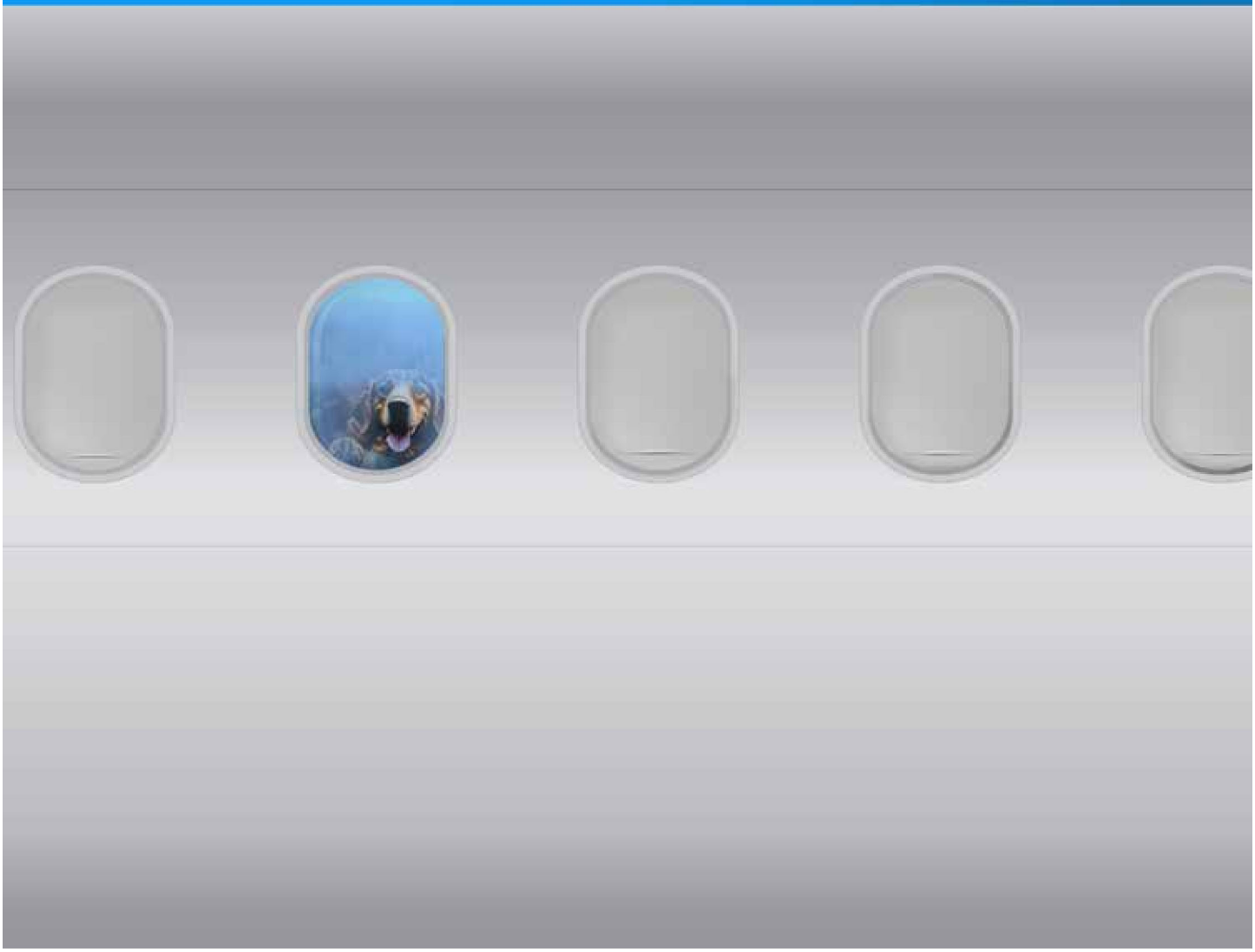
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Municipal Lawyer

THE JOURNAL OF LOCAL GOVERNMENT LAW

SEPT OCT
2023
VOL.64
NO.05

Flying With Fido: A Brief Survey of Federal Service Animal Law



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FLYING WITH FIDO: A BRIEF SURVEY OF FEDERAL SERVICE ANIMAL LAW

By: Michelle Villareal, Deputy City Attorney, League City, Texas

Every year it seems that more of us are relying on the benefits of "emotional support" creatures, bringing them into previously animal-free environments. While these companions, four-legged or otherwise, undoubtedly provide great benefits, many are not "service animals" for purposes of federal law. Our author explains the regulations governing animals on airlines and related statutory nuances.

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THE PREROGATIVE TO UNSEAT: REMOVING COUNCILMEMBERS FROM COUNCIL COMMITTEES

By: Stephen K. Postema, City Attorney Ret., Ann Arbor, Michigan and Jennifer A. Richards, Assistant City Attorney, Ann Arbor, Michigan

Most city councilmembers comport themselves in a productive and cooperative manner. Occasionally, however, the city or county attorney will be called upon to evaluate the prospects for redressing unprofessional or unethical behavior by a councilmember. One such action may be to remove the member from a committee post. A thorough understanding of the rules and ramifications is required.

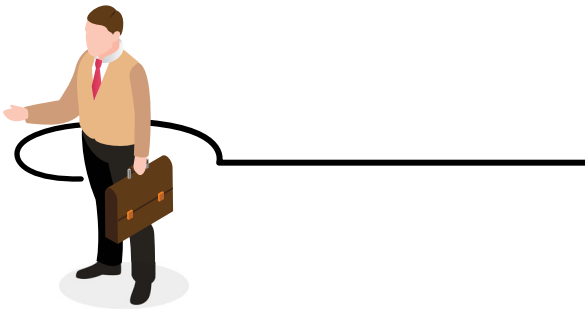
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"WE'RE HIRING, WE JUST NEED YOUR SOCIAL MEDIA LOGINS AND PASSWORDS"

By: Laura S. Burton, Police Attorney, Gastonia, North Carolina

Checking a job applicant's social media activity can provide a wealth of information, potentially revealing troublesome behavior and helping to avoid future problems. But such an inquiry triggers statutory and even constitutional issues, and many jurisdictions prohibit searching through a job seeker's non-public online activity.

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LISTSERV

By: BRAD CUNNINGHAM,
Municipal Attorney, Lexington, South Carolina

The Parallel Universe

We have discussed so many different topics on the listserv that one cannot even begin to count them. Whoever said "Variety is the spice of life" might very well have been a municipal attorney. The last few weeks have proven this to be true in my municipal circle.

It seems my city has had another round of battles with so-called "sovereign citizens," a group discussed in the July-August 2023 *Municipal Lawyer*. (I have now learned that many of them prefer NOT to be called "sovereign citizens" anymore). Our most recent encounter came following a speeding citation issued by one of our officers. A few days later, our Clerk our of Court received the following letter:

I hope you're doing well today. I am writing to inform you I am in possession of an offer to contract with the Town of Lexington via a presentment in the form of an "UNIFORM TRAFFIC TICKET" made by officer ……., rank PATROLMEN, officer number …… on the morning of August 14th, 2023. While I do love the Town of Lexington and all that the Town provides, I am kindly returning this presentment as I do not wish to contract with the Town of Lexington in this matter. Below is a statement of facts concerning the alleged incident. You may direct this correspondence to anyone within the court system that may need a copy of it.

The letter then recited a variety of definitions from Black's Law Dictionary:

Ticket : *In contracts, a slip of paper containing a certificate that the person to whom it is issued, or the holder, is entitled to some right or privilege therein mentioned or described. (Black's Law, 6th ed)*

Motor carrier *means a for-hire motor carrier or a private motor carrier. The* ***term includes a motor carrier's agents, officers and representatives*** *as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, this definition includes the terms employer, and exempt motor carrier. (49 CFR § 390.5)*

Private motor carrier of passengers (non-business) *means private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business). (49 CFR 390.5)*

Motor vehicle: *The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo. (18 U.S.C. § 31 (6))*

Used for commercial purposes. *The term "used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit. (18 U.S.C. § 31 (10))*

Driver *means any person who operates any commercial motor vehicle. (49 CFR §390.5)*

Commercial motor vehicle *means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle -*
(1) Has a gross vehicle weight ratio or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg ***(10,001 pounds) or more****, whichever is greater; or*
(2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
(3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; (49 CFR §390.5)

The, a short statement of facts followed:

I, {NAME}, a living man, was travelling in my private capacity with my two children on the morning of August 14, 2023.

{NAME} is a private motor carrier for passengers (non-business) operating with a USDOT #4070052.

- {NAME} is not a driver.
- *SECTION 56-3-110 (SC Code of Laws). Vehicles required to be registered and licensed* states:
  - *Every* ***motor vehicle****, trailer, semi-trailer, pole trailer and special mobile equipment vehicle driven, operated or moved upon a highway in this State shall be registered and licensed in accordance with the provisions of this chapter. It shall be a misdemeanor for any person to drive, operate or move upon a highway or for the owner knowingly to permit to be driven, operated or moved upon a highway any such vehicle which is not registered and licensed and the required fee paid as provided for in this chapter.*
- The 2019 Ford F150 is not a motor vehicle or a commercial motor vehicle.
- Patrolman {NAME} turned on his blue lights behind me on the morning of August 14th, 2023.
- Assuming the police vehicle behind me had an emergency and needed my assistance, I pulled over to render any aid they might need.
- Patrolman {NAME} approached my motor carrier and immediately demanded to see my license, registration and insurance.
- I {NAME} tried to explain my posi-

tion to him that I was operating under a USDOT number (clearly visible on the rear of my vehicle), but Patrolman {NAME}kept interrupting me with his demands while radioing in various codes and labeling me " a sovereign citizen" despite me never having made such a ridiculous and oxymoronic claim.

- Patrolman {NAME} stated "I can't look up a DOT number", admitting that he had no jurisdiction to stop my private motor carrier.

- As a private motor carrier for passengers (non-business), the Town of Lexington, its police department, and any other underlying agencies and sub-corporations do not have jurisdiction over myself or my private motor carriers.

- Due to his comments such as "C'mon, you have two kids in the car…" and his derisive labeling and threatening tone, eventually, under threat and duress, Patrolman {NAME} bullied me to presenting my license.

- This presentment of my license in no way is meant to convey that I gave Patrolman {NAME} any jurisdiction over myself or my principal, {NAME}.

- Supervising officers responded and engaged with me with decorum and civility.

- Despite having no jurisdiction, Patrolman {NAME} eventually issued me ticket #.... for an alleged violation of Title 56 of the South Carolina Code of Laws, which do not apply to private motor carriers of passengers (non-business).

- This affidavit, along with the returned "ticket", both, independently of one another, serve as a notice of refusal to contract and a recission of any and all signatures, either given or implied by the presentment, under duress, of my driver's license, in all matters related to this aforementioned ticket and incident.

- Per the 10 Maxims of Commercial Law, the following are held to be true in regard to this aforementioned matter:

○ A workman is worthy of his hire.
○ All are equal under the law.
○ In commerce, truth is sovereign.
○ Truth is expressed in an affidavit.
○ An unrebutted affidavit stands as truth in commerce.
○ An unrebutted affidavit becomes judgment in commerce.
○ A matter must be expressed to be resolved.
○ Silence can be equated to consent.
○ He who fails to assert his rights has none.
○ He who leaves the battlefield first loses by default.

I appreciate your time and attention in this matter. If I don't receive, in writing, an affidavit with a wet-ink signature from {NAME} Janice Marshall rebutting the aforementioned facts, within 5 calendar days of this notice, I will consider this matter settled.

* I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 14th, 2023.

I have an idea where this gentleman was going, albeit I am in total disagreement. Earlier in that same week, this occurred in our traffic court:

Judge: "Are you {NAME}?"
Man: I don't answer questions."
Judge: "I will ask again are you"
Man: "I don't answer questions.
What language do you use in this court?"
Judge: "The one in which we have been speaking." Answer me sir, "Are you {NAME}?"
Man: "I don't answer questions."
Judge: "One last time, and you either answer or I'll hold you in contempt of court. Are you {NAME}?
Man: " I don't answer questions."
Judge: "I declare you in contempt of court and sentence you to thirty days in jail. Take him into custody!"
Man: (As he is being cuffed) "Don't I get a chance to say anything?"

A little FBI background on these groups: Sovereign citizens believe that even though they physically reside in this country, they are separate from the United States, and don't have to answer to any government authority, including courts, taxing entities, or police. They cause problems far beyond ignoring traffic tickets. Many don't pay their taxes. They hold illegal courts that issue warrants for judges and police officers. They clog up the courts with frivolous lawsuits and file liens against public officials to harass them. They use fake money orders, personal checks, and the like at government agencies, banks, and businesses.

And that's just the beginning. Not every action taken in the name of the sovereign citizen ideology is a crime, but the illegal acts by these groups, cells, and individuals are extensive (and puts them squarely on our radar). Beyond the acts above, sovereign citizens:

○ Commit murder and physical assault;
○ Threaten judges, law enforcement professionals, and government personnel;
○ Impersonate police and diplomats;
○ Use fake currency, passports, license plates, and driver's licenses; and
○ Engineer various white-collar scams, including mortgage fraud and so-called "redemption" schemes.

The Southern Poverty Law Center tracks sovereign citizens and related groups, which include these monikers: American Common Law Academy, American States Assembly, America's Remedy, Constitutional Law Group, Embassy of Heaven, The Foundation, Life Force Network, March to Exodus, National Liberty Alliance, People's Bureau of Investigation and the Statewide Common Law Grand Jury.

As noted before, some of them disdain the tern "sovereign citizen." One defendant in our court who our prosecutor referred to as a "sovereign citizen" became very irate. "What did you call me?" he said. "Don't you ever call me that again!" However, he proceeded to use every technique sovereign citizens employ.

The FBI urges us to be cautious in this regard " First, "be crime smart"—don't fall for the bogus claims and scams of sovereign citizens. And second, if you have information on any suspicious activities or crimes, please contact us."

One of our local sovereign citizens even attempted to intimidate our local Judge, showing up at his house at night, and then showing up in the daytime and taking pictures. This person was convicted and spent jail time for her efforts.

• • • • • •

The prosecution rests, your honor…