by record the absent service of a summons compelling appearance on March 10, 2021.

146. On March 17, 2021, I filed a communication in response to Martinez's communication reviewing the facts of the record establishing violations of due process in the issuance of the warrant of arrest.

147. On March 23, 2021, Judge Bueltel issued a "judicial determination" that warrants of arrest will remain in full force and effect.

**X. The State Court lacked competency to exercise its original jurisdiction over case 24-CR-21-137 and case 24-CR-21-188 for failure to establish the Plaintiff as the real party in interest for commencement of the Complaints.**

148. Paragraphs 1 through 86 incorporated herein as fully restated.

149. First, the challenge made to the Plaintiff appearing as a constitutional misnomer as State of Minnesota contrary to "this state shall be called state of Minnesota" as it appears both in the Minnesota Constitution and in the Enabling Act (11 Stat. 166-67).

150. Upon later discovery and unrebutted legal challenge to the State Court jurisdiction, there is no express authority for a city attorney to commence legal proceedings on behalf of the state government.

151. The office of city attorney is not an office of the state of Minnesota.



152. The real party in interest as the Plaintiff is the City of Albert Lea as the alleged violations occurred within its territorial jurisdiction.

XI. The State Court lacked competency to exercise its original jurisdiction over case 24-CR-21-137 and case 24-CR-21-188 for failure to establish on the record judicial cognizance of a criminal case at law for the enforcement of an unconstitutional act of the governor to impose by executive order an invocation of a purported duty on the People and private-sector businesses in Minnesota to execute and enforce the instructions of the order absent an allegation of the state law that first imposed the duty.

153. Paragraphs 1 through 86 incorporated herein as fully restated.

XII. The State Court enforced the executive orders under color of law of the declaration of peacetime emergency declared upon the presence of a pathogen causing a "public health emergency" and not any natural force that could be circumscribed as an "act of nature" in its common acceptance and usage.

154. Paragraphs 1 through 86 incorporated herein as fully restated.

XIII. The record shows appearance of collusion between Joseph Beutel in his capacity as judge and Kelly Dawn Martinez in her capacity as a city attorney to assure the probability of 100% conviction by denying my fundamental and protected rights to due process of law.

155. Paragraphs 1 through 86 incorporated herein as fully restated.

XIV. The State Court had no legal discretion to intentionally put forward jury instructions calculated to produce the probability of 100% conviction of the offenses as charged by the conclusive presumption of the duty to execute and enforce the orders of the governor over the objection identifying the grave violation of due process.

156. Paragraphs 1 through 86 incorporated herein as fully restated.

**XV. The State Court *prima facie* operates a non-disclosed financial scheme in the nature of racketeering to produce non-disclosed financial gain to non-disclosed persons that without disclosure may have negative impact on the impartial administration of justice evinced in these cases.**

157. Paragraphs 1 through 86 incorporated herein as fully restated.

158. I entered by affidavit *prima facie* evidence by a third party that at least four cases in this State Court to which I am party have been "monetized" as a bond or security, each having a CUSIP number, and traded in the financial markets.

159. The facts of the third party evidence have not been disputed.

**XVI. Judge Bueltel conducted these proceedings as disqualified for violation of the Minnesota Code of Judicial Conduct.**

160. Paragraphs 1 through 159 incorporated herein as fully restated.

161. In open court and after the jury rendered its verdict, Judge Bueltel made a personal claim in open court not based on any fact in the record that I was willfully ignorant of Minnesota laws and executive orders.

162. In open court and after the jury rendered its verdict, Judge Bueltel stated without any fact on the record that I was like a career criminal and a drug or alcohol offender and the only sentence he felt was appropriate would be to cause restraint – both to keep me from acting like this again and to stop others from following suit.

163. In open court and after the jury rendered its verdict, Judge Beutel displayed his personal animus against me in the use of the following statements to the best of my recollection:
164. "You sure played them for the fool, didn't you?"
165. "You just wanted to make money during a global pandemic."
166. "You don't want to recognize our law. I want to reinforce that the law does apply to you. I want to send a message to the community that executive orders are law."
167. Minn. Stat. 12.45. "Unless a different penalty or punishment is specifically prescribed, a person who willfully violates a provision of this chapter or a rule or order having the force and effect of law issued under authority of this chapter is guilty of a misdemeanor and upon conviction must be punished by a fine not to exceed \$1,000, or by imprisonment for not more than 90 days".
168. Judge Beutel sentenced me to **nine times longer in jail and two times more in the amount of the fine** than was recommended by the prosecutor.
169. Judge Bueltel was limited by the disjunction of the punishments in Minn. Stat. 12.45 to either punish by imprisonment or by fine – not both.

170. I was immediately remanded into custody of the Sheriff without due process of a presentence investigation to establish the reasonableness of a sentence prior to an order declaring the sentence.

**REQUESTED RELIEF**

***~Habeas Corpus Relief~***

171. Based upon reasonable cause as set forth above, I request that this Court issue an order directing the Sheriff to **immediately** release me from custody until this Court makes final determination that the custody is unlawful *ab initio*.

***~ Declaratory Judgment Relief~***

172. Under 28 U.S.C. §2201(a), I request a declaratory judgment that the proceedings in case no. 24-CR-21-137 and 24-CR-21-188 were *coram non-judice*<sup>6</sup>.

173. Under 28 U.S.C. §2201(a), I request a declaratory judgment that the governor's declaration of peacetime emergency usurped the power granted by law under Minn. Stat. § 12.31 as it was declared in absence of any condition to be construed as an "act of nature" as the phrase is known and used in its common acceptance and usage.

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<sup>6</sup> *Coram non judice* is a Latin phrase which means "not in the presence of a judge". It is a legal term typically used to indicate a legal proceeding held without a judge, with improper venue such as before a court which lacks the authority to hear and decide the case in question, or without proper jurisdiction.



174. Under 28 U.S.C. §2201(a), I request a declaratory judgment that the executive orders issued by the governor under the Minn. Stat., Chapter 12 were without general effect to have the force and effect of law upon those People, private-sector businesses, and private-sector organizations in the state of Minnesota not organized and having a duty imposed by state law under Minn. Stat. § 12.28.

175. Under 28 U.S.C. §2201(a), I request a declaratory judgment that the commencement of the proceedings in case no. 24-CR-21-137 and 24-CR-21-188 constituted the unauthorized practice of law by Kelly Dawn Martinez.

***~Equitable Relief~***

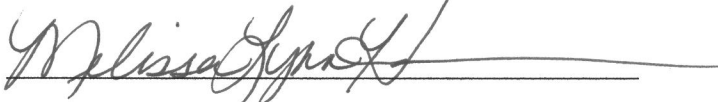
176. If this Court makes a determination that State Court violated my rights to procedural and substantive due process in the deprivation of my rights to the use of my private Business property in accordance with the terms in which it was licensed to operate and in the deprivation of my liberty and in deprivation of my property – all protected by the federal constitution and the state constitution,

177. I request this Court to order the State Court to vacate the judgment made in case no. 24-CR-21-137 and for its expungement;

178. I request this Court to order the State Court to dismiss case no. 24-CR-21-188 with prejudice and for its expungement;

179. I request this Court to order the return of all bail monies and all expenses incurred by me and my husband while I was unlawfully incarcerated;
180. In order to prevent harm to any other member of the public by the abuse of power under color of law, I request this Court recommend disbarment of Joseph Bueltel from the practice of law for willful ignorance of or the demonstrated incompetence for application of constitutional and application of subordinate statutory law;
181. In order to prevent harm to any other member of the public by the abuse of power under color of law, I request this Court recommend disbarment of Kelly Dawn Martinez from the practice of law for willful ignorance of or the demonstrated incompetence for application of constitutional and application of subordinate statutory law; and
182. I request any other equitable relief that this Court deems appropriate.

Dated on this 14<sup>TH</sup> day of December, 2021 at 1:15 pm :  
(time)



Melissa Lynn Hanson

**VERIFICATION**

I declare under penalty of perjury under the laws of Minnesota that I have read the foregoing document and to the best of my knowledge and belief the factual statements and declarations made therein are true and correct and made in good faith and will testify to the same in open court upon any dispute of fact established by sworn testimony of any person having personal knowledge of the facts if called to do so; excepting as to those matters therein stated upon information and belief and as to those matters, I verily believe the same to be true.

Executed on this 14<sup>TH</sup> day of December, 2021:

  
Melissa Lynn Hanson, sui juris