

# CONNECTICUT LAW REVIEW

---

VOLUME 48

FEBRUARY 2016

NUMBER 3

---

## Note

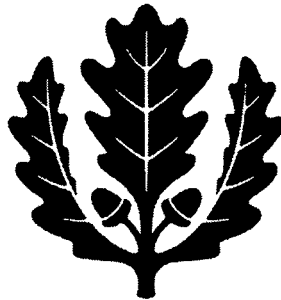
### Common-Sense Responses to Radical Practices: Stifling Sovereign Citizens in Connecticut

MICHAEL MASTRONY

*“Sovereign citizen” is a general term that describes various groups that do not recognize the authority of the government. These groups abuse the legal system in order to intimidate and harass anybody who challenges their actions. They will often use common-law liens in order to harass government employees or to retaliate against government employees. Many states have enacted legislation that deters individuals from doing it and makes it easier for victims to remove the liens. Connecticut has not enacted such legislation, although the legislature attempted to pass such a bill over a decade ago. It is time for Connecticut to pass legislation in order to address this practice.*

## NOTE CONTENTS

I. INTRODUCTION.....	1015
II. EVOLUTION OF AN IDEOLOGY: A BRIEF OVERVIEW OF THE ROOTS OF THE SOVEREIGN CITIZEN MOVEMENT.....	1017
A. THE TAX PROTESTER MOVEMENT .....	1018
B. THE POSSE COMITATUS .....	1018
C. THE PATRIOT MOVEMENT .....	1019
D. COMMON-LAW COURTS .....	1020
III. SOVEREIGN CITIZEN THEORY: VARIATIONS ON A THEME..	1021
IV. SOVEREIGN CITIZENS IN CONNECTICUT .....	1024
V. FILING FALSE LIENS.....	1025
VI. LEGISLATIVE RESPONSES TO FRAUDULENT UCC FILINGS .....	1028
A. PRE-FILING ADMINISTRATIVE DISCRETION.....	1028
B. POST-FILING ADMINISTRATIVE REMEDY.....	1029
C. POST-FILING EXPEDITED JUDICIAL RELIEF.....	1029
D. CRIMINAL/CIVIL PENALTIES .....	1030
VII. RECOMMENDATIONS FOR CONNECTICUT.....	1031
A. PRIOR LEGISLATIVE ACTION .....	1031
B. PROPOSED LEGISLATION .....	1032
VIII. CONCLUSION.....	1033



# Common-Sense Responses to Radical Practices: Stifling Sovereign Citizens in Connecticut

MICHAEL MASTRONY\*

## AFFIDAVIT

[Name of sovereign citizen] In Propria Persona Demand; all Judicial Officers to provide to me a certified copy of any and all Oaths of office and Licenses you are required to obtain by law pursuant to Article 6 of the constitution of the united State, Pursuant to The Freedom of Information Act § 1217, § 7-35bb, § 12-55. Section 1-21j-28 (a)–(b) & USC Title 5 § 3331.<sup>1</sup>

## I. INTRODUCTION

Imagine returning to your home after a vacation and finding that the previous homeowner has transferred the utilities into his name, filed a fraudulent deed with the county recorder's office, and is now trying to evict you.<sup>2</sup> This probably sounds insane, but it happened to one family in California.<sup>3</sup> The former homeowner was part of the "sovereign citizen" movement.<sup>4</sup> The insanity did not stop there—when prosecuted, he claimed that he "was not the person being prosecuted because the indictment spelled his name in all capital letters."<sup>5</sup>

Sovereign citizens "believe that an illegitimate, usurper federal government has taken over, and that they don't have to pay taxes, pull over their cars for police or obey any other law they don't like."<sup>6</sup> Sovereigns believe that once they file the appropriate paperwork to declare their

---

\* University of Connecticut School of Law, J.D. Candidate 2017. I would like to thank my family for all of their support, Kaitlyn Ryan for her patience, and Jeffrey Hammer for introducing me to this fascinating topic. Also, I would like to thank the members of the *Connecticut Law Review*, especially my Notes and Comments Editor, Dave Woods, for making this Note better with his suggestions and feedback.

<sup>1</sup> This is the beginning of one sovereign citizen's frivolous filing directed at the author. The individual threatened to sue the Hartford Housing Court clerk's office, but proceeded to simply deliver several notarized, nonsensical documents that are stamped with a thumbprint in red ink.

<sup>2</sup> Lorelei Laird, *Paper Terrorists*, 100 AM. B. ASS'N J., May 2014, at 52, 54.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* This claim of the capital letters being representative of a different person is a common claim among adherents of the movement. *See, e.g.*, *United States v. Mitchell*, 405 F. Supp. 2d 602, 603 (D. Md. 2005) ("The defendants also persistently claim that they are not properly identified in the caption of the indictments because their names are printed in all capital letters, thereby failing to properly represent them as 'flesh and blood' men.").

<sup>6</sup> Laird, *supra* note 2, at 54.

sovereignty and renounce their citizenship, they should be free to ignore all laws.<sup>7</sup> Sovereigns are, unsurprisingly, often engaged in battles with the federal government.<sup>8</sup> Despite their beliefs that the government and the courts are illegitimate, they use these systems to inflict punishment on government officials or ordinary citizens who may get in their way.<sup>9</sup> While there have been numerous cases of sovereign citizens turning to violence,<sup>10</sup> most often they will use paper as their weapon.<sup>11</sup>

Recently, in *Parkway Bank & Trust Co. v. Korzen*,<sup>12</sup> the Illinois Appellate Court issued an opinion addressing the group's practice of frivolous filings that are unsupported by law, rather than just dismissing the appeal, in order to provide guidance to lower courts dealing with this disingenuous practice.<sup>13</sup> The defendants appealed a mortgage foreclosure and the court dismissed the appeal, but considered imposing sanctions on the litigants.<sup>14</sup> The court noted that:

Although defendants papered the record with voluminous pleadings, nowhere do they actually deny that they had a valid loan secured by property they own, which they failed to pay, and which requires the property to be sold to pay the debt. Above, we have explained why virtually every one of their arguments is abjectly frivolous and/or presented in such a confusing manner, perhaps deliberately so, to make it as laborious as possible to resolve them. These tactics often appear in courts hearing debt cases, generated by

---

<sup>7</sup> See *id.* at 55 (stating that sovereigns believe that by filing documents they can declare themselves independent nations beyond the reach of the federal government).

<sup>8</sup> For an example from the recent past, see Jaime Fuller, *Everything You Need to Know About the Long Fight Between Cliven Bundy and the Federal Government*, WASH. POST, Apr. 15, 2014, <http://www.washingtonpost.com/blogs/the-fix/wp/2014/04/15/everything-you-need-to-know-about-the-long-fight-between-cliven-bundy-and-the-federal-government/> [https://perma.cc/P89Z-2YWR] (detailing the Nevada rancher's land use battle with the federal government).

<sup>9</sup> See Erica Goode, *In Paper War, Flood of Liens is the Weapon*, N.Y. TIMES, Aug. 23, 2013, at A1 (detailing a Minnesota couple's frivolous claims against attorneys, the county registrar, court officials, and a local sheriff following foreclosure on their home).

<sup>10</sup> See, e.g., Dan Harris, *Deadly Arkansas Shooting by "Sovereigns" Jerry and Joe Kane Who Shun U.S. Law*, ABC NEWS (July 1, 2010), <http://abcnews.go.com/WN/deadly-arkansas-shooting-sovereign-citizens-jerry-kane-joseph/story?id=11065285> [https://perma.cc/YH7N-ENZA] (reporting the story of a father and son, who were both members of the sovereign citizen movement, and who killed two police officers in Arkansas during a routine traffic stop).

<sup>11</sup> *Sovereign Citizens Movement*, S. POVERTY L. CTR., <http://www.splcenter.org/get-informed/intelligence-files/ideology/sovereign-citizens-movement> [https://perma.cc/2FF8-DLKT] (last visited Jan. 15, 2015).

<sup>12</sup> 2 N.E.3d 1052 (Ill. App. Ct. 2013).

<sup>13</sup> *Id.* at 1064 ("[D]espite defendants' manifest disregard for the appellate rules, we believe that plenary review of this particular case is important to provide guidance to lower courts faced with similar improper litigation tactics.").

<sup>14</sup> *Id.* at 1054, 1082.

defendants engaging in an organized program of filing frivolous pleadings, lawsuits, and claims in an effort to harass judges, creditors, and even court staff.<sup>15</sup>

As the court recognized, sovereign citizens use paper as a weapon, or a shield, in order to delay proceedings and to punish parties that are seeking judgments against them. Sovereign citizens will file extremely long pleadings that are practically unintelligible, requiring opposing parties to decipher the convoluted language.

One prevalent tactic among sovereigns is to file false liens against their victims in order to retaliate for perceived wrongs.<sup>16</sup> These fraudulent Uniform Commercial Code (UCC) financing statements are costly for victims to remove.<sup>17</sup> Despite the prevalence of this practice, Connecticut has not enacted legislation to combat it. This Note will provide a brief history of the sovereign citizen movement, provide a brief understanding of its beliefs, and detail the various legislative approaches employed by a number of states across the country in response. Ultimately, this Note recommends that Connecticut address this problem by adopting legislation that both deters the filing of the fraudulent liens and provides the victims of these filings a speedy and less costly remedy. While this practice has not become as widespread as in other areas of the country, Connecticut should put a system in place to effectively deal with this practice.

## II. EVOLUTION OF AN IDEOLOGY: A BRIEF OVERVIEW OF THE ROOTS OF THE SOVEREIGN CITIZEN MOVEMENT

The evolution of the sovereign citizen movement is best understood as a combination of four different movements: the Tax Protester movement, the Posse Comitatus, the Patriot movement, and Common-Law Courts.<sup>18</sup> These four movements are united in their mistrust of the federal government and their belief that the federal government has changed from the original Republican form of government.<sup>19</sup> Members of these movements believe that the laws do not apply to them, and they seek to disrupt the traditional legal system with their own (false) legal interpretations.

---

<sup>15</sup> *Id.* at 1078.

<sup>16</sup> *Sovereign Citizens Movement*, *supra* note 11.

<sup>17</sup> NAT'L ASS'N OF SECRETARIES OF STATE, STATE STRATEGIES TO SUBVERT FRAUDULENT UNIFORM COMMERCIAL CODE (UCC) FILINGS 3 (2014), <http://www.nass.org/news-releases-and-statements/news-release-new-ucc-report-aug12/> [<https://perma.cc/8DQ6-GK3E>] [hereinafter NASS].

<sup>18</sup> Francis X. Sullivan, Comment, *The "Usurping Octopus of Jurisdictional/Authority": The Legal Theories of the Sovereign Citizen Movement*, 1999 WIS. L. REV. 785, 786.

<sup>19</sup> *Id.* at 796.

### A. *The Tax Protester Movement*

The Tax Protester movement advances several arguments that courts have continually rejected:<sup>20</sup> the Sixteenth Amendment to the Constitution was not properly ratified, the Sixteenth Amendment is unconstitutional, the income tax violates the Takings Clause of the Fifth Amendment, tax laws are unconstitutional, wages are not income, filing a tax return violates the right against self-incrimination, and Federal Reserve Notes are not cash or income.<sup>21</sup> Individuals, including sovereign citizens, continue to advance these arguments despite their repeated rejection by courts across the country.<sup>22</sup> Actor Wesley Snipes advanced similar arguments in his defense when the government charged him with failing to file income tax returns.<sup>23</sup> Proponents of this movement “have evolved their distribution network for their positions over the years, from initially peddling their products to a relatively small audience in books, then audiotapes, videotapes, and DVDs, to reaching out to mass audiences through websites and blogs.”<sup>24</sup> Tax protesters often appear pro se and frustrate courts with “poorly written and sometimes incoherent pleadings.”<sup>25</sup> Many of these individuals are often associated with one of the right-wing extremist group movements, including the sovereign citizen movement.<sup>26</sup>

### B. *The Posse Comitatus*

The Posse Comitatus was founded in 1969 and grew during the 1980s when many farm families were finding themselves bankrupt and in danger of losing their farms.<sup>27</sup> The movement advanced the theory that farmers did not have to pay taxes and that they could keep the federal government from seizing their land by filing frivolous lawsuits against the banks to prevent

---

<sup>20</sup> Nathan J. Hochman, *Tax Defiers and the Tax Gap: Stopping “Frivolous Squared” Before It Spreads*, 20 STAN. L. & POL’Y REV. 69, 69–70 (2009).

<sup>21</sup> See *United States v. Cheek*, 882 F.2d 1263, 1268 n.2 (7th Cir. 1989) (listing the arguments made by individuals challenging income taxes).

<sup>22</sup> See, e.g., *Miller v. United States*, 868 F.2d 236, 240–41 (7th Cir. 1989) (rejecting the argument that the Sixteenth Amendment was not properly ratified); *United States v. Foster*, 789 F.2d 457, 462 (7th Cir. 1986) (“[T]he Sixteenth Amendment has been in existence for 73 years and has been applied by the Supreme Court in countless cases. While this alone is not sufficient to bar judicial inquiry, it is very persuasive on the question of validity.”).

<sup>23</sup> *United States v. Snipes*, 611 F.3d 855, 860 (11th Cir. 2010) (providing the argument by Snipes that he was a “fiduciary of God” and a “foreign diplomat” exempt from paying taxes).

<sup>24</sup> Hochman, *supra* note 20, at 70.

<sup>25</sup> Sullivan, *supra* note 18, at 790.

<sup>26</sup> See Marjorie E. Kornhauser, *Legitimacy and the Right of Revolution: The Role of Tax Protests and Anti-Tax Rhetoric in America*, 50 BUFF. L. REV. 819, 919 (2002) (“Many of these tax protesters are members or adherents of radical right wing groups such as the Posse Comitatus, Christian Identity, Sovereign Citizens, the common-law movement, the militia movement, and the Patriot movement.”).

<sup>27</sup> Sullivan, *supra* note 18, at 787.

foreclosures.<sup>28</sup> This group also advocated the practice of recording “baseless liens against property owned by government officials—liens that were costly to clear and that may have remained undiscovered until the victim of the scam attempted to sell the property.”<sup>29</sup>

Daniel Levitas credits one man, Bill Gale, with founding the Posse Comitatus and later the Christian Patriot movement.<sup>30</sup> Levitas contends that Gale’s Posse Comitatus stood apart from previous racist, right-wing militias because his “message was embellished with elaborate legalistic rhetoric that invoked, among other things, the Constitution, Magna Carta, and medieval principals of British law in order to legitimize his violent call to arms.”<sup>31</sup> When forming the Posse Comitatus, Gale recruited from the tax protester movement<sup>32</sup> because they shared his ideology on taxes and government. Levitas claims that Gale’s Posse Comitatus fostered the eventual development of the right-wing militias of the 1990s, such as the Christian Patriot movement, among several others.<sup>33</sup>

### C. The Patriot Movement

The Patriot movement developed in the early 1990s in the wake of violent confrontations involving the federal government in Ruby Ridge, Idaho<sup>34</sup> and Waco, Texas.<sup>35</sup> Ruby Ridge and Waco were examples of the federal government using military force on citizens in the United States, which provided militia organizers with rhetorical fuel. The Patriot movement grew out of the Posse Comitatus<sup>36</sup>—the influence is particularly evident in the group’s proclivity for sham legal filings. Adherents of the Patriot movement strongly support “an individual’s right to bear arms, the

<sup>28</sup> James Erickson Evans, Note, *The “Flesh and Blood” Defense*, 53 WM. & MARY L. REV. 1361, 1366 (2012).

<sup>29</sup> *Id.*; see also *United States v. Hart*, 545 F. Supp. 470, 471 (D.N.D. 1982) (detailing the filing by the defendant of common-law liens against three IRS employees and “a document entitled, ‘Sheriff’s Posse Comitatus Common Law Great Charter[.]’” with the Register of Deeds).

<sup>30</sup> DANIEL LEVITAS, *THE TERRORIST NEXT DOOR: THE MILITIA MOVEMENT AND THE RADICAL RIGHT* 2–3 (2002).

<sup>31</sup> *Id.* at 3.

<sup>32</sup> *Id.* at 97.

<sup>33</sup> See *id.* at 300 (“[I]t was through these dynamic social movements that Bill Gale’s simplistic yet elaborate framework of ideas has won a substantial following these past three decades.”).

<sup>34</sup> See Randy E. Barnett, *Foreword: Guns, Militias, and Oklahoma City*, 62 TENN. L. REV. 443, 454–55 (1995) (detailing the events at Randy Weaver’s ranch in Ruby Ridge, Idaho). Weaver refused to appear in court on a weapons charge and U.S. marshals attempted to take him into custody. *Id.* at 454. The marshals killed Weaver’s wife and his son in the resulting siege of Weaver’s ranch. *Id.*

<sup>35</sup> See *id.* at 455–57 (describing the fifty-one day siege at the Branch Davidian religious community in Waco, Texas). Federal agents “injected [tear gas into the residence] for several hours with the intent of saturating the gas masks of the residents, though federal agents were aware that conventional gas masks would not fit the children.” *Id.* at 456. A fire erupted in the residence, the origin of which has been disputed, killing seventy-five Branch Davidians. *Id.*

<sup>36</sup> LEVITAS, *supra* note 30, at 2–3.

right to revolt, and strict interpretation of the Constitution.”<sup>37</sup> Patriots are often associated with violent militia groups, but they also engage in the filing of false liens to enforce judgments entered in their common-law courts.<sup>38</sup>

Patriots “have carried on a campaign of harassment, threats, and violence against government officials.”<sup>39</sup> This group views their relationship to the government as a social contract that they must revoke in order to reclaim their sovereign citizenship.<sup>40</sup> A Patriot would “simply appear before a common-law court and reclaim sovereignty from the government by revoking their Social Security Accounts, birth certificates, marriage licenses, driver’s licenses, and automobile registrations.”<sup>41</sup> Recently, Jerad and Amanda Miller, a couple from Las Vegas, made news for a mass shooting in Las Vegas.<sup>42</sup> The couple killed two police officers and a shopper at a local Wal-Mart.<sup>43</sup> Jerad’s Facebook page reflected his allegiance to the Patriot movement and referenced his presence at Cliven Bundy’s ranch outside of Las Vegas during the recent standoff with federal authorities.<sup>44</sup>

#### D. Common-Law Courts

Common-Law Courts are not an entirely distinct movement. Their roots are firmly planted in the Posse Comitatus,<sup>45</sup> and they are closely tied to the Patriot movement.<sup>46</sup> These courts are “organized at the local level outside the recognized judicial system[,] . . . apply[ing] principles of common law to resolve disputes and adjudicate criminal matters.”<sup>47</sup> Adherents of different groups, including the Patriot movement, the Posse Comitatus, and the sovereign citizen movement, use these courts to intimidate and harass public officials.<sup>48</sup> The courts “reserve onto

<sup>37</sup> Thompson Smith, Note, *The Patriot Movement: Refreshing the Tree of Liberty with Fertilizer Bombs and the Blood of Martyrs*, 32 VAL. U. L. REV. 269, 272 (1997).

<sup>38</sup> See *id.* at 274 (describing these legal actions as “little more than a nuisance”).

<sup>39</sup> Wilson Huhn, *Political Alienation in America and the Legal Premises of the Patriot Movement*, 34 GONZ. L. REV. 417, 423 (1998–1999).

<sup>40</sup> *Id.* at 427.

<sup>41</sup> Smith, *supra* note 37, at 302.

<sup>42</sup> Mark Potok, *Alleged Las Vegas Cop-Killers in ‘Patriot’ Movement, Warned of ‘Sacrifices’*, SPLCENTER.ORG (June 9, 2014, 10:23 AM), <http://www.splcenter.org/blog/2014/06/09/alleged-las-vegas-cop-killers-in-patriot-movement-warned-of-sacrifices/> [https://perma.cc/N2J5-XNQE].

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*; see also Fuller, *supra* note 8 (detailing the standoff at Cliven Bundy’s ranch outside of Las Vegas).

<sup>45</sup> DEVIN BURGHART & ROBERT CRAWFORD, COAL. FOR HUMAN DIGNITY, GUNS AND GAVELS: COMMON LAW COURTS, MILITIAS, AND WHITE SUPREMACY 3 (1996).

<sup>46</sup> Smith, *supra* note 37, at 273.

<sup>47</sup> Sullivan, *supra* note 18, at 792.

<sup>48</sup> *Id.*



themselves the right to pass judgment on private citizens, public officials and the law itself.”<sup>49</sup> Adherents seek to disrupt the traditional legal system, by using false judgments as the basis for filing liens against individuals’ property.<sup>50</sup> Several of these “courts” have made their pseudo-legal documents available online, sharing with other similar organizations across the country.<sup>51</sup> Violence is still an ever-present part of the Common-Law Courts. One Missouri police officer was shot in the chest three months after he arrested a member of the group for simulating the legal process.<sup>52</sup>

### III. SOVEREIGN CITIZEN THEORY: VARIATIONS ON A THEME

While all four of the sub-movements described above can be said to comprise a portion of the sovereign citizen ideology, the sovereign citizen movement is, overall, most similar to the Patriot movement. Like the Patriot movement, there is no ideological consensus of sovereigns’ beliefs or membership.<sup>53</sup> Some sovereigns engage in violence,<sup>54</sup> while others resort to pseudo-legal attacks on their perceived enemies. Today sovereign citizens are diverse, but it is worth noting that many of the early adherents to the sovereign movement were “white people with racist beliefs.”<sup>55</sup> Though there are several different styles of sovereign citizen, the movement is unified in the belief that there are two forms of citizenship: sovereign and federal citizenship.<sup>56</sup> This belief is usually an extension of a conspiracy theory that involves the corruption of the original, legitimate American government.<sup>57</sup>

The legal theory behind the movement is that “[s]overeign [c]itizens are state citizens.”<sup>58</sup> The “states” that sovereign citizens recognize are not state governments, but rather the “states” “exist independently of the federal government and draw their sovereignty directly from their

---

<sup>49</sup> BURGHART & CRAWFORD, *supra* note 45, at 7.

<sup>50</sup> Smith, *supra* note 37, at 274.

<sup>51</sup> Daniel Lessard Levin & Michael W. Mitchell, *A Law unto Themselves: The Ideology of the Common Law Court Movement*, 44 S.D. L. REV. 9, 16 (1999).

<sup>52</sup> LEVITAS, *supra* note 30, at 306. The officer was shot while standing in his home, struck by a bullet from a high-powered rifle. *Id.*

<sup>53</sup> Michelle Theret, *Sovereign Citizens: A Homegrown Terrorist Threat and Its Negative Impact on South Carolina*, 63 S.C. L. REV. 853, 862 (2012).

<sup>54</sup> See Harris, *supra* note 10 (reporting the story of the killing of two police officers in Arkansas).

<sup>55</sup> Laird, *supra* note 2, at 55; see also *United States v. Mitchell*, 405 F. Supp. 2d 602, 606 (D. Md. 2005) (“It is truly ironic that four African-American defendants here apparently rely on an ideology derived from a famously discredited notion: the illegitimacy of the Fourteenth Amendment.”); Huhn, *supra* note 39, at 430 (“Sovereign citizenship is derived from God, not from the Constitution, therefore white people are the only true sovereign citizens of America.”).

<sup>56</sup> Sullivan, *supra* note 18, at 797.

<sup>57</sup> ANTI-DEFAMATION LEAGUE, *THE LAWLESS ONES: THE RESURGENCE OF THE SOVEREIGN CITIZEN MOVEMENT* 3 (2d ed. 2012), <http://www.adl.org/assets/pdf/combating-hate/Lawless-Ones-2012-Edition-WEB-final.pdf> [<http://archive.adl.org/mwd/suss1.html>] [hereinafter ADL REPORT].

<sup>58</sup> Sullivan, *supra* note 18, at 797.

citizens.”<sup>59</sup> Because the “states” exist independently, they are protected from the federal government. According to the theory, the Fourteenth Amendment created federal citizenship, which is more restrictive than the originally intended citizenship of the Constitution.<sup>60</sup> Sovereign citizens “contend that Fourteenth Amendment citizenship is a contract with the government and that by accepting the benefits of the contract, they have also accepted the second-class citizenship.”<sup>61</sup> Federal citizens include all federal employees, residents of areas that have not attained statehood, and those citizens that have entered “into contracts with the government” that have thereby subjected themselves to its jurisdiction.<sup>62</sup> The theory is rooted in this distinction, but there are ideas that are even stranger.<sup>63</sup>

Sovereigns believe that they have an inalienable right to travel without needing vehicle registration, a license plate, or driver’s license.<sup>64</sup> They also believe that the government cannot tax them simply because they own personal property and, much like the tax protesters, assert that the income tax is unconstitutional because it violates their inalienable right to property.<sup>65</sup> Some sovereigns believe that by filing a land patent, they can achieve a clean title to their home.<sup>66</sup> Sovereigns claim that their citizenship entitles them “to hold any political office, including judicial offices generally reserved for lawyers.”<sup>67</sup> The list of sovereign beliefs goes on,<sup>68</sup> but for the purposes of this Note, the most important idea is that they believe they are not under the jurisdiction of any government and they “decide which laws to obey and which to ignore”<sup>69</sup> as they intimidate and harass their victims with paper terrorism.<sup>70</sup> As Judge Easterbrook aptly

<sup>59</sup> *Id.*

<sup>60</sup> Huhn, *supra* note 39, at 427.

<sup>61</sup> *Id.*

<sup>62</sup> Sullivan, *supra* note 18, at 798.

<sup>63</sup> See Bernard J. Sussman, *Idiot Legal Arguments: A Casebook for Dealing with Extremist Legal Arguments*, MILITIA WATCHDOG (Aug. 29, 1999), <http://archive.adl.org/mwd/suss1.html> [<https://perma.cc/GLZ4-3HFY>] (providing a comprehensive list of sovereign citizen legal theories and citations to cases refuting each theory).

<sup>64</sup> Theret, *supra* note 53, at 865. Sovereigns are also notorious counterfeiters, “creat[ing] fake license plates, drivers’ licenses, vehicle registrations, insurance cards, identification cards, and passports.” ADL REPORT, *supra* note 57, at 20.

<sup>65</sup> Theret, *supra* note 53, at 866.

<sup>66</sup> See, e.g., *Wisconsin v. Glick*, 782 F.2d 670, 671 (7th Cir. 1986) (“The usual way to obtain clean title is to pay one’s debts. Some have decided that it is cheaper to write a ‘land patent’ purporting to convey unassailable title, and to file that ‘patent’ in the recording system.”).

<sup>67</sup> Sullivan, *supra* note 18, at 801 (noting that sovereigns will engage in the common-law courts because of their ability to play the role of judge, attorney, and jury).

<sup>68</sup> See *id.* at 795–812 (providing a more comprehensive discussion of the sovereign citizen ideology).

<sup>69</sup> *Sovereign Citizens Movement*, *supra* note 11.

<sup>70</sup> ADL REPORT, *supra* note 57, at 16 (“Paper terrorism involves the use of bogus legal documents and filings, or the misuse of legitimate ones, to intimidate, harass, threaten, or retaliate against public officials, law enforcement officers, or private citizens.”).

stated in one opinion involving a tax protester, “[s]ome people believe with great fervor preposterous things that just happen to coincide with their self-interest.”<sup>71</sup>

While the sovereign movement has no organized hierarchical structure of a single leader, there are various packages and lessons promoting the movement, which are sold online.<sup>72</sup> Indoctrinated and trained by these materials, sovereigns often go into court representing themselves with the help of “legal gurus selling false ideas about the law for profit.”<sup>73</sup> With the help of these gurus, sovereign citizens will file voluminous documents full of citations to the UCC, maritime law, and even the Bible.<sup>74</sup> Sometimes officials will even stop pursuing a matter due to the exhaustive filings.<sup>75</sup> Each small victory encourages more people to employ the same tactics, resulting in more and more members of this troublesome movement.<sup>76</sup>

Just as the Posse Comitatus convinced farmers that they could stop the banks from foreclosing, many sovereign citizens have emerged as a result of the economic downturn in 2008.<sup>77</sup> An individual in the midst of a foreclosure is more likely to embrace this ideology, since it promises an easy fix to all of their problems.<sup>78</sup> While this Note focuses on one of the nonviolent tactics employed by the sovereign citizen movement, there are a growing number of instances of violent adherents of the movement.<sup>79</sup> Additionally, the legal system must address this group because their excessive paperwork and meritless cases are clogging up the courts.<sup>80</sup>

---

<sup>71</sup> *Coleman v. Comm’r*, 791 F.2d 68, 69 (7th Cir. 1986).

<sup>72</sup> *Laird*, *supra* note 2, at 55.

<sup>73</sup> *Id.* at 56. There are many gurus across the country that make a living by selling their forms and holding seminars. ADL REPORT, *supra* note 57, at 6. These seminars promise financial freedom for the bargain price of a few hundred dollars. *Id.*

<sup>74</sup> *Laird*, *supra* note 2.

<sup>75</sup> *Id.* at 57. One such case involved a woman refusing to pay a twenty-five-dollar fine for failing to license her dog. *Id.* The woman filed over sixty-five documents rather than paying the fine. *Id.*

<sup>76</sup> One observer notes that the number of sovereign citizens has increased significantly since the economic downturn in 2008. *Id.* at 56. The Southern Poverty Law Center estimates that there are over 300,000 sovereigns in the country. *Sovereign Citizens Movement*, *supra* note 11.

<sup>77</sup> ADL REPORT, *supra* note 57, at 10.

<sup>78</sup> *Id.* at 27.

<sup>79</sup> *See Theret*, *supra* note 53, at 873–79 (discussing the evolution of sovereign citizens from paper terrorists to violent extremists in the United States and South Carolina).

<sup>80</sup> *See, e.g., McLaughlin v. CitiMortgage, Inc.*, 726 F. Supp. 2d 201, 221 (D. Conn. 2010) (“Mr. Ade Bey should appreciate that in pursuing what has, at least to date, been a quixotic endeavor, he has taxed the resources of the Defendant and this Court.”). Mr. Ade Bey brought suit against CitiMortgage on behalf of Raymond Wintson McLaughlin, claiming that the mortgage agreement signed by the plaintiff was paid in full, as a result of the sale of said mortgage by the initial lender. *Id.* at 203.

## IV SOVEREIGN CITIZENS IN CONNECTICUT

There have been several incidents involving sovereign citizens in Connecticut. Edwin Thrall, from East Windsor battled the town for two decades over his dance hall, beginning in 1978.<sup>81</sup> The building department for the town of East Windsor refused to issue Thrall a permit for his dance hall because it was not up to code.<sup>82</sup> Thrall defied the town ordinances and continued to hold events in the hall, while refusing to pay taxes or fines.<sup>83</sup> Thrall had many encounters with the police, even shooting at officers on multiple occasions.<sup>84</sup> After his property was foreclosed on, Thrall, still believing the property belonged to him, used a crane to load supplies onto the dance hall.<sup>85</sup> When police showed up to stop him, he proceeded to fire shots over their heads.<sup>86</sup> Thrall served six months in prison for this incident, shortly before his death in 2003.<sup>87</sup> While Thrall had many armed encounters with police, sovereign citizens in Connecticut are more typically “pen-wielding protesters, who prefer legal briefs and occasional acts of civil disobedience to running around in the woods with guns.”<sup>88</sup> Another Connecticut man, Andrew Melechinsky, stopped paying federal income taxes in 1976 and was evicted from his home in Enfield after failing to pay property taxes for more than twenty years.<sup>89</sup> After being evicted, Melechinsky stayed with Edwin Thrall in East Windsor.<sup>90</sup> There are several other incidents involving sovereign citizens from Connecticut, often involving foreclosures, taxes, and traffic stops.<sup>91</sup>

Sovereign citizens have also filed bogus liens against government

---

<sup>81</sup> ANTI-DEFAMATION LEAGUE, EXTREMISM IN CONNECTICUT: A STATE STUDY 26 (2001), [http://archive.adl.org/learn/ext\\_us/ct/ext\\_ct.pdf](http://archive.adl.org/learn/ext_us/ct/ext_ct.pdf) [https://perma.cc/S7UV-TNTF].

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at 26–27.

<sup>85</sup> *Id.* at 27.

<sup>86</sup> *Id.*

<sup>87</sup> Catie Talariski, *Ed Thrall and the Story of His Most Contentious Dance Hall*, WNPR (Sept. 30, 2014), <http://wnpr.org/post/ed-thrall-and-story-his-most-contentious-dance-hall> [https://perma.cc/JU8T-TGDG].

<sup>88</sup> Mike McIntire & Rick Hartford, *For Alienated Citizenry, Government Is the Enemy*, HARTFORD COURANT, Nov. 23, 1997, at A1.

<sup>89</sup> Christopher Keating & Tom Puleo, *Marshals Evict Tax Rebel, Wife from Enfield House*, HARTFORD COURANT, Jan. 17, 1992, at C1. Melechinsky refused to leave, so the marshals were forced to wheel him out in a wheelchair. *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> See ANTI-DEFAMATION LEAGUE, *supra* note 81, at 24–33 (describing several incidents involving members of the sovereign citizen movement in Connecticut contesting foreclosures and property taxes); see also Kelly Glista, *Man Who Fired into Car Gets 8 Years*, HARTFORD COURANT, Jan. 7, 2015, at B5 (noting the man who pled guilty to the charges had originally claimed to be a sovereign citizen and not subject to the laws of Connecticut); David Owens, *Law Applies to ‘Sovereign Citizen’*, HARTFORD COURANT, Aug. 1, 2014, at B4 (reporting that a Louisiana man was stopped for running a stop sign in Southbury and claimed he did not have a license because he was a sovereign citizen).

officials in Connecticut. One case involved an inmate filing liens totaling over twelve billion dollars against the property of two federal judges and a prosecuting attorney in 2001.<sup>92</sup> In Hartford, a sovereign citizen filed a lien against the property of a district court judge that presided over the foreclosure of his church in East Windsor.<sup>93</sup> The presiding judge did not assess damages, but did state if the defendant “has paid some individual for the advice and paperwork mentioned in this opinion, he would be performing a public service by identifying such person(s) to the Connecticut Office of Disciplinary Counsel.”<sup>94</sup> Yet another sovereign citizen was enjoined from filing any future liens after the State brought suit in response to a lien filed against the Chief Clerk for the Superior Court for the Judicial District of Hartford.<sup>95</sup> The plaintiffs in that case brought suit to remove the liens, noting in their complaint “[t]he use of both injunctive and legal remedies is necessary; a remedy at law is inadequate to meet the threat and harm involved.”<sup>96</sup> While these cases present a few examples of this practice in Connecticut, there may be many more unknown instances of this practice because these liens are not always discovered right away, or even litigated.

#### V. FILING FALSE LIENS

Sovereign citizens have found success in their retaliatory practice of filing fraudulent liens against the property of individuals that have offended them.<sup>97</sup> One reason for their success is the UCC does not permit clerks at a filing office to refuse to accept fraudulent filings.<sup>98</sup> Congress enacted legislation to respond to this practice,<sup>99</sup> but the states have not

---

<sup>92</sup> *United States v. Speight*, No. CIVA 3:00 CV1791SRU, 2001 WL 539610, at \*1 (D. Conn. May 17, 2001).

<sup>93</sup> *Connecticut v. Saunders*, No. HHD-CV11-6023814-S, slip op. at 1 (Conn. Super. Ct. Nov. 9, 2011) (granting permanent injunction against defendant, prohibiting the filing of any liens against public officials without leave of the court).

<sup>94</sup> *Id.*

<sup>95</sup> Permanent Injunction Order, *Connecticut v. Ossa*, No. HHD-CV14-6048953-S (Conn. Super. Ct. Mar. 24, 2014) (prohibiting future UCC filings by the defendant without permission of the court).

<sup>96</sup> Complaint at 8, *Connecticut v. Ossa*, No. HHD-CV14-6048953-S (Conn. Super. Ct. Feb. 19, 2014).

<sup>97</sup> Laird, *supra* note 2, at 57. Despite the enactment of several laws to combat this practice, it remains an effective tactic to harass perceived enemies. ADL REPORT, *supra* note 57, at 16.

<sup>98</sup> See U.C.C. § 9-520 cmt. 2 (2000) (noting a “filing office is not expected to make legal judgments and is not permitted to impose additional conditions or requirements.”); see also NASS, *supra* note 17, at 6 (explaining the filing office is obligated to accept documents filed with all of the required information, even if the documents are clearly fraudulent).

<sup>99</sup> See 18 U.S.C. § 1521 (2012) (“Whoever files, attempts to file, or conspires to file, in any public record . . . any false lien or encumbrance against the real or personal property of an individual . . . on account of the performance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.”).

followed the lead of the Federal Government. The National Association of Secretaries of State (NASS) released a report on various strategies to combat this practice.<sup>100</sup> The report notes that these fraudulent UCC filings are on the rise as a result of the growth in the number of individuals subscribing to the sovereign citizen movement.<sup>101</sup> Ironically, action taken against the movement may only serve to strengthen it: when sovereigns are incarcerated for an offense, they will often attempt to recruit their fellow inmates.<sup>102</sup>

A recent case involving this practice, *United States v. Neal*,<sup>103</sup> highlights this issue. While Denard Neal was in prison for armed robbery in 2010, he gave a package to a soon-to-be-released fellow inmate to deliver to his mother.<sup>104</sup> The package contained a number of UCC financing statements listing several prison employees as debtors, and a letter to Neal's mother with "instructions for correctly filing the documents with the California Secretary of State and the County Recorder in Merced County on his behalf."<sup>105</sup> In another case, the United States filed suit to permanently enjoin an inmate from filing false liens without leave of the court.<sup>106</sup> After the defendant pleaded guilty to a murder for hire charge, he filed UCC financing statements with the Secretary of State of Arkansas against both the prosecutor and the presiding judge.<sup>107</sup> The targets of these liens are most often government employees, including attorneys, clerks, judges, corrections officers, and police officers.<sup>108</sup>

The NASS report lists three categories of fraudulent filings: authentication filings, harassment filings, and strawman filings.<sup>109</sup> Authentication filings are "fraudulent financing instruments [submitted] in conjunction with bogus UCC filings to try and mislead third parties about the authenticity of the underlying documents."<sup>110</sup> Harassment filings are fraudulent financing statements and real property liens against an

---

<sup>100</sup> NASS, *supra* note 17, at 6.

<sup>101</sup> *Id.* at 4.

<sup>102</sup> Laird, *supra* note 2, at 58. The Pennsylvania Department of Corrections banned documents that would assist inmates in filing fraudulent liens, once they discovered that inmates were engaging in the practice. Theret, *supra* note 53, at 868. For an interesting discussion of the relationship between the spreading of the sovereign ideology and the First Amendment, see generally Julia Melle, Comment, *Illogical Extremes: The Sovereign Citizens Movement and the First Amendment*, 22 TEMP. POL. & CIV. RTS. L. REV. 554, 557-71 (2013).

<sup>103</sup> 776 F.3d 645 (9th Cir. 2015).

<sup>104</sup> *Id.* at 649.

<sup>105</sup> *Id.*

<sup>106</sup> *United States v. Brum*, No. Civ. A. 105CV110, 2005 WL 1606584, at \*1 (E.D. Tex. July 1, 2005).

<sup>107</sup> *Id.*

<sup>108</sup> NASS, *supra* note 17, at 4-5. As prison inmates have begun to discover the practice, the harassment filings have become even more common. *Id.* at 5.

<sup>109</sup> *Id.* at 4.

<sup>110</sup> *Id.* at 5.

individual as retaliation for a perceived offense.<sup>111</sup> Despite the fact that these filing statements are not legally effective, victims must undertake lengthy judicial action and “incur court fees[,] and their credit ratings potentially suffer.”<sup>112</sup> Furthermore, individuals often do not discover these liens until they sell their house or apply for a loan.<sup>113</sup> While these liens do not create a legitimate interest in the victim’s property, since lenders search the UCC records before providing a loan, these liens will likely delay the process of obtaining loans.<sup>114</sup> The strawman filings involve the sovereign citizen “redemption theory.”<sup>115</sup> The theory is that the federal government creates an account at the Treasury Department representing the monetary worth of each citizen, and sovereigns believe that by filing a UCC financing statement, they are able to gain access to this secret account.<sup>116</sup> The UCC does not provide a sufficient remedy for these fraudulent filings.<sup>117</sup>

There are two main ways that victims can remedy a fraudulent financing statement: an information statement and a termination statement.<sup>118</sup> An information statement may be filed to show that a named debtor wants to correct the record,<sup>119</sup> and a termination statement would confirm that the financing statement is not effective.<sup>120</sup> Neither of these options is a satisfactory remedy for the financing statement. An information statement will not actually remove the financing statement, but only indicate that the debtor disagrees with information in the financing statement.<sup>121</sup> Likewise, a termination statement will not remove the financing statement immediately, but will merely render it ineffective.<sup>122</sup>

<sup>111</sup> *Id.* at 4–5.

<sup>112</sup> JEROME P. BJELOPERA, *THE DOMESTIC TERRORIST THREAT: BACKGROUND AND ISSUES FOR CONGRESS* 48 (2013).

<sup>113</sup> *Sovereign Citizens Movement*, *supra* note 11.

<sup>114</sup> Juliet M. Moringiello, *Revised Article 9, Liens from the Fringe, and Why Sometimes Signatures Don’t Matter*, 10 WIDENER J. PUB. L. 135, 139–40 (2001).

<sup>115</sup> See Theret, *supra* note 53, at 864 (providing a description of this conspiracy theory involving secret bank accounts for all U.S. citizens).

<sup>116</sup> *Id.* at 865. “A strawman filing will often include the same name for both secured party and debtor, with the name of the debtor (the strawman) spelled entirely in uppercase letters.” NASS, *supra* note 17, at 5.

<sup>117</sup> NASS, *supra* note 17, at 6.

<sup>118</sup> *Id.*

<sup>119</sup> See U.C.C. § 9-518(a) (2000) (“A person may file in the filing office an information statement with respect to a record indexed there under the person’s name if the person believes that the record is inaccurate or was wrongfully filed.”).

<sup>120</sup> See *id.* § 9-513 cmt. 3 (“A secured party’s duty to send a termination statement arises when the secured party ‘receives’ an authenticated demand from the debtor.”).

<sup>121</sup> Moringiello, *supra* note 114, at 145.

<sup>122</sup> See U.C.C. § 9-513 cmt. 5 (“[E]ven if a financing statement is *terminated* (and thus no longer is effective) with respect to all secured parties of record, the financing statement, including the termination statement, will remain of record until at least one year after it *lapses* with respect to all secured parties of record.”).

But, the financing statement will still remain effective for the fraudulent filer's purpose: harassment. The financing statement is never really effective in the legitimate sense anyway, because there is no authorization by the debtor.<sup>123</sup>

Several states adopted laws following the recommendations of a joint task force comprised of the National Association of Secretaries of State and the International Association of Commercial Administrators (NASS/IACA Bogus Filings Task Force) in 2006.<sup>124</sup> The recommendations sought to provide an efficient remedy for victims of the fraudulent financing statements, as well as to discourage potential filers by imposing both criminal and civil penalties for fraudulent filings.<sup>125</sup> The task force recommended that states allow victims of these filings to file a motion for judicial review without having to pay a filing fee.<sup>126</sup> The court would review the documentation, issue a decision, and order the filing office to remove the fraudulent financing statements.<sup>127</sup>

While several states did enact these recommendations, the problem continued to grow. In 2011, the secretaries of state explored new responses that would lessen the burden on victims and courts by giving state filing offices more authority either to refuse to accept the fraudulent filings or to effectively clear the filings from the record.<sup>128</sup>

## VI. LEGISLATIVE RESPONSES TO FRAUDULENT UCC FILINGS

The state legislative responses to fraudulent filings address the problem in four different ways: "pre-filing administrative discretion, post-filing administrative relief, post-filing expedited judicial relief, and enhanced criminal/civil penalties."<sup>129</sup> Each of these approaches addresses part of the problem, but if states want to solve the problem entirely, they will need to employ some combination of these approaches. Each state must balance victims' need for a speedy remedy and the government's interest in an organized and efficient administration.

### A. *Pre-filing Administrative Discretion*

The simplest solution would be to stop the fraudulent filings from ever being recorded. This would save the potential victim from having to invest time and money into correcting the record, as well as prevent any negative

---

<sup>123</sup> See Moringiello, *supra* note 114, at 145 ("[A]n unauthorized financing statement has no legal effect other than the effect of harassing the debtor and clouding the U.C.C. records.").

<sup>124</sup> NASS, *supra* note 17, at 7.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*



impact on a victim's credit. A number of states have enacted some type of pre-filing administrative remedy that allows the secretary of state's office to reject a financing statement if certain conditions are met.<sup>130</sup> Still, it is not always simple to spot a fraudulent filing. The statute must give the filing office broad discretion by providing for a variety of conditions in order to stop this practice—however, if the filing office has too much discretion then legitimate liens could be improperly rejected.

The NASS report recommends a statute similar to the one enacted in South Carolina, which lists nearly all of the conditions that are likely to exist when a sovereign attempts to retaliate by filing a fraudulent financing statement.<sup>131</sup> While broad discretion allows for the filing office to prevent fraudulent financing statements from ever being recorded, this is dependent upon that filing office having the time to review each and every filing to ensure that it complies with the statute.

### B. *Post-filing Administrative Remedy*

Several states provide that the filing office may cancel and remove a financing statement from the record if certain conditions are met.<sup>132</sup> As with the pre-filing remedy, the statute needs to provide for the different conditions that are most often prevalent in the fraudulent financing statements. Additionally, these statutes must provide due process to the parties involved by giving them notice of their intention to remove the financing statement and an opportunity to respond.<sup>133</sup> This approach provides victims of fraudulent filings a less costly and faster removal process than the typical judicial remedy, but the person seeking retaliation will likely have achieved his or her intended effect by damaging the victim's credit or encumbering the victim's property.

### C. *Post-filing Expedited Judicial Relief*

The laws in this category are in line with the prior recommendation of the 2006 joint task force. States that have enacted this type of statute provide victims of the fraudulent filings with an expedited judicial review

---

<sup>130</sup> *Id.* at 8. If the same name is listed for the debtor and the secured party, the filing offices in Nebraska and North Dakota may reject it. *Id.* In North Carolina, the filing office may reject a financing statement if it is intended to harass. *Id.*

<sup>131</sup> *Id.*; see also S.C. CODE ANN. § 36-9-516(b)(8), (9) (2012) (“[I]f the financing statement is intended for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person; or . . . the same person or entity is listed as both debtor and secured party, the collateral described is not within the scope of this chapter . . .”).

<sup>132</sup> NASS, *supra* note 17, at 9.

<sup>133</sup> *Id.*; see also, e.g., MONT. CODE ANN. § 30-9A-420(1) (2014) (“[T]he filing officer may reject the submission or remove the filing from existing files after giving notice and an opportunity to respond to the secured party and the debtor.”).

of an existing financing statement, and there is often no fee for bringing the action.<sup>134</sup> Most of these statutes allow a person to “file a motion for expedited judicial review of the filing, and the court may order that the filing be removed from the records.”<sup>135</sup> While these statutes provide an expedited remedy, the process can still be costly for the victim of the fraudulent filing. While some of the statutes provide that there is no filing fee for the motion, many will only award the costs of the action to the prevailing party.<sup>136</sup> While this would normally be an adequate remedy, most individuals would not want to go through the trouble of collecting from a litigious sovereign citizen. This approach does provide for an expedited process, but “it still places significant burdens on the victims.”<sup>137</sup>

#### D. Criminal/Civil Penalties

Several states have enacted legislation that serves to deter potential filers by imposing criminal penalties.<sup>138</sup> These statutes make it a crime to knowingly file a fraudulent financing statement. While in some states the first offense is a misdemeanor crime, a few states make it a felony to file fraudulent financing statements in an attempt to harass someone else.<sup>139</sup> Many of the statutes also allow the victims to recover damages, court costs, and other expenses related to the fraudulent filing.<sup>140</sup> While enacting these statutes may help deter the fraudulent filings, victims of these filings would still suffer without an accompanying statute that provides for an expedited remedy. Another issue with imposing criminal penalties is the tendency of sovereign citizens to continue their tactics while incarcerated.<sup>141</sup> While this sort of behavior should be punished, it is possible that the effect of the punishment will simply lead to more of the same behavior.<sup>142</sup>

---

<sup>134</sup> NASS, *supra* note 17, at 9.

<sup>135</sup> *Id.*

<sup>136</sup> See, e.g., IND. CODE § 26-1-9.1-902(b)(1)(a) (2014) (stating that a court may award the prevailing party all costs of the review, including filing fees).

<sup>137</sup> NASS, *supra* note 17, at 10. The report notes that victims will still often need to hire a lawyer. *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*; see also, e.g., MINN. STAT. § 609.7475 (2014) (imposing a criminal penalty, either a “gross misdemeanor” or a felony, for fraudulent filings). If the filer intended to harass or intimidate a public official, such as a prosecutor, or has been convicted of a similar violation previously, the filer is guilty of a felony. *Id.* § 609.7475(3).

<sup>140</sup> NASS, *supra* note 17, at 10.

<sup>141</sup> ADL REPORT, *supra* note 57, at 12–13. The sovereign ideology has spread rapidly in the prison population over the last decade, as adherents often teach the ideology to fellow inmates. *Id.* at 13.

<sup>142</sup> See *supra* note 102 and accompanying text (discussing the propensity of inmates to recruit new members in prison).

## VII. RECOMMENDATIONS FOR CONNECTICUT

The sovereign citizen movement has been around for several decades and appears to be growing in popularity.<sup>143</sup> All states should be aware of their presence and their tactics in order to effectively deter any further growth. The NASS report should be a call to action for legislatures across the country, but especially for Connecticut. Connecticut has been dealing with this practice for close to twenty years, and the legislature proposed two bills in 2002<sup>144</sup> to address the fraudulent filings. The legislature did not enact the proposed bills, and individuals have continued to abuse the filing system in the state.<sup>145</sup> Either one of these bills would have established pre-filing administrative discretion,<sup>146</sup> a post-filing administrative remedy,<sup>147</sup> and a criminal penalty for individuals that file a fraudulent financing statement in order to harass any person.<sup>148</sup>

### A. Prior Legislative Action

House Bill 5727 was referred to the Joint Committee on Judiciary in March of 2002, and a public hearing was held.<sup>149</sup> At the hearing, David Warren, Director of Education for the Anti-Defamation League (ADL), testified in support of the bill.<sup>150</sup> Warren explained the ideology of the various anti-government groups, and he detailed the impact of the filing of bogus liens.<sup>151</sup> The ADL supported the bill, but urged for tougher penalties,

---

<sup>143</sup> See *Sovereign Citizens Movement*, *supra* note 11 (noting that the sovereign citizen movement has been growing at a fast pace since the late 2000s, and tracing its roots back to racism and anti-Semitism).

<sup>144</sup> See H.B. 5727, 2002 Gen. Assemb., Feb. Sess. (Conn. 2002) (“To deter fraudulent legal process and the filing of fraudulent instruments.”); S.B. 575, 2002 Gen. Assemb., Feb. Sess. (Conn. 2002) (“To amend article 9 of the Uniform Commercial Code to limit a person’s ability to file records intended to hinder, harass or otherwise wrongfully interfere with any person, and to make such false filing a class B misdemeanor.”).

<sup>145</sup> See *supra* notes 93–96 and accompanying text (discussing two cases involving sovereigns filing false liens against public officials in Connecticut within the last three years).

<sup>146</sup> H.B. 5727 § 2(b)(8) (providing that a filing does not occur if the filing office refuses to accept it because the Secretary of State determined that the filing is for an improper purpose, or intended to harass any person); S.B. 575 § 1(b)(8) (same).

<sup>147</sup> H.B. 5727 § 3(d) (“If the Secretary of the State finds that the record was wrongfully filed and should have been refused under subdivision (8) of subsection (b) . . . the Secretary of the State shall cancel the record and it shall be void and of no effect.”); S.B. 575 § 2(d) (same).

<sup>148</sup> H.B. 5727 § 5(a) (“A person is guilty of filing a false security agreement if the person presents a record for filing under the provisions of article 9 . . . with knowledge that the record is not related to a valid security agreement or with the intention that the record be filed for an improper purpose, such as to hinder, harass or otherwise wrongfully interfere with any person.”); S.B. 575 § 4 (same).

<sup>149</sup> *An Act Concerning Fraudulent Legal Process and Fraudulent Filings: Hearing on H.B. 5727 Before the Jud. Comm.*, 2002 Gen. Assemb., Feb. Sess. (Conn. 2002) [hereinafter *Hearings*].

<sup>150</sup> *Id.* at 2249–60 (testimony of David Warren, ADL Director of Education).

<sup>151</sup> *Id.* at 2249–50. “A lien goes on your property for \$1 million by somebody who doesn’t like the way you voted on a bill and you go to sell your property five years later and then discover that you

especially for repeat offenders.<sup>152</sup> One legislator expressed concern regarding the pre-filing administrative discretion, and the problems that could arise if a clerk refused to file a legitimate lien.<sup>153</sup> The legislator's concern is legitimate. Most of the bogus liens, filed for the purpose of harassment, have telltale signs that they are, in fact, fraudulent.<sup>154</sup> It is unlikely that a clerk would refuse to file a legitimate lien, especially if there were some training in identifying the indicators of a fraudulent lien.

Thomas Welsh, an attorney and member of the Law Revision Advisory Committee on revised Article IX of the UCC, provided some insightful observations about the bill from the perspective of an attorney who uses the financing statements for a proper purpose.<sup>155</sup> Welsh acknowledged that restricting the abuse of the UCC financing statements is necessary,<sup>156</sup> but he questioned whether this was a large enough problem to warrant a costly administrative response.<sup>157</sup> Welsh echoed Rep. O'Neill's concern regarding the rejection of a valid lien, but he also identified the issue of parties losing their right to private remedies by having a mandatory secretary of the state investigation.<sup>158</sup> Another issue was the criminal provision. Welsh explained that the phrasing in the bill<sup>159</sup> would make a routine commercial practice a crime.<sup>160</sup> Ultimately, Welsh recommended that Connecticut modify the bill to provide a "properly drafted" criminal provision and an expedited judicial review for individuals that challenge financing statements.<sup>161</sup>

### B. *Proposed Legislation*

Connecticut should follow the lead of South Carolina by enacting a statute that provides for a pre-filing administrative remedy,<sup>162</sup> as well as a

---

have this lien and you now have to spend six months and thousands of dollars to get the bogus lien off of your property." *Id.* at 2250.

<sup>152</sup> *Id.* at 2251.

<sup>153</sup> *Id.* at 2252–53 (statement of Rep. Arthur O'Neill, Member, Jud. Comm.). Rep. O'Neill reasoned that "[f]iled for an improper purpose" was too indefinite of a standard to apply. *Id.* at 2552.

<sup>154</sup> See Moringiello, *supra* note 114, at 140–41 (explaining that many fraudulent financing statements contain an excessive loan amount and represent that the debtor is a transmitting utility, because a financing statement against a transmitting utility does not lapse after five years).

<sup>155</sup> See *Hearings*, *supra* note 149, at 2439–44.

<sup>156</sup> *Id.* at 2439.

<sup>157</sup> *Id.* at 2443–44 (suggesting that the Secretary of State provide some statistics to determine whether the problem is significant enough to warrant the additional resources).

<sup>158</sup> *Id.* at 2441.

<sup>159</sup> *Supra* note 148.

<sup>160</sup> *Hearings*, *supra* note 149, at 2441–42 (explaining that with large transactions, parties will file a financing statement before the closing, which would fall within the scope of the criminal provision in the bill).

<sup>161</sup> *Id.* at 2442.

<sup>162</sup> See S.C. CODE ANN. § 36-9-516(b)(8) (2012) (providing that filing does not occur if the filing office refuses to accept the filing because the Secretary of the State "determines that the record is not

statute providing a post-filing criminal<sup>163</sup> and civil penalty.<sup>164</sup> The statute would give the filing office broad discretion to refuse to accept a financing statement that has the characteristics of a sovereign citizen's retaliatory filing and provide the victims of this practice with a remedy should a fraudulent filing be accepted. Connecticut should also enact legislation that allows the filing office to remove a fraudulent financing statement after it has been filed, but does not mandate this administrative remedy.<sup>165</sup> By making the administrative remedy optional, individuals will not lose their right to bring an action in the courts. Additionally, by providing a criminal penalty for filing a lien with the intention to harass any person, Connecticut could substantially deter this practice. People are less likely to do something if they know that doing it could result in prison time or a substantial financial penalty.

### VIII. CONCLUSION

The sovereign citizen movement is dangerous and continuing to spread. The ideology encourages individuals to exploit the legal system in order to harass and to intimidate anyone that gets in their way. The country needs to continue to take steps to stop the movement by combatting their tactics with legislation, because "[t]he government may not prohibit the holding of these beliefs, but it may penalize people who act on them."<sup>166</sup> Connecticut should follow the lead of several other states by enacting legislation to deal with the practice of filing fraudulent liens to harass and intimidate individuals. A comprehensive approach will address this practice by providing administrative remedies for before and after these liens are filed, as well as imposing criminal and civil penalties for individuals that file these fraudulent liens.

---

created pursuant to this chapter or is otherwise intended for an improper purpose, such as to defraud, hinder, harass, or otherwise wrongfully interfere with a person").

<sup>163</sup> See *id.* § 36-9-501(c) ("[A] violation of this subsection is a felony punishable by imprisonment for not more than five years or a fine of not more than two thousand five hundred dollars, or both. If the person is convicted of the violation, the court may find that the financing statement is ineffective, may order the filing office to terminate or purge the financing statement, and may order restitution to an aggrieved party.").

<sup>164</sup> See *id.* § 36-9-501(d) (providing that a victim of a fraudulent filing "may file an action against the person that filed the financing statement seeking appropriate equitable relief or damages including, but not limited to, an order declaring the financing statement ineffective, ordering the filing office to terminate or purge the financing statement, and awarding reasonable attorney fees").

<sup>165</sup> This is meant to address the concern expressed by Welsh, *supra* note 158 and accompanying text, while allowing parties to still seek an administrative remedy.

<sup>166</sup> *Coleman v. Comm'r*, 791 F.2d 68, 69 (7th Cir. 1986).



# CONNECTICUT LAW REVIEW

---

## SUBSCRIPTIONS AND BACK ISSUES

---

Subscriptions (5 issues) are \$40.00 annually for U.S. addresses and \$60.00 for international addresses. Please detach this form and send payment to *Connecticut Law Review*, 65 Elizabeth Street, Hartford, CT 06105.

Individual back issues and volumes are available from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209 (800-828-7571). Back issues are also available in PDF format through HeinOnline (<http://heinonline.org>). Please contact William S. Hein & Co., Inc. for more information.

---

Enclosed is \$ \_\_\_\_\_

Please enter my subscription to the *Connecticut Law Review*

---

Name

---

Address

---

City, State, Zip Code

---

Telephone

