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The Sovereign Citizen Movement: A Comparative Analysis with Similar Foreign Movements and Takeaways for the United States Judicial System

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THE SOVEREIGN CITIZEN MOVEMENT: A COMPARATIVE ANALYSIS WITH SIMILAR FOREIGN MOVEMENTS AND TAKEAWAYS FOR THE UNITED STATES JUDICIAL SYSTEM

INTRODUCTION

The growing number of followers of the Moorish Sovereign Citizen Movement and their propensity towards violence against law enforcement officials are why this Comment searches for proposals of how to equip members of the legal system with tools to effectively engage with followers of this movement. The Sovereign Citizen Movement in the United States should be a concern for American courts, as it compounds the issues of efficiency in the courts.[1] As of 2018, the Federal Bureau of Investigation named members of the overarching movement "the number one domestic threat to the United States."[2] In addition, Sovereign Citizens overwhelmingly proceed as pro se litigants, who as an overall group, add to American courts' backlog, specifically due to their filings using layman's arguments.[3]

Twenty-eight percent of all civil filings in federal courts in 2012 were pro se filings, and the number of federal civil cases in backlog in 2015 rose to over 330,000.[4] This indicates that increased numbers of pro se litigants must be partially the cause, despite the other various factors and circumstances which

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[1] *Moorish Sovereign Citizens*, S. POVERTY LAW CTR., https://www.splcenter.org/fighting-hate/extremist-files/group/moorish-sovereign-citizens (burgeoning movement in 1990s and no real estimate to gauge growth of movement within Moorish subgroup); *Sovereign Citizens Movement*, S. POVERTY LAW CTR., https://www.splcenter.org/fighting-hate/extremist-files/ideology/sovereign-citizens-movement ("estimated total of 300,000" members of the movement as of 2011 and "likely to grow"); *cf.* DAVID CARTER ET. AL, UNDERSTANDING LAW ENFORCEMENT INTELLIGENCE PROCESSES: REPORT TO THE OFFICE OF UNIVERSITY PROGRAMS, SCIENCE AND TECHNOLOGY DIRECTORATE, U.S. DEPARTMENT OF HOMELAND SECURITY 8 (2014) (discussing the results from a 2013–2014 Department of Homeland Security study regarding law enforcement perceptions of terrorist threats in the United States that demonstrated sovereign citizens as the top concern for law enforcement). *See generally* Lorelei Laird, *Paper Terrorists*, 100 A.B.A. J. 54, 58 (2014) (summarizing the potential threats posed by members of Sovereign Citizen Movement, including potential for retaliation against government in form of violence "targeting law enforcement" and potential for recruiting other members if put in prison because "sovereigns may believe that being jailed is a sign that the conspiracy is real.").

[2] Cheryl M. Paradis et al., *Evaluations of Urban Sovereign Citizens' Competency to Stand Trial*, 46 J. AM. ACAD. PSYCHIATRY L. 158, 159 (2018).

[3] Jessica K. Phillips, *Not All Pro Se Litigants Are Created Equally: Examining the Need for New Pro Se Litigant Classifications through the Lens of the Sovereign Citizen Movement*, 29 GEO. J. LEGAL ETHICS 1221, 1228 (2016); *see, e.g.*, Michael Crowell, *A Quick Guide to Sovereign Citizens*, ADMIN. OF JUST. BULL., Nov. 2015, at 6 (discussing an overview of types of documents clerks of courts and registers of deeds are likely to receive when encountering a sovereign citizen and simultaneously noting the irony of sovereigns using the same government facilities they deem illegitimate to further their own arguments of illegitimacy).

[4] *Id.*

have caused the large number of cases pending in U.S. courts.[5] Members of the Sovereign Citizen Movement often resort to pro se litigation, so it is necessary to examine the effects of this movement on American courts.[6] Moreover, the Sovereign Citizen Movement is an influential movement, which poses threats to law enforcement and society.[7] This threat is expected to spread through the proliferation of its ideologies on the internet, as well as through members' imprisonment, as members persuade and convert fellow prisoners while imprisoned.[8]

Thus, addressing this single issue of the Moorish Sovereign Citizen Movement eases the burdens placed upon the American legal system. Furthermore, creating a uniform response for American courts to combat such troublesome litigants will likely "screen[] out abusive illegitimate litigation so that persons with real disputes can access the courts in a timely, cost-effective manner."[9] Though many members of these movements are vexatious and tempt broad-brush solutions, it is imperative to avoid punishing members of the movement simply for belonging to them.[10] As noted in the Irish context, "The right of an individual to represent him or herself in court is one of the most fundamental elements of access to justice. But this right poses many challenges for the courts."[11] This is the crux of the issue in finding solutions for reducing the challenges presented to the American courts by members of the Sovereign Citizen Movement. Therefore, when creating mechanisms to aid this effort, it is necessary to avoid infringing upon anyone's guaranteed rights in the United

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[5] *See generally* Wade Christiansen, *Why Does It Take So Long? Understanding Criminal Court Delays*, CHRISTIANSEN LAW FIRM (June 3, 2017), https://www.christiansenfirm.com/blog/why-does-it-take-so-long-understanding-criminal-court-delays (listing factors causing delays in criminal trials); *Why Does A Lawsuit Take so Long?*, MILLER LAW (Feb. 20, 2017), https://millerlawpc.com/lawsuit-take-long/ (breaking down various steps in process of a civil lawsuit).

[6] *See* Phillips, *supra* note 3, at 1222; *see also 'Moorish Defense' Slowing Court Cases In Mecklenburg*, WSOCTV.COM (July 19, 2011, 6:43 AM), https://www.wsoctv.com/news/moorish-defense-slowing-court-cases-in-mecklenburg/222970704/ (discussing the Moorish Sovereign Citizens Movement's "legal defense that's bogging down the system[]" and its followers tendencies to proceed pro se).

[7] *See* Patrick H. Hill, Comment, "*The Twain Shall Meet": A Real Property Approach to Article 9 Perfection*, 64 EMORY L.J. 1103, 1114 (2015); FBI's Counterterrorism Analysis Section, *Sovereign Citizens: A Growing Domestic Threat to Law Enforcement,* FBI L. ENF'T BULL. (Sept. 1, 2011), https://leb.fbi.gov/articles/featured-articles/sovereign-citizens-a-growing-domestic-threat-to-law-enforcement.

[8] FBI's Counterterrorism Analysis Section, *Sovereign Citizens: A Growing Domestic Threat to Law Enforcement,* FBI L. ENF'T BULL. (Sept. 1, 2011), https://leb.fbi.gov/articles/featured-articles/sovereign-citizens-a-growing-domestic-threat-to-law-enforcement.

[9] Donald J. Netolitzky, *After the Hammer: Six Years of Meads v. Meads*, 56 ALBERTA L. REV. 1167, 1192 (2019).

[10] Meads v. Meads, 2012 ABQB 571, ¶ 1 (Can.).

[11] Garret Sammon, *Organised Pseudo-Legal Commercial Argument Litigation: Challenges for the Administration of Justice in Ireland*, 38 DUBLIN U. L.J. 85, 96 (2015).

States. By looking to other countries experiencing similar movements in their legal systems, American courts can implement creative, legal solutions in addressing this burden created by the American Sovereign Citizen Movement.

While the Moorish Sovereign Citizen Movement began from a combination of the broader Sovereign Citizen Movement and various Afro-centric American groups, "few African-American [who also identify as Moorish sovereign citizens] are aware of the racist origins of some of their beliefs."[12] To avoid conflating the universal anti-government characteristics with the racism of the early umbrella Sovereign Citizen Movement, the focus of this Comment is specifically on the Moorish Sovereign Citizen Movement. This will aid in determining possible solutions to better handle followers of the movement in court. In addition, Moorish sovereign citizens are a minority group within the broader Sovereign Citizen Movement, but Moorish sovereign citizens do compose a large portion of members of the group who are referred to competency to stand trial ("CST") evaluations.[13] The U.S. Court of Appeals for the Seventh Circuit has held that sovereign citizen arguments have "no conceivable validity in American law[.]"[14] It is therefore necessary to equip courts with the tools to nip such invalidities in the bud as quickly and efficiently as possible to avoid wasting time.[15]

This Comment will analyze the American Sovereign Citizen Movement, specifically the Moorish Sovereign Citizen Movement subgroup. It aims to provide various tools to serve as frameworks for judges to use from their toolboxes to alleviate the pressure placed on U.S. courts by Moorish sovereign citizens by looking to parallel international movements and their courts' responses to such burdens. This Comment begins in Section I with the background of the umbrella Sovereign Citizen Movement. It will also focus on how the Moorish Sovereign Citizen Movement emerged from the umbrella movement and from Afro-centric movements across the United States. Next, in Section II the Comment examines manners in which to identify members of this

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[12] George F. Parker, *Sovereign Citizens and Competency to Stand Trial*, 46 J. AM. ACAD. PSYCHIATRY L. 167, 167 (2018).

[13] *Id.* at 167–68.

[14] United States v. Schneider, 910 F.2d 1569, 1570 (7th Cir. 1990).

[15] *See generally* United States v. English, No. 2:13CR118-PPS, 2019 WL 6467341, at *1 (N.D. Ind. Dec. 2, 2019) ("English's theories are equally frivolous. It is never my intention 'to quash the presentation of creative legal arguments or novel legal theories asserted in good faith.' But, as in *Benabe*, the arguments are not raised in good faith after I have roundly rejected them in a previous order. Having done so for the second time, I may disregard any further such filings without dignifying them by an order.") (citing United States v. Benabe, 654 F.3d 753, 767 (7th Cir. 2011)).

movement so courts can efficiently prepare themselves through early identification of such difficult actors.

Then it will look to analogous movements in Canada and Ireland in Section III, specifically their characteristics while focusing on their similarities to and differences from their American counterparts. In Section IV the Comment turns to a survey about the interaction of competency to stand trial evaluations, pro se litigants, and the Moorish Sovereign Citizen Movement. It will also review American court standards for pro se litigants and their ability to represent themselves in court. The Comment will then again focus on the movements in Canada and Ireland but with special attention given to how their court systems have reacted to and created solutions for their analogous troubling court actors. Finally, in Section V the Comment summarizes the various solutions and propose the most appropriate and useful ones for the American legal system.

I. BACKGROUND

In the United States, members of the movement exist in all fifty states.[16] The American Sovereign Citizen Movement grew out of the Posse Comitatus, an anti-Semitic group in the Midwest, in the 1970s during the Midwest farm crisis.[17] The Sovereign Citizen Movement began as a racist movement,[18] evidenced by early White American followers who believed the Fourteenth Amendment to the U.S. Constitution forces Black Americans, not White Americans, to permanently be subject to federal and state governments because of the amendment's language guaranteeing Black Americans' citizenship.[19] Despite this movement's racist roots, it is an anti-government movement founded upon the notion the American government created by the Founding

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[16] Erica Goode, *In Paper War, Flood of Liens Is the Weapon*, N.Y. TIMES (Aug. 23, 2013), https://www.nytimes.com/2013/08/24/us/citizens-without-a-country-wage-battle-with-liens.html.

[17] *Sovereign Citizen Movement: For Law Enforcement*, ANTI-DEFAMATION LEAGUE, https://www.adl.org/resources/backgrounders/sovereign-citizen-movement; *see also* Stephen A. Kent, *Freemen, Sovereign Citizens, and the Challenge to Public Order in British Heritage Countries*, 6 INT'L J. OF CULTIC STUD. 1, 6 (2015) (discussing the farm crisis which likely contributed to the "[s]ocial and [e]conomic [c]onditions [t]hat [m]ight [h]ave [f]ostered [e]xtremist [a]ntigovernment [s]entiment"); Phillips, *supra* note 3 at 1223–24.

[18] Phillips, *supra* note 3, at 1224 ("[T]he majority of the foundational beliefs of the Sovereign Citizen Movement were rooted in racist and anti-Semitic belief systems.").

[19] *Sovereign Citizens Movement*, *supra* note 1; *see also Sovereign Citizen Movement: For Law Enforcement*, *supra* note 17. *See generally* Tom Morton, *Sovereign Citizens Renounce First Sentence of 14th Amendment*, CASPER STAR-TRIBUNE (Apr. 17, 2011), https://trib.com/news/local/casper/sovereign-citizens-renounce-first-sentence-of-th-amendment/article_a5d0f966-7ed0-549f-a066-b1b2c91f9489.html (discussing sovereigns' beliefs regarding the Fourteenth Amendment's role in creating a distinction between individual citizenship rights and the creation of contracts between the government and the individual through birth certificates, driver's licenses, and marriage licenses).

Fathers, the "common law" system, was replaced with a fake, illegitimate government adhering to admiralty law and international commerce.[20] The movement attracts followers from all segments of American society, including "airline pilots . . . federal law enforcement officers . . . city councilmen and millionaires[.]"[21] However, the most typical sovereign citizens are financially despondent individuals, individuals discouraged with American bureaucracy, and con artists.[22]

Sovereign citizens claim that "there are two types of law: common law and admiralty law[,]"which emerged from this covert government switch.[23] They also contend the U.S. government "has been operating under commercial law" since it abandoned the gold standard in 1933.[24] Under this belief system, commercial law is equated with the law of the seas, admiralty law. Therefore, sovereigns argue, the fact U.S. courts have been operating under admiralty law has deprived all Americans of the common law court systems designed by the Founding Fathers ever since 1933.[25] This deprivation to a sovereign citizen means that American courts have no jurisdiction unless they receive explicit consent from those upon whom regulations or sanctions have been placed.[26]

Followers contend that because this fake government backs U.S. currency by the "full faith and credit" of the U.S. government, the fake U.S. government uses its citizens as collateral "by selling their future earning capabilities to foreign investors, effectively enslaving all Americans."[27] Sovereign citizens posit this citizen collateral occurs at birth when the government *forces* parents to apply for Social Security cards and birth certificates for their newborn children.[28] According to this assertion, the birth certificates create a corporate shell account for each newborn child in the United States, and the capitalization of all letters of the names on the certificates represents the straw man identities of each child.[29] Consequently, when an individual's name is spelled with normal

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[20] *Sovereign Citizens Movement*, *supra* note 1 (explaining that followers disagree over the timing of replacement—some argue it occurred during Civil War while others contend the switch happened in 1930s when U.S. departed from gold standard for currency); *see also Sovereign Citizen Movement: For Law Enforcement*, *supra* note 17.

[21] Goode, *supra* note 16.

[22] *Id.*

[23] *The Sovereigns: A Dictionary of the Peculiar*, S. POVERTY L. CTR., https://www.splcenter.org/fighting-hate/intelligence-report/2010/sovereigns-dictionary-peculiar (last visited Feb. 11, 2020).

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Sovereign Citizens Movement*, *supra* note 1.

[28] *Id.*

[29] *Id.*

capitalization (e.g. "John Doe" instead of "JOHN DOE"), it represents the individual's "'real,' flesh-and-blood" name.[30] The straw man theory and belief in the illegitimacy of the government work in tandem. Followers believe all legal proceedings are financial transactions because they presume the United States has been administering the legal system under commercial law since the abandonment of the gold standard in the 1930s.[31] They then erroneously interpret the Uniform Commercial Code and maintain they are therefore not citizens of the United States due to this bait-and-switch by the U.S. government.[32] Followers rely almost exclusively on the Uniform Commercial Code and most do not pay taxes, register their vehicles, use postal codes, or maintain driver's licenses.[33]

In the 1990s, the Moorish Sovereign Citizen Movement emerged largely on the east coast of the United States.[34] The exact history behind its advent is unclear, but some misleadingly argue the new branch of the Sovereign Citizen Movement grew out of followers of the Moorish Science Temple of America (MSTA) who either did not realize or disregarded the racist roots of the Sovereign Citizen Movement.[35] It is also likely the Moorish Sovereign Citizen Movement drew in members from the Washitaw Nation following the Nation's

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[30] *Id.*; *see also* Phillips, *supra* note 3, at 1224 ("All Sovereign Citizens therefore have two identities: a real 'private' individual and a fictional 'public' person. Refusing to be used as collateral can hypothetically result in access to [the] trust fund held in the fictional person's name at the U.S. Treasury.") (internal citations omitted).

[31] *The Sovereigns: A Dictionary of the Peculiar*, *supra* note 23.

[32] Laird, *supra* note 1; *The Sovereigns: A Dictionary of the Peculiar*, *supra* note 23.

[33] Byron Pitts, *A Look at the "Sovereign Citizen" Movement*, 60 MINUTES (Sept. 17, 2012), https://www.cbsnews.com/news/a-look-at-the-sovereign-citizen-movement/ (reporting on infamous sovereign citizen Jerry Kane who held get-rich-quick seminars, did not carry a driver's license, and registered his car to a "bogus charity"); *Moorish Sovereign Citizens*, *supra* note 1; *cf.* Phillips, *supra* note 3, at 1224 (2016) (demonstrating how roots in the Posse Comitatus appear in the Sovereign Citizen Movement because "The Posse Comitatus believed in 'destroying driver's licenses and other government-issued documents that allegedly 'intrude[d] upon their God-given individual rights[.]'") (internal citations omitted).

[34] *Moorish Sovereign Citizens*, *supra* note 1; Mark Pitcavage, *The Washitaw Nation and Moorish Sovereign Citizens: What You Need to Know*, ANTI-DEFAMATION LEAGUE (July 18, 2016), https://www.adl.org/blog/the-washitaw-nation-and-moorish-sovereign-citizens-what-you-need-to-know; *Sovereign Citizen Movement: For Law Enforcement*, *supra* note 17.

[35] *See Moorish Sovereign Citizens*, *supra* note 1 (MSTA issued July 2011 statement condemning and denying any involvement with sovereign citizens and their belief system and tactics); Pitcavage, *supra* note 34; *Sovereign Citizen Movement: For Law Enforcement*, *supra* note 17; *see also Grand Sheik Moorish Science Temple of America, Inc. Statement on the Radical and Subversive Fringe Groups Claiming to be Affiliated with the Moorish Science Temple of America, Inc.*, MOORISH SCI. TEMPLE AM., INC. (July 15, 2011), http://msta1913.org/Statement_Radical_Moors.pdf (denying any association with the Moorish Sovereign Citizen Movement and discussing that MSTA's "teachings are diametrically opposed to" the Moorish Sovereign Citizen Movement ideology). *See generally Moorish American History*, MOORISH SCI. TEMPLE AM., INC., http://msta1913.org/MoorishHistory.html (last visited June 3, 2020) (overviewing the history of the MSTA in the United States).

seeming dissolution.[36] Because of the impact of either or both influential groups, followers of the Moorish Sovereign Citizen Movement believe they are members of a sovereign nation and are consequently immune from "federal, state and local authorities."[37]

Some researchers of this topic suggest the growth of followers of the Sovereign Citizen Movement is attributable to the advent of the internet where leaders and other followers could easily disseminate the beliefs and tactics of the movement.[38] Moorish Sovereign Citizen leaders also began using the internet to advertise the seminars, in which they lectured on the methods of the movement through the various internet fora.[39] The changes in economic patterns following the 2008 financial crisis are another possible reason for the increase in membership of the Sovereign Citizen Membership in the United States.[40] Finally, members of the explosively growing Sovereign Citizen Movement often learn about and begin subscribing to the movement while in jail or prison.[41]

As of 2011, the Southern Poverty Law Center (SPLC) estimates there are 300,000 sovereign citizens in total in the United States, ranging from "hard-core" followers to recent subscribers with minimal involvement.[42] About one third of the 300,000 followers are considered staunch practitioners of the movement.[43] Researchers estimate of the 300,000 sovereign citizens, there are anywhere between 3,000 and 6,200 Moorish sovereign citizens, but likely more, in the United States.[44] Others posit "as many as half" of all sovereign citizens

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[36] *See Moorish Sovereign Citizens*, *supra* note 1; Pitcavage, *supra* note 34.

[37] *Moorish Sovereign Citizens*, *supra* note 1 (describing followers with ideas rooted in MTSA contend sovereignty follows from a fictitious 1780s treaty with Morocco); Travis Gettys, *Sovereign Moors: An Anti-Government Obsession Spreads to the Black Community*, RAWSTORY (Aug. 26, 2014), https://www.rawstory.com/2014/08/sovereign-citizens-express-fears-of-lawlessness-by-rejecting-laws/ ("Moorish sovereign citizens often cite treaties signed more than 200 years ago between the U.S. and Barbary Coast states, which a retired judge . . . said were no longer valid."); *see also* Pitcavage, *supra* note 34 (explaining that Washitaw Nation followers believe their alien status derives from belief they owned the land purchased in Louisiana Purchase before U.S. government purchased it).

[38] Laird, *supra* note 1, at 55.

[39] *Id.* at 55–56; *see also* Parker, *supra* note 12, at 167.

[40] *See* Laird, *supra* note 1, at 56; *see also* Phillips, *supra* note 3, at 1225 ("With many Americans facing home foreclosure [in 2008], Sovereign Citizens offered the hope of avoiding mortgage payments by denying the legitimacy of bank claims based on a variety of pseudo-historical/legal propositions.").

[41] Paradis et al., *supra* note 2, at 159; Parker, *supra* note 12, at 167.

[42] *Sovereign Citizens Movement*, *supra* note 1. SPLC could only estimate this number because U.S. Congress banned IRS from tracking or reporting individuals who file "frivolous arguments in lieu of paying taxes." *Id.* However, the IRS estimated about 500,000 tax protesters in America in early 2000s, and SPLC based its 2011 estimate on those numbers. *Id.*

[43] Phillips, *supra* note 3, at 1225.

[44] *Moorish Sovereign Citizens*, *supra* note 1.

are African-Americans.[45] This estimate suggests there are many more than only 6,200 Moorish sovereign citizen followers in the United States. However, the estimates of how many Moorish sovereign citizens currently exercise their beliefs and participate in Moorish sovereign citizen practices in the United States are unreliable and likely higher.[46] This inaccurate reporting may result from the "miscategorization" of members of the movement, thus "skew[ing] understanding[s] of sovereign citizens, and any concomitant threat they may present."[47] Although the estimates are unreliable, they demonstrate the fluidity of the members of the movement, and they are the numbers available to provide a guideline of what populations and methods of exercising their beliefs to target in this Comment's solutions.

The lack of a more recent estimate of the number of members of the broader movement and the Moorish subgroup, coupled with the steady growth in followers, indicates the current numbers are likely much higher.[48] Thus, this movement is presumably causing a greater disruption to the American system than the research depicts.[49] Moreover, the "divergent estimates of current sovereign citizen population[s] . . . form the basis for faulty intelligence . . . prevent[ing] law enforcement . . . from having the information they need to shield their communities from harm[.]"[50] This information disparity exemplifies the need for a mechanism courts can consistently employ in response to erratic behaviors of Moorish Sovereign Citizens.

II. HOW TO IDENTIFY MOORISH SOVEREIGN CITIZENS

There is no set method of establishing chains of title in the movement. Therefore, some followers simply begin subscribing to it on their own, others join "loosely organized groups," and still others join "cohesive antigovernment

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[45] Laird, *supra* note 1, at 55; *see also* Michelle Mallek, Uncommon law: understanding and quantifying the sovereign citizen movement (Dec. 2016) (unpublished M.A. in Security Studies, Naval Postgraduate School) (on file with Calhoun, Institutional Archive of Naval Postgraduate School) at 67.

[46] *See* Moorish American Party, FACEBOOK, https://www.facebook.com/moorishamericanparty/ (last visited June 4, 2020). Facebook page indicates over 4,000 people on Facebook have followed or liked the Moorish American Party's page, indicating a higher number of followers than 3,000 to 4,000; however, the number of people who have followed is not necessarily an exact indicator of the number of followers but rather an estimate of the breadth of this movement's impact. *Id.*; *Moorish Sovereign Citizens*, *supra* note 1.

[47] Mallek, *supra* note 45, at 6.

[48] *See* Paradis et al., *supra* note 2, at 159; Parker, *supra* note 12, at 167–68; *cf.* Mallek, *supra* note 45, at 67 ("The ad hoc nature of these methods is ineffective for calculating current sovereign citizen population statistics, and consequently fails to serve as an appropriate baseline for assessing if the sovereign citizen population is increasing.").

[49] *See* Mallek, *supra* note 45, at 67.

[50] *Id.* at 67–68.

'militia' or 'patriot' movement groups."[51] This incoherent organization lends itself to a chaotic understanding of the movement and creates a difficult task for U.S. courts to fairly handle their incomprehensible legal arguments.[52] Because of the growing number of subscribers of the Moorish Sovereign Citizen Movement, as well as members' tendencies of violence towards law enforcement, it is imperative to find solutions of how to best handle their anti-government methods in court.[53] In working toward creating such solutions to effectively engage with Moorish sovereign citizens in the judicial system, it is necessary to equip law enforcement, judges, and every individual of the legal system in between, with methods of quickly identifying members of this group.

A. (Superficial) Characteristics of Moorish Sovereign Citizens

One form of early identification involves scanning their court filings for the manners in which they write their names and identify themselves.[54] Examples of typical methods employed by Moorish sovereign citizens include writing their names in all capital letters for official legal documents in an effort to separate their corporate identities from their real, flesh-and-blood identities.[55] Other identifiable characteristics include the frequent use of "Africanized names that incorporate the world 'bey,' or 'el,' or a combination of the two."[56] In addition, research into the evaluations of sovereigns' competency to stand trial reveals most followers of the Moorish Sovereign Citizen Movement are male.[57] Despite the identification of the majority of followers as male, women followers of the Moorish Sovereign Citizen Movement do exist, though are not typical.[58]

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[51] Paradis et al., *supra* note 2, at 159.

[52] *See* Caesar Kalinowski IV, *A Legal Response to the Sovereign Citizen Movement*, 80 MONT. L. REV. 153, 156 (2019).

[53] *See Moorish Sovereign Citizens*, *supra* note 1; *see also* Phillips, *supra* note 3, at 1224 ("[C]ertain isolated outbursts of violence . . . have led the Federal Bureau of Investigation to begin classifying Sovereign Citizens as domestic terrorists."); *cf.* Meads v. Meads, 2012 ABQB 571, at ¶ 455 (Can.) (suggesting OPCA "mechanisms . . . border on harassment."); Stewart Bell, *"Left-Wing Extremists," Anti-Government Freemen Among Canada's Top Domestic Terror Threats, Report Reveals* (Jan. 3, 2013, 7:50 AM), https://nationalpost.com/news/canada/domestic-extremists-commit-more-terrorist-acts-in-canada-than-islamists-report (discussing Canadian 2012 Intelligence Assessment which labeled Freemen on the Land as part of an "unusually high" amount of extremist activity which began "targeting companies linked to the correctional system.").

[54] *Moorish Sovereign Citizens*, *supra* note 1; *see also* Laird, *supra* note 1.

[55] Laird, *supra* note 1, at 55.

[56] *Moorish Sovereign Citizens*, *supra* note 1.

[57] Paradis et al., *supra* note 2, at 162.

[58] *Id.*

B. Typical Tactics Employed by Moorish Sovereign Citizens

In addition to the anti-government methods of followers listed above, members of the movement refuse to purchase automobile insurance and even go so far as to "defraud banks and other lending institutions."[59] An even more emblematic example of their anti-government fueled tactics is their use of filing "bogus property liens" which will likely not be discovered by the victim until attempting to sell the property.[60]

Another common example involves followers filing retaliatory, fake tax forms in an effort to ruin the credit rating of who they perceive is an enemy, causing the IRS to audit this enemy.[61] Such judgment liens and bogus IRS claims are generally used by members of the movement against public officials who sovereigns believe have wronged them.[62] For example, one victim of a sovereign citizen's violence described her experience as a clerk-recorder in California, as well as her recollection of the following encounter, "[A]fter I refused to record one man's illegal 'common law' lien, he told me, 'You are guilty of treason.' He then snarled, 'I am a sovereign citizen of the Republic of California, not the corporate United States, and the laws you enforce restrict my God-given rights.'"[63]

Followers will also have bogus liens notarized in an effort to superficially legitimize these filings.[64] Because most U.S. secretaries of state must accept all filed liens without passing judgment as to their validity, the National Association of Secretaries of State issued a report encouraging "state officials to . . . expedite the removal of liens and increase the penalties for fraudulent filings."[65] This unfettered acceptance of liens negatively affects not only those against whom the liens are filed but also their families, making the need to address such tactics used by sovereigns even more imperative.[66]

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[59] *Moorish Sovereign Citizens*, *supra* note 1.

[60] *Sovereign Citizens Movement*, *supra* note 1.

[61] *Id.*; *see also The Lawless Ones: The Resurgence of the Sovereign Citizen Movement*, ANTI-DEFAMATION LEAGUE, 16 (Aug. 9, 2010) (discussing the effectiveness of sovereigns' filing of bogus property liens on unsuspecting property owners, largely law enforcement or public officials).

[62] Goode, *supra* note 16; *cf.* Karen Mathews, *June 1, 1997: The Terrorist Next Door*, N.Y. TIMES (Sept. 25, 2010), https://www.nytimes.com/2010/09/26/opinion/etc-mathews.html.

[63] Matthews, *supra* note 62.

[64] Paradis et al., *supra* note 2, at 160.

[65] Goode, *supra* note 16.

[66] *See, e.g.*, *id.* (stating that more than $25 million of liens placed on his properties affected his wife and children during the "countless hours trying to undo it.").

When sovereign citizens are brought into a court for any violation of the law, even for a violation as minor as traffic violations or failure to pay pet-licensing fees, these litigants will file "dozens of court filings containing hundreds of pages of pseudo-legal nonsense."[67] This "pseudo-legal nonsense" refers to the apparent code language employed by sovereign citizens, which most courts and lawyers do not understand because they are not recognized legal principles.[68]

One illustrative example is a letter sent to the Supreme Court Justices of the State of Illinois which detailed the following:

> Dear Public Serpents' and 'high and mighty yo-yo's,' contains the following language alleged to be threatening: 'I remind you again, that this "Idiota Persona Non Grata" [the circuit court judge] is of your problem and if is allowed to continue to be mine, he will be executed as the pending [warning?] to others as enemies of the Constitution and Nation by his act of War. . .. You had better nuffify [nullify] and countermand any of his demented orders or he will be nullified for his criminal activities.[69]

Moreover, the failure to easily understand the use of such nonsensical language is also easily attributed to its non-uniform uses among all sovereign citizen litigants in the judicial system.[70] One infers from sovereigns' use of such language, coupled with the large amount of court filings, that sovereigns believe by using just the right combination of words and amount of paper, they can achieve whatever outcome they desire in the legal system.[71] In reality, sovereigns achieve victory through this sort of action because it becomes too cumbersome for courts to efficiently address such minute legal violations with the public resources available to them.[72]

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[67] *Sovereign Citizens Movement*, *supra* note 1 (describing a sovereign citizen litigant who prolonged pet-licensing case by filing ten documents and "declaring victory" when prosecutor dropped the case after a two-month-long court battle).

[68] *Id.* ("Sovereign filings . . . can quickly exceed a thousand pages" and employ a kind of special sovereign code language that judges, lawyers and other court staff simply can't understand); FBI's Counterterrorism Analysis Section, *supra* note 7 (describing indicators of members of the movement, such as "Signatures followed by the words 'under duress,' 'Sovereign Living Soul' (SLS), or a copyright symbol (©)[;] [p]ersonal seals, stamps, or thumbprints in red ink[;] [and t]he words 'accepted for value[.]'").

[69] United States v. Schneider, 910 F.2d 1569, 1570 (7th Cir. 1990).

[70] Phillips, *supra* note 3, at 1224–25 (discussing how application of term Sovereign Citizen Movement to dispersed groups causes "slight variations in Sovereign Citizen arguments during litigation.").

[71] *Sovereign Citizens Movement*, *supra* note 1 (calling the method "the modern-day equivalent of 'abacadabra'").

[72] *Id.*

Another characteristic is the use of self-representation among members of the Sovereign Citizen Movement.[73] Often in litigation, sovereigns become frustrated with their legal counsel, especially if court-appointed, because it appears their counsel is neither adequately nor zealously representing them and their interests.[74] Alternatively, Moorish sovereign citizens request self-representation at the direction of gurus who act as pseudo-counsel behind the litigation scenes.[75] The dissatisfaction with legal counsel manifests itself in sovereigns "stand[ing] out from the stream of other defendants and [] often make a remarkable impression when they appear in court," which frequently causes judges to refer them for evaluation regarding whether they are competent to stand trial.[76] Thus, sovereigns often resort to pro se litigation so they can represent themselves in the fight against the continuation of a fake American legal system in the very forum against which they are fighting, the American courtroom, and are not concerned about winning.[77] However, the Supreme Court of the United States raised the question in *Faretta v. California* of "whether a State may constitutionally hale a person into its criminal courts and there force a lawyer upon him, even when he insists that he wants to conduct his own defense. It is not an easy question, but we have concluded that a State may not constitutionally do so."[78] Therefore, it is imperative to determine how to analyze the "disruption" caused by members of the movement within this framework in order to promote the efficiencies of the U.S. courts while simultaneously protecting the rights of Moorish sovereign citizens appearing before American courts.[79]

The above-listed tactics are the most noticeable and most widely used among members of the Moorish Sovereign Citizen Movement.[80] They are what U.S.

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[73] *See generally* Phillips, *supra* note 3, at 1231 ("Sovereign Citizens usually are not represented by attorneys, and yet they are not unassisted during litigation.").

[74] *See, e.g.*, Schneider, 910 F.2d at 1570. Appellee was a self-proclaimed sovereign citizen and appealed his conviction for ineffective assistance of counsel due to "irreconcilable differences between him and his lawyer" because Appellee's counsel refused to assert Appellee's "sole defense . . . that he is a free, sovereign citizen and as such not subject to the jurisdiction of the federal courts." *Id.*

[75] *See generally* Phillips, *supra* note 3, at 1230–33 (discussing broad community of support for Sovereign Citizens in demonstrating pro se Sovereign Citizens "are not unassisted during litigation" because of network of members and "ghostwriting" assistance).

[76] Parker, *supra* note 12, at 168.

[77] Phillips, *supra* note 3, at 1222.

[78] Faretta v. California, 422 U.S. 806, 807 (1975).

[79] *See* Laird, *supra* note 1, at 56.

[80] *See id.* at 54; FBI's Counterterrorism Analysis Section, *supra* note 7; *Moorish Sovereign Citizens*, *supra* note 1; *Sovereign Citizens Movement*, *supra* note 1; *see also* Rob Finch & Kory Flowers, *Sovereign Citizens: A Clear and Present Danger*, POLICE: LAW ENF'T SOLS. (Sept. 21, 2012), https://www.policemag.com/340836/sovereign-citizens-a-clear-and-present-danger ("[S]overeign citizens all have the same basic beliefs and

courts should continue to look for in attempting to preempt sovereigns, including Moorish sovereigns, from impeding the already-clogged judicial system.[81] With this information, judges should be able to differentiate between litigants who are disruptive because of underlying mental disorders and those who act out because they strongly believe in the tenets of the Sovereign Citizen Movement for more efficient handling of Moorish sovereign citizens in court.[82]

III. SIMILAR MOVEMENTS IN FOREIGN COUNTRIES

Despite the fact the American Moorish Sovereign Citizen Movement is rooted in ideas from various American movements and changes in the U.S. Constitution, analogous movements exist in foreign countries.[83] At first glance one would assume foreign movements of a comparable nature would not lend themselves to the particularities of the American Moorish Sovereign Citizen Movement. However, responses to the foreign movements have "proven equally relevant and applicable in many other jurisdictions and pseudolaw contexts."[84] The similar movements make arguments parallel to their American counterparts, based in their criticisms of their own countries of residence.[85] This further illustrates the flawed logic of these movements since what members claim to lay the foundation for their beliefs in one country can be transported to and reconfigured in another country possessing a different basis for its legal system.[86]

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will share their criminal tactics with each other. Sovereign citizens, with few exceptions and despite their differences, will choose to unite against their one common enemy: the government and its agents.").

[81] *See generally* Wade Christiansen, *Why Does it Take so Long? Understanding Criminal Court Delays*, CHRISTIANSEN LAW FIRM (June 3, 2017), https://www.christiansenfirm.com/blog/why-does-it-take-so-long-understanding-criminal-court-delays (listing factors causing delays in criminal trials); *Why Does A Lawsuit Take so Long?*, MILLER LAW (Feb. 20, 2017), https://millerlawpc.com/lawsuit-take-long/ (breaking down various steps in process of a civil lawsuit).

[82] Parker, *supra* note 12, at 169.

[83] *See generally* Meads v. Meads, 2012 ABQB 571 (Can.) (summarizing parallel movement in Canada); Sammon, *supra* note 11 (analyzing similar groups in Ireland); Jonnette Watson Hamilton, *The Organized Pseudolegal Commercial Argument (OPCA)Litigant Case*, THE U. OF CALGARY FAC. OF L. BLOG ON DEV. IN ALBERTA L. (Oct. 30, 2012), https://ablawg.ca/2012/10/30/the-organized-pseudolegal-commercial-argument-opca-litigant-case/ (reviewing the *Meads v. Meads* decision and OPCA movement in Canada).

[84] Netolitzky, *supra* note 9, at 1183.

[85] *See, e.g.*, Sammon, *supra* note 11, at 88 (stating Irish Freeman on the Land litigants broadly and without reasoning argue the government does not have authority over them because the state is just a corporation and illegitimate, which is same reasoning as American Sovereign Citizens Movement except U.S. movement bases argument in specific historic events causing clandestine switch to illegitimate government); TÍR NA SAOR, FREEMAN GUIDE 9 (2017) (ebook) (explaining the difference between the real individual and the straw man through an example of receiving a parking ticket and how its receipt does not apply to an individual as the individual is not obligated to accept the contract of paying the fine).

[86] *Compare Sovereign Citizens Movement*, *supra* note 1 (detailing American legal system influences on Sovereign Citizens Movement, including common law system created by American founding fathers, American

Though the "historical and documentary foundation" of the Moorish Sovereign Citizens Movement attracts adherents, the parallel foreign movements that "simply make things up[]" captivate followers the same way as the former.[87] Of note, this pseudolaw phenomenon continues to survive employing the same tactics as before the subsequently discussed case despite the harsh response delivered to it in the Canadian case, *Meads v. Meads*.[88] Perhaps the fact that members of these movements view the movements' arguments as "alternative system[s] of law" explains why the tactics have yet to change in response to such a harsh decision.[89] It also provides optimism that repeatedly implementing the tactics described below will eventually render these specific alternatives moot.[90]

A. Canada's OPCA Litigant Movement

The first comprehensive, detailed history of Canadian movements similar to the Moorish Sovereign Citizen Movement in the United States was *Meads*, in which Justice Rooke coined the term "Organized Pseudolegal Commercial Argument (OPCA) Litigants."[91] The OPCA litigant label was created to function as an all-encompassing term since numerous similar groupings identify by varying descriptions, including "Detaxers; Freemen or Freemen-on-the-Land; Sovereign Men or Sovereign Citizens; Church of the Ecumenical Redemption International (CERI); Moorish Law; and others[.]"[92] OPCA litigants are

money secured through full faith and credit, and corporate shell accounts through government requirements of birth certificates and Social Security cards), *and Sovereign Citizen Movement: For Law Enforcement*, *supra* note 19 (explaining American legal bases of American Sovereign Citizens Movement's belief the former American common law system was surreptitiously replaced with the current illegitimate government, including a "'missing' 13th Amendment that would have disallowed citizenship for attorneys; the Reconstruction amendments; the 16th Amendment . . . the 17th Amendment . . . the Federal Reserve Act and the 1933 removal of [U.S.] currency from the gold standard."), *with* Meads, 2012 ABQB ¶¶ 176–78 (Can.) (describing Sovereign Citizens as an Organized Pseudolegal Commercial Argument (OPCA) sub-group in Canada arguing against Canadian government authority based in Canada as a corporation and Canada not following common law or admiralty law), *and* Sammon, *supra* note 11, at 88–89 (describing OPCA litigants, specifically Freeman on the Land, who argue the state is just a corporation and has no ability to exercise jurisdiction over individuals because the state only has maritime authority).

87 *See* Netolitzky, *supra* note 9, at 1184.

88 *Id.*

89 *Id.*

90 *Cf. id.* at 1186. "What is clear is that, to date, *Meads* remains a generally accurate and complete response to the dominant form of pseudolaw in Canada and worldwide." *Id.* It is uncertain how long this will remain the case, "but plausibly this will continue until a new, independent, and unrelated matrix of pseudolaw and supporting materials appears to compete with both the mainstream 'conventional' law in Canada and other countries, and the Sovereign Citizen-derived pseudolaw memeplex." *Id.*

91 *See* Hamilton, *supra* note 83. *See generally* Meads, 2012 ABQB (Can.) (detailing precisely various groups under OPCA umbrella and extensive case law supporting the Court's findings).

92 Meads, 2012 ABQB ¶ 1 (Can.).

"vexatious litigants" who use myriad techniques and pseudolaw arguments promoted and sold by gurus to impede and disrupt court functions and "the legal rights of government, corporations, and individuals."[93] In *Meads*, Justice Rooke embarked on an encyclopedic review of more than a decade of reported cases of OPCA litigants, their characteristics, and their tactics, all contained in the 156-page opinion.[94]

In the Canadian context, OPCA litigants "will only honour state, regulatory, contract, family, fiduciary, equitable, and criminal obligations if they feel like it. And typically, they don't."[95] Many characteristics and tactics of Canadian OPCA litigants largely track those employed by the Moorish Sovereign Citizen Movement in the United States. For example, they employ unique identification methods in how they write their names to indicate a "double/split person," a belief in a secret bank account associated with each citizen of the country, usage of "atypical language and terminology . . . indicat[ing] OPCA affiliation,"[96] referencing "obsolete . . . irrelevant legislation" or legal documents,[97] engaging "in unusual in-court conduct," and a denial of a court's jurisdiction or authority over them.[98] Though both movements share numerous identifiers, they are not mirror images of one another.

The Canadian movement is distinguishable from the American movement in several ways. Whereas the American Moorish Sovereign Citizen Movement, albeit disorganized, follows general arguments and politics employed against the American legal system, Canadian OPCA litigants do not subscribe to a single, generalized belief system, demonstrated by the need for an overarching term (OPCA) to encompass all possible groups.[99] Justice Rooke describes the disjointed OPCA movement as different movements using the same tactics who have subscribed to comparable alternate histories "and hold generally

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93 *Id.* ¶ 1.

94 *Id.* ¶ 2.

95 *Id.* ¶ 4.

96 *Id.* ¶220. Examples of atypical language include "flesh and blood man;" and "only subject to a category of law, typically 'natural law,' 'common law' or 'God's law,'" as well as "[i]dentification that a municipality, province, or Canada is a corporation is a clear indication of OPCA affiliation." *Id.* ¶ 222.

97 *Id.* ¶228. Examples of irrelevant documents include "the Magna Carta," "the Uniform Commercial Code of the United States," "the Constitution of the United States," "an obsolete version of Black's Law Dictionary," and "the King James Version" of the Bible. *Id.* ¶228-29.

98 *Id.* ¶¶ 203–05, 212, 242, 248, 531–32 (citing United States v. Heath, 532 F.3d 451 (6th Cir. 2008); United States v. Anderson, 353 F.3d 490, 500 (6th Cir. 2003), cert. denied, 541 U.S. 1068 (2004)) ("The most common 'money for nothing scheme' . . . [has a] mythology behind [it, which] is extremely peculiar and requires travel into the conspiratorial and demon-haunted shadow world of the OPCA community.").

99 *See, e.g.*, *id.*; Hamilton, *supra* note 83.

compatible beliefs."[100] The universal strategies of OPCA litigants in Canada, which differ from those in the United States, include marking legal "documents in unconventional ways,"[101] using "atypical mailing addresses,"[102] and following scripts "prepared by OPCA gurus."[103] In addition, Justice Rooke draws a hard distinction between OPCA and non-OPCA litigants, as the above-listed indicators rarely appear in cases involving non-OPCA litigants.[104] This hardline Canadian review of who fits within the OPCA litigant definition is juxtaposed with the American context where no such review of American sovereign citizen litigants exists.

Meads provides a detailed list of both procedural and in-court reactions to suspected OPCA litigants.[105] When a court official suspects a potential OPCA litigant document, he/she should alert the appropriate officials who can then take the appropriate recourse.[106] First, court clerks should "reject the materials that do not conform with required standards" and instead "accept and mark these materials as 'received' rather than filed."[107] Then, a judge should review such documentation suspected of OPCA litigation as filed.[108] The reviewing party would have multiple options available to him/her, including: (1) a declaration of frivolity, irrelevancy, impropriety, or an abuse of process regarding the litigation, application, or defense; (2) ordering "the documents [] irrelevant to the substance of the litigation, but . . . retained on file as evidence that is potentially relevant to costs against the OPCA litigant, vexatious status . . . and/or whether the litigant has engaged in criminal or contemptuous misconduct;" (3) rejecting such documentation and ordering the litigant to re-file documents in conformation with court procedures and without OPCA

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100 Meads, 2012 ABQB ¶ 168 (Can.).

101 *Id.* ¶¶ 214–16. Examples include "a thumbprint, typically in red ink;" "more than one signature, often in atypical colour ink such as . . . green;" "attaching one or more postage stamps, sometimes [with] text . . . written across the stamp;" and frivolous notarizations evidencing "court-like authority;" *Id.*

102 *Id.* ¶¶ 231–32, 234 ("[O]mission of the postal code, or some variation from the postal code's usual format . . . suggest[ing] the OPCA litigant has adopted an 'everything is a contract' scheme . . . apparently believ[ing] that use of a postal code means accepting some kind of contract with the state[;]" and receipt of mail "addressed in an unconventional manner . . . [in care of] The Church of Ecumenical Redemption International[.]").

103 *Id.* ¶¶ 242–44 (including scripted demands, such as proving a judge's authority or appointment; and not legally recognized or necessary documentation sent to the court).

104 *Id.* ¶ 256 (adding that even non-OPCA litigants "with cognitive or psychological dysfunction" do not employ such tactics).

105 *See generally id.* ¶¶ 256–63 (detailing list of available methods to counteract vexatious OPCA litigants).

106 *Id.* ¶ 256.

107 *Id.*

108 *Id.*

arguments, if the litigant wishes to continue the process; (4) ordering a "show cause" hearing with only the litigant present before the court; and (5) assigning fines pursuant to jurisdictional authority.[109]

Since Canadian OPCA litigants tend to support their compatriots by attending various sub-groups' hearings, it may be appropriate for a judge to close a courtroom to the public to prevent disruptions in the proceedings from the gallery and physical threats.[110] Moreover, OPCA litigants do not face swift rejection or dismissal of their methodology in court. Thus, Justice Rooke argues that judges should at the earliest possible moment categorically dismiss most OPCA strategies.[111] Canadian common-law allows for latitude in how "a court's inherent jurisdiction" controls its proceedings and avoids abuse.[112] *Meads* also argues that to reach the highest level of efficiency, a single judge should handle an OPCA litigant file throughout its time in process if at all possible.[113] Finally, Justice Rooke argues the best judicial strategy is for a judge to "carry both carrot and stick."[114]

However, a simple yet effective response may be the decision itself, as it has seemingly fallen on deaf ears of the members of the OPCA community.[115] The lack of an organized, direct response from members suggests *Meads* in fact embarrassed followers of the OPCA movement.[116] Moreover, because the overview and critique of OPCA litigants in *Meads* received the attention of members of the public outside legal and academic spheres, it has exposed the public "to OPCA pathogens leav[ing] behind immunity" to them and limiting their spread.[117] The effect of the *Meads* decision is its gatekeeping function, which will only operate when the courts know the characteristics and tactics of the movement's members.[118] Only then will the proposed solutions take hold and ameliorate the efficacy of the courts.[119]

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109 *Id.* (citing Canam Enterprises Inc v. Coles, [2000] 51 O.R. (3d) 481, ¶¶ 55–56 (Can.)).

110 *Id.* ¶ 263 (referencing Dempsey v. Envision Credit Union, [2006] B.C.S.C. 1324, ¶¶ 16–24); *see id.* ¶ 260 (explaining attendance at sub-groups' hearing was described as "rally[ing] the troops").

111 *Id.* ¶ 552; *see also Nonsense or Loophole?*, BENCHMARK (Feb. 2012) 57, 19 (a magazine for the judiciary of England and Wales) ("Given that FOTL beliefs are based largely on misunderstandings or wishful thinking, they do not stand up well to legal scrutiny.").

112 Meads, 2012 ABQB ¶ 588 (Can.) (citing Canam Enterprises Inc. v. Coles, [2000] Ont. C.A. 481, ¶¶ 55–56 (Can.); McMeekin v. Alberta (Attorney General), [2012] A.B.Q.B. 144, ¶ 14 (Can.)).

113 *See id.* ¶ 610.

114 *Id.* ¶ 620.

115 *See* Netolitzky, *supra* note 9, at 1192.

116 *See id.*

117 *Id.* at 1202.

118 *Id.* at 1192.

119 *Id.*

B. Ireland

In Ireland, the equivalent of the American Moorish Sovereign Citizen Movement and the Canadian OPCA litigation movement is the Freeman on the Land movement.[120] Little case law and few studies exist detailing the history of this movement or its effects on the justice system, aside from *Meads* and various interdisciplinary studies covering tangentially related topics.[121] For this reason, Ireland does not possess the same rich, detailed parallels of the Freeman on the Land Movement with either the American Moorish Sovereign Citizen Movement or the Canadian OPCA movement. Despite the lack of extensive research and resources describing the widespread effects of the Freeman on the Land movement, it has developed into a problem for the Irish legal system.[122]

One example involves the case of Mr. Stephen Sutton in the Kilcock District Court in 2010.[123] Mr. Sutton denied he was his "legal fiction" and instead demanded he be referred to as "Stephen of the Family of Sutton."[124] This method is similarly employed by American and Canadian counterparts in an attempt to distinguish between the legal fiction of an individual and his/her real flesh and blood identity.[125] Sutton asserted, "[T]hat the offences of driving without insurance and without a license and speeding were victimless crimes and therefore not crimes at all but rather commercial transactions between legal fictions."[126] This Freeman on the Land follower also contended the court had no authority over him because "it was acting under maritime or admiralty law and not common law," again paralleling similar arguments made by Moorish sovereign citizens in the United States.[127] This serves as one example of how these litigants correlate with each other. Moreover, this further demonstrates the

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120 *See* Sammon, *supra* note 11, at 85.

121 *See id.* at 86, 96 ("It is impossible to state, other than based on anecdotal evidence, that self-representation has increased in Ireland.").

122 *See id.* at 91; *see also* TÍR NA SAOR, *supra* note 85; Mary Carolan, *Bankrupt Businessman Sent to Mountjoy for Another Six Months,* IRISH TIMES (May 15, 2013); Fiona Gartland, *Lawyers Advise Against Use of Groups Claiming "Secret Formula" to Circumvent Law*, IRISH TIMES (May 17, 2013).

123 Sammon, *supra* note 11, at 91.

124 *Id.*

125 *Id.*; *see* Meads, 2012 ABQB ¶¶ 203–05, 212 (Can.); Laird, *supra* note 1; *Moorish Sovereign Citizens*, *supra* note 1; *cf.* David Bale, *Norfolk Tax Dodger Arrested . . . After Writing to Queen*, NORWICH EVENING NEWS (Dec. 3, 2010), https://www.eveningnews24.co.uk/news/crime/norfolk-tax-dodger-arrested-after-writing-to-queen-1-745681 (describing Mark Bond, a Freeman on the Land in the United Kingdom, who stood outside the court in front of where he was arrested demanding the judge answer his question, "Can I enter this court with my God-given, inalienable rights intact?" in a demonstration of his belief that an individual person is separate from any contract the government imposes upon him).

126 Sammon, *supra* note 11, at 91.

127 *Id. See generally The Sovereigns: A Dictionary of the Peculiar*, *supra* note 23 (describing "peculiar" phrases employed by Sovereign Citizens, including their distinction between common law and admiralty law).

fallacy of the parallel international movements, as the Irish Freeman on the Land movement merely copied this idea despite the Irish movement's foundation being in the American abandonment of the gold standard in 1933.[128]

Unlike Canada with the detailed OPCA history in *Meads*, Ireland does not benefit from such a helpful tool in determining how to address the issues presented by their Freeman on the Land movement.[129] This may be attributed to the fact many members of the Irish legal system viewed issues of OPCA and Moorish sovereign citizen litigants as a foreign problem for foreign countries to handle.[130] Because of the minimal amount of case law and resources addressing the Freeman on the Land movement, few remedies have yet been suggested to address the former purely international movement turned Irish domestic legal problem.[131] There is an argument for combining a public policy approach analyzing the causes underlying the Freeman on the Land movement with contemplations of the symptoms of this type of litigation.[132]

Irish courts may use the "Isaac Wunder" order to handle troublesome litigants.[133] This order states "that no further action may be taken by an individual litigant in the High Court without the leave of that court. If leave was not granted by the High Court the defendant is not required to appear to defend the proceedings used and the litigation is deemed void."[134] However, the Isaac Wunder order does not assist Irish courts in responding to Freeman on the Land litigants because the order is meant to be employed against proactive litigants, but Freeman on the Land are vastly reactionary in employing their methodology.[135] In most cases, Freeman on the Land espouse their beliefs after the state has brought suit against them, or when lending institutions bring mortgage suits against them.[136] Moreover, the Isaac Wunder order is viewed as a last resort because it is typically employed against such litigants after years of continuously submitting the same frivolous arguments.[137] Courts use an Isaac Wunder order in extremely unique and rare cases, after the system has already

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128 *See* Paradis et al., *supra* note 2, at 159.

129 *See* Sammon, *supra* note 11, at 92.

130 *See id.*; *cf.* Hugh O'Connell, *'Desperate People are Being Sucked Into This': Controversial Property Trust Criticized*, JOURNAL.IE (Nov. 27, 2013), https://www.thejournal.ie/property-trusts-rodolphus-allen-dail-1194792-Nov2013/ (discussing the shock experienced by community members that such fraudulent acts are occurring in Ireland).

131 *See* Sammon, *supra* note 11, at 92, 94.

132 *See id.* at 94.

133 *Id.*

134 *Id.*

135 *Id.* at 94–95.

136 *Id.* at 95.

137 *Id.* (referring to an Isaac Wunder order as a "nuclear option").

experienced an "accumulation of legal costs, waste of court resources, reputational injury to the opposing party, and prejudice to the litigant himself[.]"[138]

In addition to the Isaac Wunder order, Irish Superior Courts hold the power to dismiss frivolous, vexatious, or likely-to-fail proceedings, which may prove effective in managing Freeman on the Land litigation.[139] Irish Superior Courts also possess the "inherent jurisdiction to strike out proceedings . . . to prevent the abuse of court process."[140] In fact, this tool has been used more effectively than the Isaac Wunder order approach by Irish courts, largely because it allows a court to take proactive action in preventing damage.[141] Specifically, the method set forth in Order 19, rule 27 of the Rules of the Superior Courts

> [P]ermits the court to strike out or order amendment of any pleadings that are 'unnecessary or scandalous, or which may tend to prejudice, embarrass, or delay the fair trial of the action' . . . where there does not appear to be a protracted history of vexatious litigation but where the claims being made by litigants in individual proceedings instituted by them are vexatious and bound to fail.[142]

This power designated for Irish Superior Courts enables them to set legitimate claims apart from OPCA arguments.[143] The major downside of such an option is that it is reserved only for the Superior Courts of Ireland, thus allowing for inevitable delays and unnecessary court costs.[144] Therefore, this does not necessarily lead to efficiently addressing negative effects on the court system caused by Freeman on the Land litigants.

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[138] Devrajan v. KPMG & Ors [2006] IEHC 81 (citing O'Malley v Irish Nationwide Building Society (High Court, Unreported, Costello J, 21 January 1994)) (holding an Isaac Wunder order should only be used in "very rare circumstances" but should be used once a court determines its processes are being abused); *Id.* Sammon, *supra* note 11, at 95.

[139] Sammon, *supra* note 11, at 95.

[140] *Id.*

[141] *Id.*

[142] *Id.*

[143] *Id.*

[144] *Id.* at 95–96 ("[T]his means that the work of the court will be greatly delayed. The court must spend time hearing an application to strike out pleadings, or part of the pleadings, and any remaining claims will have to proceed to a full hearing."). *See generally Courts*, CITIZENS INFO., https://www.citizensinformation.ie/en/justice/courts_system/courts.html (last visited Oct. 5, 2020) (brief overview of levels of Irish court system, starting with lowest through highest: District Court, Circuit Court, High Court, Court of Appeal, and Supreme Court); *The Courts System*, THE BAR OF IRELAND: THE LAW LIBRARY, https://www.lawlibrary.ie/Legal-Services/The-Courts-System.aspx (last visited June 2, 2020) (explaining that Superior Courts in Ireland are only those courts as defined in the Constitution: Supreme Court, Court of Appeal, and High Court).

IV. LESSONS LEARNED: FINDINGS FROM AMERICAN STUDIES OF CST EVALUATIONS, AMERICAN STUDIES OF PRO SE REQUESTS, AND FOREIGN COUNTRIES' RESPONSES TO REMEDY THE IMPEDIMENTS OF THE MOORISH SOVEREIGN CITIZENS MOVEMENT IN THE AMERICAN JUDICIAL SYSTEM

The comparative overview of the American Moorish Sovereign Citizen Movement and similar movements abroad provides an opportunity to create novel solutions for American courts. The foreign movements' reactions provide examples of how their judicial systems have approached the various issues related to this type of litigant. Although the foreign responses may prove difficult to translate exactly to the American judicial system, there are important parallels between the different systems from which applicable takeaways should be drawn. This Section will begin with the study of the American movement and its interaction with CST evaluations, as well as pro se requests. It will then turn to an examination of a multi-pronged approach combining elements learned from both CST and pro se evaluations. The Section will end with the takeaways from Canadian and Irish courts' responses to their parallel movements.

A. Competency to Stand Trial Evaluations and their Interaction with the Moorish Sovereign Citizens Movement

Another tactic involves engaging in an analysis of Moorish Sovereign Citizens and their CST. Under *Dusky v. United States*, the test for a judge to determine whether an individual is competent to stand trial is whether he/she is presently able to consult with his/her lawyer with a reasonable amount of rational understanding.[145] The individual must also possess a rational and factual understanding of the proceedings against him/her.[146] It is not sufficient for the district judge to find that the individual knows the date, where he/she is, and has some memory of the events.[147] When conducting CST evaluations, it is often difficult for the forensic clinicians examining the litigants to separate an individual's sovereign beliefs from making a determination regarding whether the individual has a mental illness and what that illness may be.[148] It is imperative for the reviewing party to remember the dispositive issue under *Dusky* is whether a defendant can "understand the proceedings and assist his attorney" and "not his willingness to do so."[149]

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145 Dusky v. United States, 362 U.S. 402, 402 (1960) (followed by most jurisdictions in America).

146 *Id.*

147 *Id.*

148 Paradis et al., *supra* note 2, at 163; Parker, *supra* note 12, at 169.

149 Parker, *supra* note 12, at 170.

Forensic clinicians must learn the language employed by sovereign citizens, specifically the one who is being examined, to determine whether the individual has mental illness or whether his "sovereign citizen beliefs are delusional or related to his psychiatric illness in some other way."[150] In-court observations of a sovereign citizen referred for evaluation will also assist examiners in forming a well-rounded analysis of the individual, beyond just the out-of-court CST evaluation.[151] Furthermore, what may have prompted judges to request a CST evaluation in the first place—psychotic or mood symptoms—may have in fact been "an incidental finding on evaluation" for those evaluations performed on sovereign citizens.[152] This is often the case because mood disorders are frequently the reason behind a judge's request for a CST evaluation and psychotic disorders often result in findings of incompetence to stand trial.[153]

Even stalwart followers of the movement remain flexible in their beliefs and may decide to follow the advice of their counsel if presented with persuasive guidance.[154] In this type of situation, the examiner would likely conclude the individual is competent to stand trial.[155] One study of CST evaluations suggests clarifying in the evaluation which behaviors are caused by an underlying mental condition and which result from sovereign citizen beliefs to help judges better handle Moorish sovereign citizens.[156] In addition, the "forensic clinicians" conducting CST evaluations should exercise tact when assessing suspected sovereign citizens because sovereign citizens often balk at cooperating with court-ordered CST evaluations.[157] This will produce more results to be used in future studies as cooperation increases, as well as a wealth of knowledge regarding how sovereign citizens acquired and deepened their beliefs to further assist U.S. courts.[158] However, not all CST evaluations will easily produce better results through forensic technicians' prudent questioning.

The more problematic examinations occur when the examiner discovers the individual "genuinely and strongly believes the sovereign citizen tenets[,]" which is analogous to a "political belief or philosophy . . . held by members of some other cultural groups or political movements[,]" as opposed to finding their

150 Paradis et al., *supra* note 2, at 163.
151 *Id.* at 164.
152 Parker, *supra* note 12, at 169.
153 *Id.*
154 Paradis et al., *supra* note 2, at 164.
155 *Id.*
156 Parker, *supra* note 12, at 169.
157 *Id.* at 170.
158 *Id.*

beliefs "delusional or related to [their] psychiatric illness."[159] Moorish sovereign citizens who subscribe to the movement such that it equates to a philosophical belief will not all react in the courtroom or during a CST evaluation in the same way. Some will still go to trial if deemed competent but will produce their own nonsensical arguments while not necessarily expecting to obtain a ruling in their favor.[160] These and other seeming Moorish sovereign citizens who do not maintain such strong philosophical convictions regarding the Sovereign Citizens Movement "may not cooperate with court proceedings and may become obstreperous."[161] One study suggests offering judges the opportunity to consult with forensic clinicians performing CST evaluations who could suggest different options to appropriately handle sovereigns in court.[162]

One study included a survey of a group of Indiana judges who provided several judicial interventions listed in order of effectiveness—interrupting their monologues, threatening contempt of court, reminding them of the authority of the court, explaining the authority of the court, and limiting the length and number of court filings.[163] The method of judicial monologue intervention was the most effective, coming in below fifty percent.[164] Moreover, the procedure of reducing filings in "length and number" maintained the lowest percentage of any of these methods, which was below thirty percent.[165] The three other approaches—contempt of court, reminders of judicial authority, and explanations of that authority—all hover around forty percent effectiveness.[166] This suggests other, more efficient and effective modes of handling these litigants exist in a judicial toolbox.

Some sovereign citizens in court will become so dissatisfied with the system they view as completely antithetical to their Moorish sovereign citizen views they will inevitably request to proceed pro se.[167] Most courts will grant the request; however, if examiners can provide their findings regarding the sovereign citizen's beliefs and behaviors, it will assist the judge and other court personnel in anticipating the potential delays and obstructions when having such a litigant in the courtroom.[168] The high rate of judges allowing Moorish

159 Paradis et al., *supra* note 2, at 164.
160 *Id.*
161 *Id.*
162 Parker, *supra* note 12, at 169.
163 *Id.*
164 *Id.*
165 *Id.*
166 *Id.*
167 *See* Paradis et al., *supra* note 2, at 164.
168 *Id*. at 164–65.

sovereign citizens to proceed pro se should give pause as to whether that may be a factor in the delay of proceedings such litigants cause.

B. Pro Se Litigant Solutions to Better Equip the American Courts When Faced with Moorish Sovereign Citizens

1. The Faretta *Inquiry and its Ability to Help Judges Manage Moorish Sovereign Citizens' Requests to Proceed Without Counsel*

Another tool for a judge's toolbox to fix the backlogged courts caused by sovereign citizen litigants would be limiting the number of sovereign citizens' pro se requests. The U.S. Supreme Court's decision in *Faretta* confirmed a state may not force counsel upon a criminal defendant because it would violate one's right to defend oneself in court.[169] Moreover, the Court reasoned it is a defendant who holds "the right to self-representation" because of the Sixth Amendment's structure, as "it is he who suffers the consequences if the defense fails."[170] Therefore, it is important to balance this constitutional right and the inquiry set forth by the Court with managing cases involving Moorish sovereign citizens.

The *Faretta* inquiry aids American courts in determining whether a criminal litigant "'knowingly and intelligently' forgo[es the] relinquished benefits" that come with the right to counsel when requesting to proceed pro se.[171] This request must be an unequivocal declaration to the judge prior to trial because the accused surrenders the numerous advantages that come with the right to counsel.[172] The Court in *Faretta* considered several factors in determining whether such a request had been made, including the requester's "litera[cy], competen[cy], and understanding, and that he was voluntarily exercising his informed free will."[173] Moreover, the Court reasoned that "technical legal knowledge" is an irrelevant part of the analysis.[174] This should not be employed as a categorical analysis preventing all members of the movement from defending themselves. Instead, this would be a case-by-case analysis following a litigant's request which would help a judge determine whether the pro se request is viable.

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169 Faretta v. California, 422 U.S. 806, 835 (1975); *see also* Argersinger v. Hamlin, 407 U.S. 25 (1972); Gideon v. Wainwright, 372 U.S. 335 (1963); Betts v. Brady, 316 U.S. 455 (1942); Johnson v. Zerbst, 304 U.S. 458 (1938); Powell v. Alabama, 287 U.S. 45 (1932).

170 *Faretta*, 422 U.S. at 819–20.

171 *Id.* at 835.

172 *Id.*

173 *Id.*

174 *Id.* at 836.

This judicial decision cuts both ways, as a judge may decide a Moorish sovereign citizen does not meet the *Faretta* inquiry standard and should therefore not be afforded his/her right to represent his/her own defense. This would allow a more streamlined process because the attorney representing the defendant would know the processes and legal arguments to adequately defend the litigant, thus preventing useless arguments from being frivolously presented and impeding the process. However, if a judge determines the *Faretta* inquiry is adequately met, then the judge could easily shut down the pro se sovereign's arguments being made because sovereign citizens' arguments have been consistently deemed invalid legal arguments.[175]

2. *Multi-pronged Approach to Justly Handle Disruptive Pro Se Moorish Sovereign Citizens in Judicial Settings*

The last proposal incorporates the insights developed from Section IV.A. into how and whether courts should take a different approach vis-à-vis pro se Moorish sovereign citizens. The generally accepted view of litigants representing themselves is uniform, where the individual appears alone in the judicial proceedings.[176] However, sovereign citizens in court have taken advantage of this sympathetic view and proceed pro se to "preserve their claimed rights."[177] Since pro se sovereign citizen litigants are vastly different from more traditional pro se litigants, it follows different remedies should be prescribed for these more difficult and less sympathetic self-represented litigants.[178] Moreover, the delays caused by self-represented sovereign citizen litigants place an unfair burden on traditional pro se litigants whose chances of winning cases against represented parties truly benefit from "assistance from courts and judges." This is so because the sovereign citizen pro se litigant receives outside help while simultaneously benefiting from such court and judicial assistance, and the traditional pro se litigant does not receive outside help in addition to the court and judicial benefit.[179]

The goal of a sovereign citizen litigant is to "draw out legal proceedings as long as possible . . . to use the courtroom as a forum of protest against the very existence of the judicial system and Federalism[.]"[180] This purpose helps

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175 *See, e.g.*, United States v. Schneider, 910 F.2d 1569, 1570 (7th Cir. 1990) (holding Sovereign Citizen arguments possess "no conceivable validity in American law.").

176 Phillips, *supra* note 3, at 1222.

177 *Id.* (internal quotations omitted).

178 *Id.* at 1222–23.

179 *Id.* at 1228.

180 *Id.* at 1222.

illustrate why traditional sympathetic views of self-representation attract sovereign citizens' abuse.[181] This illustration further reinforces the need for a different treatment of sovereign citizen pro se litigants. This is especially the case because most, if not all, pro se sovereign citizens receive "clandestine sources of support during litigation[,]" which is not typical of the traditional pro se litigant.[182] Furthermore, the need for more efficient treatment of such self-represented litigants arises from the fact American courts are already extremely backlogged.[183]

Despite the U.S. Supreme Court's opinion in *Haines v. Kerner*, where the Court held pro se pleadings should be subjected "to less stringent standards than formal pleadings drafted by lawyers[,]" courts throughout the United States differ in interpreting how much leniency should be afforded self-represented litigants.[184] Regardless of which side of the argument to which one subscribes, the recognized logic treats all pro se litigants the same.[185] This flawed logic emanates from the differences in resources available to traditional pro se litigants, which is effectively none, and those available to pro se sovereign citizens, who have a breadth of community support.[186] Consequently, the judicial system should move away from labeling all self-represented litigants as one large group of unrepresented individuals and instead create different groupings, such as "middle ground" litigants.[187] This new recognition of the various types of self-represented litigants should aid judges in fending off the judicial system abuse caused by sovereign citizen self-represented litigants.[188]

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181 *Id.*

182 *Id.*

183 *See id.* at 1228 (detailing this burden on the judicial system, "[w]ith more than 330,000 civil cases in the federal court backlog in 2015, rapidly increasing numbers of pro se litigants are necessarily a significant cause of federal court delays. The backlog in state courts is often far worse than that of federal courts."); *cf.* Talbot v. Hermitage Golf Club and Ors [2014] IESC 57 (Ir.) (describing how Justice Charleton calculated this case used up eighty-three days between two levels of Irish courts for a case with relatively simple, undisputed facts caused in most part by self-representation).

184 Haines v. Kerner, 404 U.S. 519, 520 (1972); *see* Phillips, *supra* note 3, at 1229–30 ("[One side argues] that judicial reliance on dismissing pro se cases . . . is precluding meaningful access to justice by those who truly have no other choice but to appear pro se. . . . Opponents of increasing leniency suggest that 'greater [pro se] assistance and accommodation are wrong.'") (internal citation omitted).

185 *See* Phillips, *supra* note 3, at 1230 (treating all "pro se litigants as one big [homogenous] melting pot of people"); *see also* Rabeea Assy, *Revisiting the Right to Self-Representation in Civil Proceedings*, 30 CIV. JUST. Q. 267, 268–69 (2011) (suggesting the traditionally accepted view that proceeding pro se is a "natural expression of the right of access to court and, . . ." has been "unchallenged for too long.").

186 *See* Phillips, *supra* note 3, at 1230 (discussing community support provided by other "like-minded" subscribers of Sovereign Citizen Movement that "works together, primarily through the Internet, to craft legal documents, theories, and arguments to help Movement constituents succeed in court as pro se litigants.").

187 *Id.* at 1231.

188 *Id.*

A multi-pronged approach to combatting the "perfected" arguments produced by pro se sovereign citizen litigants in court may help judges ward off such litigants' tactics from further burdening the court systems.[189] First, as argued earlier, it is imperative judges and other court officials preemptively recognize who fits within this middle ground or pseudo litigant group and their existence in the court system.[190] By becoming familiar with superficial characteristics of and tactics employed by followers of the Moorish Sovereign Citizen Movement, judges will be equipped to quickly identify such litigants as likely impediments. Courts should be careful, however, to ensure they do not compromise any litigants' rights while simultaneously remaining on alert of the potential disruptions.

The next layer of this first step involves recognizing such individuals before the court as likely pseudo pro se litigants who receive outside support, maybe even from ghostwriting attorneys.[191] Despite the American Bar Association's seeming approval of ghostwriting the legal profession would benefit from accepting the following change: recognizing and creating a subset of self-represented litigants, which would represent pseudo pro se litigants, such as sovereign citizen pro se litigants. This subgroup would be separate from the truly authentic self-represented litigants requiring the necessary leniency of the courts.

Second, once this separate grouping is recognized, courts should adopt formalized policies with a framework of how to address and efficiently handle sovereign citizen pseudo pro se litigants while remaining within the bounds of ethical mandates.[192] Each court will have its own methodology of handling such litigants, which is why this Comment's proposal argues for a framework from which courts can work to achieve efficiency in light of the burdensome pro se Moorish sovereign citizen litigant. In addition, by creating a framework for the courts, the prescriptions "may also serve as an information conduit for quickly notifying new judges, clerks, or opposing counsel of the existence of Sovereign Citizens, rather than relying on prior decisions which may or may not have resulted in published opinions[.]"[193]

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189 *Id.* at 1232.

190 *Id.*

191 *Id.* at 1232–33 (defining "ghostwriting attorneys" as those who "assist pro se litigants with advice or drafting documents outside of the courtroom despite not representing pro se litigants formally in court.").

192 *Id.* at 1232.

193 *Id.* at 1233–34.

This framework must conform to judicial ethics principles and continue to strive in assisting judicial impartiality in assessing sovereign citizen pro se litigants. Specifically, Rule 2.2 of the Model Code of Judicial Conduct requires, "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."[194] In creating this scheme, it is important to keep in mind the need to work within the confines of ethical codes of conduct for judges. This can be accomplished by allowing judges to distinguish between traditional and pseudo sovereign citizen self-represented litigants. Such a framework will allow judges to better comply with this model rule, "as those pro se litigants who are already receiving significant outside assistance will not also receive the windfall of 'true' pro se litigant court assistance."[195]

C. Canadian Takeaways

Many of the above-listed Canadian methods of remaining steadfast to judicial principles to remedy the obstructions caused by OPCA litigants should apply fairly easily to the American judicial system, as "most OPCA concepts are adapted from American precursors[.]"[196] Another reason to look to *Meads* for solutions to use in the American context is its wide usage inside and outside of Canada.[197] *Meads* has been "endorsed by five Canadian Courts of Appeal," approved "throughout the Commonwealth," and even referenced in an Austrian Federal Court decision.[198] This notoriety occurred thanks to *Meads*' overview of the OPCA movement and its effective legal proposals to maintain court efficiency despite the vexatious movement's tactics.[199]

The first proposal from *Meads* upon which this Comment will focus suggests striking actions, motions, or defenses when faced with truly frivolous arguments advanced by OPCA litigants.[200] Categorically disregarding an entire argument, action, or motion because a court is faced with a Moorish sovereign citizen would deny them their constitutional rights. Instead, the court should first determine whether the arguments presented are frivolous, irrelevant, improper, an abuse of process, or incomprehensible when faced with an unintelligible

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194 MODEL CODE OF JUDICIAL CONDUCT § 2.2 (AM. BAR ASS'N 2015) (comment regarding pro se litigants' status, "it is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.").

195 Phillips, *supra* note 3, at 1234.

196 Meads v. Meads, 2012 ABQB 571, ¶ 266 (Can.).

197 Netolitzky, *supra* note 9, at 1186.

198 *Id.* at 1186 (Commonwealth referring to "the UK, Australia, Jersey, the Republic of Ireland, New Zealand, Northern Ireland, and Scotland.").

199 *Id.* at 1187.

200 Meads, 2012 ABQB ¶¶ 587–88, 590 (Can.).

proceeding lacking an argument or specific material facts.[201] In fact in the years following *Meads*, Canadian courts have identified several fundamental OPCA contentions as "prima facie bas[e]s to shift the onus to a party to prove their litigation is valid" by using *Meads*' proposal to identify and extinguish OPCA arguments.[202] Equipping courts with background information on Moorish sovereign citizens will allow courts to reach decisions about nonsensical arguments more quickly. This is so because by already being acquainted with sovereigns' beliefs, courts will not have to spend as much time attempting to decipher sovereigns' claims.[203]

The next method proposed in *Meads* this Comment will discuss is punitive remedies potentially proving successful in reducing the negative effects such litigants have on the courts.[204] Although the decision suggests the punishment should be monetary, it may prove successful to adopt alternative methods depending upon the manner in which a case involving a Moorish sovereign citizen is brought. For example, in the United Kingdom, a court held it was necessary to intervene and place a child implicated in the case into a London council's social services care.[205] The removal of one's child is as punitive as, if not more than, monetary fines. In the case from the United Kingdom, the child's father had refused to register the son's birth because the father did not want the state controlling his son.[206] The father further asserted, "[R]egistering the birth would make the child 'an asset to the country, which has boarded a vessel to sail on the high seas.'"[207] The judge maintained the father had deep-seated, genuinely "eccentric beliefs" regarding one's sovereignty.[208] This quick recognition of sovereign-like beliefs and swift punishment during the proceeding could prove effective in the U.S. judicial context involving Moorish sovereign citizens.

Another solution from *Meads* that has been followed in the years after the decision is preventing OPCA representatives who are not licensed attorneys

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201 *Id.* ¶¶ 587, 590 (Can.); *see also* kisikawpimootewin v. Canada, [2004] F.C. 1426, ¶ 9 (Can.).

202 Netolitzky, *supra* note 9, at 1187–88.

203 *See*, *e.g.*, Moe Greenberg, *What Cops Need to Know About Sovereign Citizen Encounters*, POLICE1 BY LEXIPOL: DETECTIVE'S NOTEBOOK (Mar. 28, 2013), https://www.policeone.com/police-products/investigation/articles/what-cops-need-to-know-about-sovereign-citizen-encounters-JH4gyxhtZM2NrN16/ (discussing strategies to address threats posed by sovereign citizens, "[I]ntelligence gathering will be our most valuable investigative tool.").

204 *See* Meads, 2012 ABQB ¶¶ 591, 594–95 (Can.).

205 Matthew Weaver, *Man Who Refused to Register Son's Birth Loses High Court Case*, GUARDIAN (June 23, 2019), https://www.theguardian.com/uk-news/2019/jun/23/man-refused-to-register-sons-birth-high-court.

206 *Id.*

207 *Id.*

208 *Id.*

from participating in the litigation process on the OPCA litigant's behalf.[209] This response's efficacy is due to the reasons for which a court could prohibit members of the OPCA movement, specifically gurus, from serving as representatives or agents in court.[210] The reasons include the individual desiring to serve as a representative "claim[ing] to not be subject to the rule of law," demonstrating a plan to operate outside the parameters of the rules and governing procedures in court, and when legal prerequisites are met, such an individual's out-of-court statements, including a webpage.[211] This could be especially helpful in the context of the Moorish Sovereign Citizen Movement in the United States, as many such litigants seemingly proceed pro se but with outside assistance.[212] Of note, some American courts have already banned outside ghostwriting support entirely.[213]

Other *Meads'* deterrent measures appropriate for American courts include fines and elevated cost awards.[214] Both would be appropriate for Moorish sovereign citizens in whatever litigation is in front of the court, as well as for the gurus promulgating sovereign beliefs when directly involved in encouraging a litigant to employ obstructive tactics. Canadian Rule 10.49(1) authorizes fining "a party, lawyer or other person" who fails to comply with the Rule requirements "without adequate excuse," and when this lack of compliance "has interfered with . . . the proper or efficient administration of justice."[215] More importantly, this Canadian rule respects an OPCA litigant's legal rights without negatively impacting the essence of the litigant's claim.[216] Because practically all arguments, documents, and in-court behavior presented by Moorish sovereigns—often via their gurus—contravene U.S. court procedure and requirements, American courts could adopt similar standards and fine those individuals impeding the administration of justice without compromising any sovereigns' rights.

Elevated cost awards have occurred in the Canadian OPCA litigation context in the form of "double costs . . . special costs . . . and substantial or full indemnification[.]"[217] There is a range of criteria warranting such an award, specifically "an attempt to delay or hinder proceedings, an attempt to deceive or

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209 *See* Netolitzky, *supra* note 9, at 1188.
210 *See* Meads v. Meads, 2012 ABQB 571, ¶ 614 (Can.).
211 *Id.* ¶¶ 615, 618 (Can.) (internal quotations omitted).
212 *See* Phillips, *supra* note 3, at 1231.
213 *See id.* at 1233.
214 Meads, 2012 ABQB ¶¶ 594–600, 603–07 (Can.).
215 *Id.* ¶ 603 (emphasis omitted).
216 *See id.* ¶ 605.
217 *Id.* ¶ 595.

defeat justice, fraud or untrue or scandalous charges[,]" as well as "misconduct of the party which gives rise to the action is . . . calculated to deliberately harm the other party[] . . . the very fact that the action must be brought by the injured party to gain what was rightfully his."[218] After *Meads*, awarding elevated costs to the innocent victims of OPCA abuse has not been as widespread as identifying and terminating OPCA arguments and preventing non-lawyer gurus from representing OPCA litigants.[219] This is because courts have not applied *Meads* "in an automatic and indiscriminate manner," and because OPCA litigants are often viewed as the victims of the guru-led OPCA scam.[220] When elevated cost awards occur, "[e]vidence of bad intention," whether the OPCA litigant targets the other party seeking money, and whether a guru has launched such litigation are important factors in a court's evaluation.[221]

This judicial maneuver would be especially applicable in the context of the United States when Moorish sovereign citizens file bogus liens against public officials.[222] The removal of such liens occupies the time, money, and emotions of those targeted by Moorish sovereign citizens to have their lives restored to their rightful positions.[223] In addition, ghostwriting pseudo-lawyers representing Moorish sovereign citizens and strongly encouraging the litigants to file actions would be guru-initiated proceedings and could be considered "[e]vidence of bad intention."[224] Thus, awarding elevated costs would be appropriate specifically in the context of illegitimate liens filed against innocent parties in the United States to deter future filings and protect those targeted in this manner.[225]

D. Takeaways from the Irish Experience

The effectively useless Isaac Wunder order approach of the Irish legal system in response to Freeman on the Land litigants could be adopted by the American legal system to address Moorish sovereign citizen litigants in the United States. Specifically, the Isaac Wunder order cannot be used against Freeman on the Land litigants in Ireland because they are largely reactionary litigants.[226] However, Moorish sovereign citizen litigants in the United States bring their arguments and beliefs before the court at their very first opportunity

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218 *Id.* ¶ 597.
219 *See* Netolitzky, *supra* note 9, at 1188.
220 *Id.*
221 Meads, 2012 ABQB ¶ 600 (Can.); Netolitzky, *supra* note 9, at 1189.
222 *See Sovereign Citizens Movement*, *supra* note 1.
223 *See* Goode, *supra* note 16.
224 *See* Meads, 2012 ABQB ¶ 600 (Can.); Netolitzky, *supra* note 9, at 1189; Phillips, *supra* note 3, at 1231.
225 *See* Meads, 2012 ABQB ¶ 599 (Can.).
226 *See* Sammon, *supra* note 11, at 94–95.

and are the exact opposite of their reactionary Irish counterparts.[227] Such a proactive approach would be best applicable in an arena such as the courtroom where Moorish sovereign citizens are representing themselves to their best available platform to espouse their ideas, such as a courtroom.

Instead of the above disjointed remedies of Freeman on the Land litigants in the Irish legal system, Garret Sammon argued for a unified, multilateral approach composed of six elements:

> (i) remedying the data-deficit regarding self-representation generally and OPCA litigants in particular;
> (ii) improving structures to assist litigants in person navigate the courts system;
> (iii) developing a response to OPCA litigation at the earliest stage of legal proceedings;
> (iv) clarifying the McKenzie friend mechanism;
> (v) developing sanctions for those who encourage OPCA litigation or sell/transmit OPCA material;
> (vi) engaging with the relevant critiques the OPCA movement makes of the legal system.[228]

The first element of this proposal would involve a reinvented comprehensive study into causes and factors related to self-representation in courts.[229] However, this proposal would likely not easily translate into the American context as the causes of self-representation for Moorish sovereign citizens are in fact due to their desire to use the court as a platform for their ideologies.[230] The second factor would involve providing information to litigants from the earliest stages of litigation to help navigate the court systems, but the issue with Moorish sovereign citizens is they thrive off voicing their own opinions in the courtroom without representation.[231]

The third element addresses identifying potential OPCA litigants from the beginning of the process while continuing to treat him/her "with the same degree of concern as any other litigant[.]"[232] The fourth factor in Sammon's approach is highlighted through an Irish court's decision *Re Coffey* distinguishing between an Irish-termed "McKenzie friend" and a self-representing litigant.[233] This

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227 *See* Phillips, *supra* note 3, at 1222.
228 Sammon, *supra* note 11, at 96.
229 *Id.* at 96–97.
230 *See* Phillips, *supra* note 3, at 1222.
231 *See* Sammon, *supra* note 11, at 97.
232 *Id.* at 98.
233 *Id.* at 99.

distinction would be available to each judge at his/her own discretion to determine whether a self-represented litigant should be afforded the same benefits as a pure McKenzie friend with full rights to counsel and outside advice.[234] This would allow judges the opportunity to make case-by-case determinations of which litigants are being guided by gurus and which are not in the Irish OPCA movement.[235] This could translate to the U.S. legal system in the ghostwriting attorney context, specifically with a more unified court approach to at a minimum limit the "unfettered" ghostwriters.[236]

The fifth element of the approach focuses on members of the OPCA movement who do not typically appear in the courtroom and instead distribute various ideologies of the movement through online fora and other media, the gurus.[237] It is argued the sanctions placed upon members of the movement representing themselves in the courtroom for obstruction and other charges should instead be placed upon the gurus.[238] The gurus are the ones targeting vulnerable people to subscribe to these movements, but the gurus are not the ones taking the legal hit. This approach suggests enabling sanctions or legal remedies, or both, against the gurus, as they are "hold[ing] themselves out as qualified to practi[c]e law."[239] Targeting members of the Moorish Sovereign Citizen Movement in the United States who spread the teachings and tactics of the movement may prove difficult while simultaneously protecting their constitutional rights and freedoms. However, if a guru were forced to appear in court, it may be easier to employ harsher sanctions if evidence can be presented of their proliferation of such obstructionist views.

The final element of this holistic approach concentrates on a more policy-focused plan of attack to get to a deeper root of the issue—developing a more thorough and accessible approach to digesting legal terms and the law more broadly.[240] This would undercut the tactics employed by higher-up members of the OPCA movement when recruiting followers because there would be another outlet to which disgruntled individuals could turn in times of "deeper disenfranchisement . . . with the law."[241] When individuals resort to "obsolete" and pseudo-legal nonsense, it should be "seen as an invitation to the legal

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234 *See id.*
235 *See id.*
236 Phillips, *supra* note 3, at 1233.
237 *See* Sammon, *supra* note 11, at 100.
238 *See id.*
239 *Id.*
240 *See id.* at 101.
241 *Id.*

profession, and policy-makers, to engage with" individuals who turn to such non-legally recognized tactics.[242]

V. PROPOSAL

American courts have struggled with how to appropriately contain and subsequently settle the disorder caused by Moorish sovereign citizens in their courtrooms. This occurs in large part because not enough research has comprehensively analyzed how to integrate various approaches in working towards a viable solution.[243] Of note, the imprecise analyses of the movement's ideologies and size pervert the urgency for such solutions, thus inhibiting courts' success in managing these litigants.[244] Integrating the lessons learned from Irish and Canadian courts' responses to parallel movements in their respective countries with proposed multidisciplinary solutions in the American context will best serve courts in combatting the stresses caused by Moorish sovereign citizens. Thus, the adoption of one or a combination of all the following proposals would ameliorate the backlog caused by the growing number of Moorish sovereign citizens in the court system.

One soft law approach is the suggestion from the Irish context of providing materials to litigants from the beginning of the process would ease some burdens on Irish courts caused by OPCA litigants.[245] This would be most effective in situations where Moorish sovereign citizen beliefs have yet to envelop the individual entirely.[246] Taking this a step further by producing a holistic guide to use to explain to such individuals the American legal system in more easily digestible terms could prove more successful in lowering the number of Moorish sovereign citizen followers.[247] Assuring the individual living between legal reality and the sovereign citizen legal illusion that the American legal system and all the accompanying benefits exist to protect the individual could bring them back from the delusional edge. At present there are many American citizens disillusioned with the American legal system and often run to the alternative legal system offered by the sovereign ideology.[248] Therefore,

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242 *Id.*

243 *See* Netolitzky, *supra* note 9, at 1189.

244 *See* Mallek, *supra* note 45, at 67–68.

245 *See* Sammon, *supra* note 11, at 97.

246 *See* Paradis et al., *supra* note 2, at 163–64.

247 *See* Sammon, *supra* note 11, at 101.

248 *Cf.* Phillips, *supra* note 3, at 1234 (explaining why initial Sovereign Citizen Movement attracted so many during 1980s Farm Crisis, "In a time when farmers felt as though the federal government had abandoned them, the Sovereign Citizens offered an entirely new way of viewing the world: one without the perceived oppression of federalism and with freedom from debt."); Sammon, *supra* note 11, at 101 ("One of the essential

providing an accessible, policy-focused guide of the American legal system at the earliest points in the process, could revert followers or at least thwart the spread of this disruptive anti-government logic by presenting an alternative when litigants are most susceptible to such fallacies.[249]

A more procedural-based combination approach of allowing litigation and elevated costs awards could be developed for U.S. judges to employ in certain cases. Such cases would include those where victims of sovereigns' fraudulent tax filings and liens instigate proceedings against the perpetrators of such fraudulent actions.[250] The judicial response would involve awarding elevated costs be paid to the victims of sovereigns' malicious actions. Such legal involvement after sovereign actions have occurred would be more time consuming than addressing the fraudulent liens at an earlier stage to prevent more court clogging. Perhaps, by requiring an in-depth review of the filings with more scrutiny before accepting them would benefit courts.[251] Alternatively, alerting courts to indicators of such liens being filed by suspected Moorish sovereign citizens would give judges another tool to fix the negative effects at earlier stages in the legal process instead of placing the burden on the individuals against whom the bogus liens were filed to rectify the situation after the fact.

Finally, perhaps targeting the true perpetrators of Moorish sovereign citizen disruptions, the gurus, instead of the followers who find themselves before courts, would best weed out the root of the problem.[252] Deterring the gurus from continued promulgation of their legal fallacies with *Meads*' suggested fines and elevated costs awards could prove successful if American courts were to take a hardline approach of disallowing ghostwriters entirely and fining Moorish sovereign citizen gurus for violating the ban.[253] In addition, sovereign citizens

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paradoxes of this movement is its rejection of state authority and support for the 'common man[]' . . . [and] the fact that individuals are turning to OPCA 'gurus' indicates that the law remains alien to many, for a myriad of reasons.").

[249] *See* Laird, *supra* note 1, at 55–56; Sammon, *supra* note 11, at 101.

[250] *See, e.g.*, Crowell, *supra* note 3, at 6–7 (discussing a North Carolina law making it a Class 1 felony "to knowingly present for filing a false lien or encumbrance against the property of a public officer or employee based on that person's performance of official duties," includes protections for spouses and children, allows register of deeds to reject such filings, and provides for an affected "public official to sue for treble damages under the unfair and deceptive trade practices law.").

[251] *See, e.g.*, Jonathan Holbrook, *Surviving Your Next Sovereign Citizen*, N.C. CRIM. L.: A UNC SCH. OF GOV'T BLOG (Apr. 11, 2018, 8:53 AM), https://nccriminallaw.sog.unc.edu/surviving-next-sovereign-citizen/ ("In the most extreme cases, if the defendant engages in repetitive frivolous filings, bogus lawsuits, and so on, the court may consider entering a 'gatekeeper order,' which is essentially a pre-filing injunction that bars the person from filing any new suits or papers without the court's prior approval.").

[252] *See* Meads, 2012 ABQB ¶ 600 (Can.); Netolitzky, *supra* note 9, at 1189.

[253] *See* Meads, 2012 ABQB ¶¶ 593, 600 (Can.); Phillips, *supra* note 3, at 1233.

typically proceed pro se yet are not unsupported during litigation.[254] Integrating the *Faretta* inquiry of a litigant's capacity to proceed pro se, the suggested approach of distinguishing pseudo self-represented litigants from true pro se litigants, and findings from CST evaluations with the guru-deterrent proposals would provide an indispensable tool to American courts in relieving the pressure placed on the system in and out of the courtroom.[255]

CONCLUSION

As discussed in this Comment, the anti-government tactics and arguments employed by Moorish sovereign citizens in the U.S. court system generate strain on the effectiveness and efficiency of the judicial system. Yet, American courts have not addressed the Moorish Sovereign Citizens Movement in a detailed, comprehensive manner.[256] Despite the fact the number of reported Moorish Sovereign Citizen Movement cases is relatively low in comparison to the other cases impeding the efficiency of American courts, this Comment helps close this gap in U.S. jurisprudence by furnishing a comprehensive guide of the movement and specific solutions to manage members of the movement in American courts. Combining foreign courts' responses to their parallel movements with existing resources available to U.S. courts yields the necessary innovative responses to fill this gap. Finally, this multidisciplinary approach will aid American courts achieve harmony in their courtrooms in spite of sovereign citizen disruptions and in providing more efficient services for individuals before the court truly in need of the benefits of the American legal system.

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254 Phillips, *supra* note 3, at 1231.

255 *See* Faretta v. California, 422 U.S. 806, 807 (1975); Paradis et al., *supra* note 2; Parker, *supra* note 12; Phillips, *supra* note 3, at 1231; *cf.* Phillips, *supra* note 3, at 1231 (discussing how distinguishing pseudo pro se litigants supported by ghostwriters from true pro se litigants in real need of court leniency would assuage the "courtroom inefficiencies" and protect those who are "unfairly disadvantaged").

256 *Cf.* Netolitzky, *supra* note 9, at 1189 ("When one compares US versus Commonwealth OPCA jurisprudence, the latter tends to provide more detailed and specific replies to pseudolegal arguments.").

* Mellie Ligon will graduate from Emory Law in Spring 2021 and move to Charlotte, North Carolina to begin her career. She would like to express a profound gratitude to Mom, Carter, her friends, her family, and her dog, Simba, for listening to her as she developed the ideas behind this work, as well as during the writing of the Comment. She would like to thank her advisor, Paul Koster, for his support and guidance throughout the drafting process. Mellie also thanks Judge Douglas E. Miller for providing her with the opportunity to intern for him, especially for encouraging her to attend many interesting hearings, which sparked her desire to write about this topic. Finally, Mellie would like to give her deepest thanks to Zach for his endless support and enthusiasm throughout this process and her entire law school career.