



The Due Process Advocate

*“No Person shall be . . . deprived of life, liberty, or property without the due process of law”
- Fifth Amendment of the United States Constitution*

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ABOUT THIS PUBLICATION

Black’s Law Dictionary, 6th Edition defines due process rights as follows:

All rights that are of such fundamental importance as to require compliance with due process standards of fairness and justice. Procedural and substantive rights of citizens against governmental actions that threaten the denial of life, liberty, or property.

Currently, there is overwhelming evidence that due process rights are being compromised, suppressed, and/or just blatantly denied to serve a host of political and private agendas at the cost of justice in our courts.

It is the express purpose of this publication, therefore, to expose and stop the proliferation of “government endorsed” actions and policies designed to remove due process rights from the common person to serve private interests.

The immediate, public demand for the restoration of due process rights throughout this nation’s legal arena may be the real key to future prosperity in America. Without the return of the constitutionally-guaranteed due process rights that are the foundation of American justice, we risk economic and social chaos.

You be the judge as you read this edition, and future editions, of The Due Process Advocate - and please contact me if you have a personal experience that you’d like to share with our readers.

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Editor-in-Chief Steve Forbes started his May 10, 2016 Forbes article entitled “OBAMA’S WAR ON PROSPERITY” with this statement: “NOT SINCE the New Deal’s heyday in the 1930’s has Washington waged such an unrelenting assault against the private sector.” Unfortunately, that assault is still alive and well as Uncle Sam, at all levels of government, relentlessly employs very sophisticated, elaborate and deceptive tactics to undermine the average American’s due process rights. This edition focuses on those tactics.

THE DUE PROCESS RIGHTS OF THE AVERAGE AMERICAN CITIZEN ARE, SLOWLY BUT SURELY, BEING TAKEN AWAY SO THE RICH CAN GET RICHER

There is general agreement among historians and economists that, during Roosevelt’s 12 years in office, there was a dramatic increase in the power of the federal government as a whole. However, in the final analysis, perhaps Ronald Reagan was right when he turned against the New Deal way of thinking and, instead, adopted a vision of big government as the problem, not the solution.

As stated in the last edition of The Due Process Advocate, The United States Constitution is clear and unambiguous about the protections of “life, liberty and property” that are guaranteed to all legal residents and citizens of the United States. These Constitutional protections mandate that the universal, not arbitrary, application of due process by our government be extended to everyone in a non-discriminating manner. Due process rights are guaranteed by the 5th and 14th Amendments to the U.S. Constitution.

Nevertheless, here are several, common tactics that are used to stifle, suppress, or deny the fundamental due process rights of defendants in civil and criminal actions to (a) be heard in (b) a fair legal proceeding:

Intentional Failure To Provide Reasonable Or Adequate Notice

Very often, court deadlines are set with very little notice. Opposing attorneys are notorious for capitalizing on the realities regarding the pick-up and delivery of mail by the U.S Postal Service. As a result, court notices are often received with little or no notice whatsoever. This tactical nonsense is, unfortunately, a big part of the practice of law.

Employment Of Intimidation And “Bullying”

Unfortunately, the legal arena is rapidly turning into a self-

serving herd of bullies. Many attorneys, clerks, judges, trustees, sheriffs, and other Court officers and personnel have totally forgotten (or never even learned) that their mission was to serve a "nation of laws" and not their "private political and personal agendas." Nevertheless, the legal establishment seems to specialize in talking down to people and making sure that litigants (especially those who dare try to represent their own interests without paying thousands of dollars to an attorney) are thoroughly intimidated and, thereby, less inclined to fight for their rights. The Due Process Advocate has documented dozens of cases of so-called "public servants" (i.e. court clerks, judges, hearing officers, attorneys, guardian ad litem, police officers, sheriffs, government commissions, government agencies, and government departments) bending and breaking the rules and abusing the very authority with which they have been entrusted.

Arbitrary Rule

A common complaint in both civil and criminal cases is the "arbitrary" handling of cases (i.e. where different rules and adjudication protocols are inconsistently applied by court clerks and judges with no apparent reason or justification other than a personal bias or prejudice of some kind against a party to the case). The sad truth here is that the legal fees and fines generated in a legal action are often viewed by the legal establishment as much more important than the due process rights of, and damages to, the real parties in interest (a good example is the recent \$25 billion mortgage settlement where the largest recipients of settlement funds were certainly NOT the homeowners who were wronged!). The commitment to due process in the legal arena is secondary to the more profitable practice of arbitrary rule.

All of these circumstances are resulting in a growing lack of confidence and mistrust in government to support the ideal that we are a "government of the people, by the people, and for the people."

Right now, we have a government of the rich and powerful. For the most part, they are all out for themselves. They have engineered a massive transfer of America's wealth to their own pockets. They have guaranteed income, guaranteed perks, guaranteed power, guaranteed influence, guaranteed healthcare, guaranteed retirement income, and even guaranteed parking places for their cars and chauffeurs.

The numbers don't lie. Our nation's first 42 presidents racked up only \$5 trillion in debt and it took them approximately 200 years to do it. Then Bush came along and almost doubled it in his 8 years (to approximately \$9 trillion). Obama will definitely have the record when he leaves office having more than doubled the national debt - to a mind-boggling \$20 trillion. The estimated population of the United States is over 320 million. That makes each citizen's current share of the national debt almost \$60,000. Unfortunately, the National Debt has consistently grown well over \$2 billion per day since September of 2012.

Bottom line: As soon as our government strips most of the due process rights from most of the people, the

"powers to be" will have nearly all of America's wealth. Then, in the final analysis, the American people will be saddled with all of the debt. If this "financial slavery" becomes the way of life in the future for most Americans, the United States will gradually lose its current status as the best nation, and best place to live, on planet earth.

It is only a massive movement by the people, demanding the return of their due process rights, that will stop our country's descent down the slippery road on which it has embarked during the past few decades. Only once America has restored the "core component" of its greatness can it become any kind of a world leader. The right to due process (and not arbitrary rule by the self-serving rich and powerful) is that core component that MUST be restored to get America back on track before it's too late.

DUE PROCESS IS A CRITICAL ISSUE IN VIRUALLY ALL LEGAL ACTIONS

Invariably, the identification of violations of one's due process rights is a crucial part of a vast majority of all legal proceedings, since the right to be heard in a fair proceeding encompasses nearly all legal proceedings; both criminal and civil. We often hear the phrase that someone "has a good attorney." More often than not, those "good" attorneys are especially perceptive and mindful that paying close attention to procedural and substantive due process issues in the course of defending someone pays big dividends. They know that recognizing a due process violation can stop a litigation in its tracks and get the case dismissed. Therefore, if/when you find it necessary to employ legal counsel, always ask your attorney if there are any due process issues (like lack of proper notice, proper disclosures, timely responses and objections, etc.) that are applicable to your case. Your attorney will determine whether there are grounds to allege that any of your constitutional rights to "life, liberty, or property" were violated (the essence of "substantive due process") and, if so, was the deprivation of the specific right in question a violation of any applicable law (the essence of procedural due process).

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THE DUE PROCESS ADVOCATE SURVEY PANEL

In February of 2016, a group of individuals, all with varying degrees of experience dealing with the U.S. legal system, were empanelled to participate in surveys presented by The Due Process Advocate. Our survey panel represents a cross-section of Americans of varied backgrounds, ethnic origins, varying degrees of socio-economic status (i.e. licensed professionals, business owners and managers, white and blue collar workers, male and female, old and young, representing diverse ethnic groups and varied educational backgrounds).

Each month, a survey questions is posed to our panel for their consideration. Each questions will address an area of crucial importance to every American's understanding of the core issues that will shape the future of individual due process rights in America.

The first survey question (answered by survey members from NH, ME, MA, SC, FL, NY and CA) and results are below:

March 2016 Survey Question: Confidence in the U.S. Court System:

The US Court System is a multi-tiered system of federal, state, and local courts; each with defined jurisdiction to resolve the millions civil and criminal cases that are filed every year throughout the country. It is, therefore, crucial to the future of America that its Court System earns the continued trust, respect, and confidence of the American people. Due to the extraordinary impact that the U.S. Court System will have on the protection of our constitutional principles and human rights, the first survey question posed to our survey panel is this:

Please select, from the following responses, the response that most accurately reflects your level of confidence in the US Court System to serve the people of the United States. Also, please feel free to add a brief comment to support your answer:

A. I have no confidence whatsoever in the U.S. Court System. I believe that the U.S. Court System could successfully serve the people, but I believe it is failing dismally because it is corrupt.

B. I still have continued confidence with reservations in the U.S. Court System; since I've lost respect for many of the members of the legal community that are responsible for its operation (i.e. judges, prosecutors, court clerks, attorneys, law enforcement personnel, compliance agencies and authorities, and/or other officials in the legal community).

C. I have complete confidence, trust, and respect in the in the U.S. Court System to fairly adjudicate the legal controversies and cases on all levels (i.e. on a local, state, and/or federal basis).

RESULTS:

Thirty-one (31) panel members weighed in on the March 2016 Survey. The responses for A, B, and C were as follows:

A. (complete confidence)	0	0.00%
B. (continued confidence with reservations)	10	32.3%
C. (no confidence)	21	67.7%

Visit www.dueprocessadvocate.com to read selected comments made by our survey members. The April 2016 Survey Question dealing with Confidence in the U.S. Department of Justice is also posted online.

EVERY AMERICAN SHOULD UNDERSTAND WHAT "DUE PROCESS OF LAW" MEANS FOR US

By Bob Tobiasz

As Americans, we are entitled to what is known as "due process of law." Specifically, the Fifth and Fourteenth Amendments to the U.S. Constitution guarantee "due process of law" to each of us.

What does "due process of law" actually mean to each of us? Simply put, "due process of law" means that we will be given notice of any legal proceedings, that we will be afforded the opportunity to present our case at such proceedings and that such proceedings will be fair before any government attempts to take away our life, liberty and/or property. Inherent in our "due process of law" constitutional guarantee is that any law, to which we are subject, shall not be unreasonable, arbitrary and/or capricious.

While many of us think of "due process of law" in the context of criminal proceedings (i.e. the various legal rights we have if we are charged with a crime), "due process of law" is also applicable to civil proceedings (collection actions, foreclosures, evictions, divorces, bankruptcies, etc.) wherein confiscation of our property (real estate, businesses, cash, stocks, bonds, etc.) is being threatened.

Why is "due process of law" more important today than ever? Firstly, because without a thorough understanding of our "due process of law" rights, we will be unable to properly defend ourselves in criminal and/or civil proceedings. Secondly, absent a swift and far-reaching restoration of fundamental due process rights at all levels of local, state and federal governments, America's middle class will disappear as the rich get richer and the poor get poorer.

In closing, I'd like to remind you of the June 15, 1215 words of the Magna Carta, Chapter 29, from which our "due process of law" rights were derived:

Note: Bob Tobiasz is a graduate of both Boston College and the University of Chicago. He has an extensive background in business management and financial analysis; including several years as a high-level corporate executive, a real estate investor and manager, a venture capital consultant, and a private investor and entrepreneur. He is a life-long due process advocate.

"No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land."

The Due Process Advocate invites you to join forces in one of the most crucial, and fast-growing, social movements in the United States:

Please help us restore your due process rights!

FACTS

Over 12 million arrests are made every year in the United States - well over 30,000 per day!... an average of more than 112,000 speeding tickets are given out daily in the United States.... and who knows how many criminal and civil legal actions are filed in local, state, and federal courts and government agencies every single day (The Due Process Advocate believes the number to be considerably in excess of a mind-boggling 250,000 per day including arrests, citations of all kinds, administrative actions and proceedings, and other criminal and civil court cases). All in all, the local, state, and federal governments make mind-boggling amounts of money by and through the enforcement of laws and regulations - and making that money is much easier when due process rights of defendants are suppressed or removed!

Don't allow your due process rights to be taken away when you need them the most! Get involved in any of the following ways to get critical information about protecting your constitutional due process rights:

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INFORMATION

I am interested in available information and research related to the protection of my due process rights in the course of defending myself in a current legal matter. Please contact me.

Please Print Clearly:

Complete Name: _____

Mailing Address: _____

Email Address: _____

Phone(s): _____

Referred By (if applicable): _____

Signature

Date

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Thank you!