COURT OFFICERS WARRING AGAINST THE CONSTITUTION

However, when government persons such as clerks, judges, attorneys, etc. commit Tortfeasor actions, they are sued in their individual capacity.

►"An officer of the court may be held liable in damages to any person injured in consequence of a breach of any of the duties connected with his office...The liability for nonfeasance, misfeasance, and for malfeasance in office is in his 'Individual Capacity' , not his official capacity..." see 70 Am. Jur. 2nd Sec. 50, VII Civil Liability.◄

►"When a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States". U.S. Supreme Court, in *Scheuer v. Rhodes*, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974).◄

►"By law, a judge is a state officer. Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. **They constitute no justification**; and **all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers**".◄ *Elliot v. Piersol,* 1 Pet. 328, 340, 26 U.S. 328, 340 (1878).

Cooper v. Aaron, 358 U.S. 1 358 U.S. 1, 78 S. Ct. 1401, 3 L. Ed. 2d 5, 1958 U.S. LEXIS 657 Supreme Court of the United States. ► "A State acts by its legislative, its executive, or its judicial authorities. **It can act in no** *17 **other way.** The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, . . . denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so, or the constitutional prohibition has no meaning."◄

►**18 Article VI of the Constitution makes the Constitution the "supreme Law of the Land**." In 1803, Chief Justice Marshall, speaking for a unanimous Court, referring to the Constitution as "the fundamental and paramount law of the nation," declared in the notable case of *Marbury v. Madison*, 1 Cranch 137, 177, that "It is emphatically the province and duty of the judicial department to say what the law is." This decision declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system. It follows that the interpretation of the Fourteenth Amendment enunciated by this Court in the Brown case is the supreme law of the land, and **Art. VI of the Constitution makes it of binding effect on the States** "any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." **Every state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Art. VI, cl. 3, "to support this Constitution**." Chief Justice Taney, speaking for a unanimous Court in 1859, said that this requirement reflected the framers' "anxiety to preserve it [the Constitution] in full force, in all its powers, and to guard against resistance to or evasion of its authority, on the part of a State . . . ." *Ableman v. Booth,* 21 How. 506, 524.◄

▸**No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.** Chief Justice Marshall spoke for a unanimous Court in saying that: "If the legislatures of the several states may, at will, annul the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the constitution itself becomes a solemn mockery . . . ." *United States v. Peters,* 5 Cranch 115, 136. A Governor who asserts a *19 power to nullify a federal court order is similarly restrained. If he had such power, said Chief Justice Hughes, in 1932, also for a unanimous Court, "it is manifest that the fiat of a state Governor, and not the Constitution of the United States, would be the supreme law of the land; that the restrictions of the Federal Constitution upon the exercise of state power would be but impotent phrases . . . ." *Sterling v. Constantin*, 287 U.S. 378, 397-398.◂ ▸ ◂

▸"**No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it**." The constitutional theory is that **we the people are the sovereigns, the state and federal officials only our agents.**" *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401 (1958).

Now we must examine Supreme Court decisions, to get a definitive answer.◂

▸"**When lawsuits are brought against federal officials, they must be brought against them in their "individual" capacity not their official capacity. When federal officials perpetrate constitutional torts, they do so ultra vires (beyond the powers) and lose the shield of immunity**." Williamson v. U.S. Department of Agriculture, 815 F.2d. 369, ACLU Foundation v. Barr, 952 F.2d. 457, 293 U.S. App. DC 101, (CA DC 1991)."◂