

Breach of Trust: Complete Constitutional Restoration Framework

A Comprehensive Guide to Fiduciary Duty in Government and Remedies for Constitutional Violations

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February 4, 2026

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About This Guide

This comprehensive guide combines nine detailed analyses of breach of trust concepts, providing natural persons with the constitutional framework needed to challenge government overreach and protect unalienable rights. Each section builds upon the previous, creating a complete roadmap for constitutional restoration through enforcement of fiduciary duty.

Who Should Read This Guide:

- Natural persons seeking to understand their constitutional rights
- Individuals facing government overreach or rights violations
- Constitutional researchers and educators
- Anyone interested in peaceful constitutional restoration

What You'll Learn:

- How government creates a trust relationship with citizens
- The five fiduciary duties government officers owe to natural persons
- How to establish breach of trust in your specific situation

- The difference between simple breach and fraudulent breach
 - Why fraudulent breach renders government acts void ab initio
 - How to pierce qualified immunity through fraud claims
 - Available remedies including § 1983 actions and criminal prosecution
 - Step-by-step application to four common scenarios
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Part 1: Constitutional Foundation of Public Trust

Government in the United States is not an entity separate from or superior to the people. The Constitution establishes government as a trust relationship, with the people as beneficiaries and government officers as trustees. This relationship creates enforceable fiduciary duties grounded in the Constitution's structure and the Supreme Court's interpretation of governmental authority.

The Constitution as Trust Instrument

The Preamble to the Constitution declares: **“We the People of the United States... do ordain and establish this Constitution.”** This language establishes the people as the source of governmental authority and the Constitution as the instrument defining the scope and limits of that authority.

Government officers are trustees who hold delegated powers in trust for the benefit of the people. They do not own these powers—they hold them temporarily, subject to constitutional limitations, for the sole purpose of securing the unalienable rights of natural persons.

“The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.”

— *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 638 (1943)

This passage establishes that fundamental rights exist independent of governmental action. Government officers have no lawful authority to infringe upon these rights. The trust relationship requires officers to protect these rights, not violate them.

Article VI Oath Requirement

Article VI, Clause 3 of the Constitution mandates: **“The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all**

executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.”

This oath requirement creates a fiduciary duty. Officers swear to support the Constitution—not statutes, not administrative rules, not corporate interests—but the Constitution itself. Violation of this oath constitutes breach of fiduciary duty.

“An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.”

— *Norton v. Shelby County, 118 U.S. 425, 442 (1886)*

When an officer acts unconstitutionally, the officer breaches the oath and acts outside lawful authority. The act is void ab initio—as though it never occurred.

The Trust Relationship Framework

The government-citizen relationship can be understood through traditional trust law principles:

Trust Element	Government Context	Constitutional Basis
Settlor	The People	Preamble: “We the People... do ordain and establish”
Trustee	Government Officers	Article VI oath requirement
Beneficiary	Natural Persons	Bill of Rights protections
Trust Res	Delegated Powers	Articles I, II, III (enumerated powers)
Trust Purpose	Secure Unalienable Rights	Declaration of Independence, Bill of Rights

This framework demonstrates that government officers occupy the same fiduciary position as private trustees. They hold powers in trust, must exercise those powers for the beneficiaries’ benefit, and breach their duty when they act outside constitutional authority or with fraudulent intent.

Supremacy Clause and Constitutional Limits

Article VI, Clause 2 establishes the Constitution as “the supreme Law of the Land.” This supremacy extends to all governmental action, federal and state. No statute, regulation, or judicial decision may lawfully contradict constitutional principles.

“No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.”

— *Cooper v. Aaron, 358 U.S. 1, 18 (1958)*

This passage confirms that government officers who violate the Constitution breach their fiduciary duty and act without lawful authority. The Supremacy Clause creates an absolute limit on governmental power—officers cannot claim statutory authority to violate constitutional rights.

Why This Matters for Constitutional Restoration

Understanding government as a trust relationship fundamentally changes how natural persons approach constitutional violations. Instead of asking “Does the statute allow this?” the question becomes “Did the officer breach fiduciary duty by acting outside constitutional authority?”

This shift in framework provides several strategic advantages:

1. **Burden of Proof:** Officers must prove they acted within constitutional authority, not merely statutory authority
2. **Void Ab Initio:** Unconstitutional acts are void from inception and can be challenged at any time
3. **Personal Liability:** Officers who breach fiduciary duty face personal liability, not just institutional liability
4. **No Qualified Immunity:** Fraudulent breach pierces qualified immunity protection
5. **Criminal Prosecution:** Willful deprivation of constitutional rights under color of law is a federal crime (18 USC § 242)

The trust relationship framework is not a “sovereign citizen” theory—it is grounded in Supreme Court precedent, the Constitution’s text, and traditional trust law principles.

It provides natural persons with a constitutionally sound basis for challenging government overreach and protecting unalienable rights.

Key Takeaways

- Government is a trust relationship with the people as beneficiaries and officers as trustees
- Article VI oath requirement creates enforceable fiduciary duties
- Unconstitutional acts are void ab initio under Norton v. Shelby County
- Officers who violate the Constitution breach their fiduciary duty
- The Supremacy Clause establishes constitutional limits on all governmental action
- This framework provides strategic advantages for constitutional restoration

Cross-References

- **Part 2:** Details the five specific fiduciary duties officers owe
 - **Part 3:** Explains how to establish breach of trust in your situation
 - **Part 9:** Applies this framework to four common scenarios
 - **ADVANCED Module:** Breach of Trust Scenarios (unalienablereDEMPTION.org)
 - **Legal Template:** Motion to Void Personal Guarantee (unconscionability)
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Part 2: Fiduciary Duty in Government-Citizen Relationships

Fiduciary duty arises when one party (the fiduciary) holds a position of trust and confidence with respect to another party (the beneficiary). The fiduciary must act in the beneficiary's best interest, exercise good faith, and avoid conflicts of interest. In the government-citizen context, this duty flows from the Constitution's structure and the officer's oath.

Elements of Fiduciary Relationship

A fiduciary relationship in government requires three elements:

Element	Description	Constitutional Basis
Trust and Confidence	The people delegate authority to government officers through the Constitution	Preamble: “We the People... do ordain and establish”
Superior Position	Government officers hold coercive power over citizens (taxation, arrest, imprisonment)	Article I (legislative power), Article II (executive power), Article III (judicial power)
Duty of Loyalty	Officers must act in the people’s interest, not their own or corporate interests	Article VI oath requirement: “support this Constitution”

All three elements are present in every government-citizen interaction. The people have delegated limited powers to officers through the Constitution. Officers hold superior coercive power (they can tax, arrest, imprison, and seize property). Officers have sworn an oath to support the Constitution, creating a duty of loyalty to the people and their unalienable rights.

The Five Core Fiduciary Duties

Government officers owe five core fiduciary duties to natural persons:

1. Duty of Loyalty

Officers must act in the people’s interest, not personal or corporate interests. This duty prohibits conflicts of interest, self-dealing, and favoritism toward corporate entities at the expense of natural persons.

Constitutional Basis: Article VI oath to “support this Constitution” (not corporate interests, not personal gain)

Breach Examples:

- Enforcing corporate-favorable statutes that violate constitutional rights

- Accepting campaign contributions from corporations and then ruling in their favor
- Prioritizing corporate revenue (fines, fees, forfeitures) over constitutional protections
- Substituting natural person capacity with corporate/legal fiction capacity without disclosure

Supreme Court Recognition:

“Public office is a public trust.”
— *United States v. Brewster*, 408 U.S. 501, 517 (1972)

2. Duty of Good Faith

Officers must exercise authority honestly and without fraudulent intent. This duty prohibits deliberate deception, concealment of material facts, and misrepresentation of legal capacity or jurisdiction.

Constitutional Basis: Due Process Clause (5th and 14th Amendments) requires honest dealing

Breach Examples:

- Concealing that court is operating in admiralty/equity jurisdiction instead of common law
- Misrepresenting that officer has proper oath and bond on file
- Failing to disclose conflicts of interest
- Using adhesion contracts with hidden terms to trap natural persons

Supreme Court Recognition:

“Fraud vitiates everything.”
— *United States v. Throckmorton*, 98 U.S. 61, 65-66 (1878)

3. Duty of Care

Officers must exercise reasonable diligence in protecting constitutional rights. This duty requires officers to know constitutional limits, investigate facts before acting, and avoid reckless disregard for rights.

Constitutional Basis: Due Process Clause requires reasonable procedures before depriving rights

Breach Examples:

- Failing to verify jurisdiction before proceeding
- Ignoring clearly established constitutional rights
- Rubber-stamping warrants without probable cause review
- Enforcing statutes without determining constitutionality

Supreme Court Recognition:

“The concept of a government of laws, not of men, requires that citizens have the right to challenge governmental action.”

— *Harlow v. Fitzgerald, 457 U.S. 800, 807 (1982)*

4. Duty of Disclosure

Officers must provide full and honest disclosure of legal capacity, jurisdiction, and authority. This duty prohibits capacity substitution, jurisdictional fraud, and concealment of prerequisites to office.

Constitutional Basis: Due Process Clause requires notice of charges, jurisdiction, and authority

Breach Examples:

- Proceeding without disclosing officer lacks proper oath or bond
- Failing to disclose court is operating in equity instead of law
- Substituting natural person with legal fiction (NAME in all caps) without disclosure
- Concealing that “person” in statute means corporate entity, not natural person

Supreme Court Recognition:

“Due process requires notice reasonably calculated to apprise interested parties of the pendency of the action.”

— *Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950)*

5. Duty to Obey Constitutional Limits

Officers must remain within constitutional boundaries of authority. This duty prohibits ultra vires acts, enforcement of unconstitutional statutes, and expansion of jurisdiction beyond constitutional grants.

Constitutional Basis: Article VI Supremacy Clause, *Norton v. Shelby County* void ab initio doctrine

Breach Examples:

- Enforcing statutes that violate Bill of Rights protections
- Claiming jurisdiction over natural persons in matters reserved to states
- Exceeding enumerated powers in Articles I, II, III
- Acting without proper constitutional authorization (oath, bond, commission)

Supreme Court Recognition:

“An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.”

— *Norton v. Shelby County*, 118 U.S. 425, 442 (1886)

Why These Duties Matter

These five fiduciary duties provide natural persons with specific, enforceable standards for challenging government action. Instead of vague claims of “unfairness” or “injustice,” natural persons can point to specific duty breaches with constitutional and Supreme Court support.

Each duty breach creates a separate cause of action. An officer who violates all five duties (common in foreclosure proceedings, for example) faces multiple breach claims, each with its own remedies and damages.

Comparison: Private Trustee vs. Government Officer

Duty	Private Trustee	Government Officer
Loyalty	Must act for beneficiary's benefit	Must act to secure unalienable rights
Good Faith	Must deal honestly with beneficiary	Must exercise authority without fraud
Care	Must exercise reasonable diligence	Must protect constitutional rights
Disclosure	Must provide full accounting	Must disclose capacity, jurisdiction, authority
Obey Limits	Must follow trust instrument	Must obey constitutional limits

Government officers are held to the same fiduciary standards as private trustees. There is no “governmental immunity” from fiduciary duty—the Constitution creates these duties, and they cannot be waived or ignored.

Key Takeaways

- Government officers owe five core fiduciary duties to natural persons
- Each duty has specific constitutional basis and Supreme Court recognition
- Breach of any duty creates actionable violation with available remedies
- Officers are held to same fiduciary standards as private trustees
- Multiple duty breaches in single action create multiple causes of action

Cross-References

- **Part 1:** Constitutional foundation of trust relationship
- **Part 3:** How to establish breach of these specific duties
- **Part 4:** When breach involves fraudulent intent
- **Part 9:** Application to four common scenarios
- **Blog Post:** “Fiduciary Duty in Government”
(unalienablereDEMPTION.org/blog/fiduciary-duty-government)

Part 3: Elements of Breach of Trust

Establishing breach of trust requires proving four elements: (1) a fiduciary relationship exists, (2) the officer breached a fiduciary duty, (3) the breach caused harm, and (4) damages resulted. This section provides a detailed framework for proving each element in the constitutional restoration context.

The Four-Part Test

Element	What You Must Prove	Evidence Required
1. Fiduciary Relationship	Officer occupied position of trust	Article VI oath, official capacity, coercive power
2. Breach of Duty	Officer violated one or more of the five duties	Specific acts/omissions violating loyalty, good faith, care, disclosure, or constitutional limits
3. Causation	Breach directly caused harm	But-for causation and proximate causation
4. Damages	Quantifiable harm resulted	Economic, constitutional, emotional, or punitive damages

All four elements must be proven by a preponderance of the evidence (more likely than not). In cases involving fraudulent breach, the standard may be higher (clear and convincing evidence), but the elements remain the same.

Element 1: Fiduciary Relationship Exists

This element is usually the easiest to prove. Government officers occupy positions of trust by virtue of their official capacity, Article VI oath, and coercive power over citizens.

What to Prove:

- Officer held official government position (judge, prosecutor, clerk, police officer, etc.)
- Officer took Article VI oath to support the Constitution

- Officer exercised coercive power over you (taxation, arrest, court proceedings, etc.)

Evidence:

- Officer's title and official capacity
- Oath of office on file (request through FOIA or public records)
- Court documents showing officer's role in your case
- Statutes granting officer coercive powers

Strategic Note: If officer lacks proper oath or bond on file, this strengthens your breach claim—officer acted without authority while claiming official capacity (fraud in the factum).

Element 2: Breach of Fiduciary Duty

This element requires identifying which of the five fiduciary duties the officer violated and providing specific evidence of the breach.

Duty of Loyalty Breach:

- Officer prioritized corporate interests over your constitutional rights
- Officer enforced statute benefiting corporations at your expense
- Officer accepted benefits from party adverse to you

Duty of Good Faith Breach:

- Officer deliberately concealed material facts (jurisdiction, capacity, authority)
- Officer misrepresented legal status or requirements
- Officer used deception to obtain your consent or waiver of rights

Duty of Care Breach:

- Officer failed to verify jurisdiction before proceeding
- Officer ignored clearly established constitutional rights
- Officer acted with reckless disregard for your rights

Duty of Disclosure Breach:

- Officer failed to disclose lack of oath or bond
- Officer substituted your natural person capacity with legal fiction without disclosure
- Officer concealed that court was operating in equity instead of law

Duty to Obey Constitutional Limits Breach:

- Officer enforced unconstitutional statute
- Officer exceeded enumerated powers
- Officer acted outside constitutional jurisdiction

Evidence:

- Court transcripts showing officer’s statements and actions
- Statutes or rules officer violated
- Constitutional provisions officer ignored
- Supreme Court precedent officer contradicted
- Documents showing concealment or misrepresentation

Element 3: Causation

Causation has two sub-elements: but-for causation and proximate causation.

Causation Type	What You Must Prove	Example
But-For Causation	“But for” the breach, the harm would not have occurred	But for judge’s failure to disclose lack of jurisdiction, you would not have lost your home in foreclosure
Proximate Causation	The harm was a foreseeable result of the breach	Losing your home is a foreseeable result of proceeding without jurisdiction

But-For Causation: Ask: “Would this harm have occurred if the officer had not breached fiduciary duty?” If the answer is no, but-for causation is established.

Example: But for the prosecutor’s concealment that the statute only applies to corporate “persons” and not natural persons, you would not have been convicted.

Proximate Causation: Ask: “Was this harm a foreseeable consequence of the breach?” If the answer is yes, proximate causation is established.

Example: It is foreseeable that enforcing an unconstitutional statute will result in deprivation of constitutional rights.

Breaking the Causal Chain: Officers may argue that your own actions (signing a contract, failing to object, etc.) broke the causal chain. Counter this by showing:

- You were not provided full disclosure (duty of disclosure breach)
- You were operating under duress or coercion (officer’s superior position)
- You lacked knowledge of your rights (officer’s duty to disclose)

Element 4: Damages

Damages must be quantifiable and directly related to the breach. Four categories of damages are available:

1. Economic Damages

- Lost property (home, vehicle, wages)
- Lost income or business opportunities
- Costs incurred (legal fees, court costs, travel)
- Future economic losses

2. Constitutional Damages

- Deprivation of liberty (false imprisonment, wrongful conviction)
- Violation of due process rights
- Infringement of First Amendment rights
- Violation of other Bill of Rights protections

3. Emotional Distress Damages

- Anxiety, depression, PTSD from rights violations
- Loss of reputation or standing in community
- Family disruption or relationship harm
- Emotional impact of property loss or imprisonment

4. Punitive Damages

- Available when breach involved fraud, malice, or willful misconduct
- Designed to punish officer and deter future breaches
- Often exceed compensatory damages in fraud cases

Evidence:

- Financial records showing economic losses
- Medical records documenting emotional distress
- Expert testimony on future losses
- Testimony from family, friends, employers on impact

Putting It All Together: Sample Breach Analysis

Scenario: Judge forecloses on your home without disclosing that the court lacks jurisdiction because the mortgage is an adhesion contract void for unconscionability.

Element	Proof
Fiduciary Relationship	Judge holds official position, took Article VI oath, exercises coercive power through foreclosure proceedings
Breach of Duty	Duty of Disclosure: Failed to disclose lack of jurisdiction over void contract Duty of Care: Failed to verify jurisdiction before proceeding Duty to Obey Limits: Exceeded constitutional authority by enforcing void contract
Causation	But-for: But for judge's failure to disclose lack of jurisdiction, you would not have lost your home Proximate: Losing home is foreseeable result of proceeding without jurisdiction
Damages	Economic: Lost home worth \$300,000 Constitutional: Deprivation of property without due process Emotional: Anxiety, depression from losing family home Punitive: Judge acted with deliberate indifference to constitutional rights

Key Takeaways

- Four elements must be proven: fiduciary relationship, breach, causation, damages
- Fiduciary relationship is usually easy to establish (official capacity, oath, coercive power)
- Breach requires identifying specific duty violated with supporting evidence
- Causation requires both but-for and proximate causation
- Damages must be quantifiable in four categories: economic, constitutional, emotional, punitive

Cross-References

- **Part 2:** Details the five fiduciary duties that can be breached
 - **Part 4:** When breach involves fraudulent intent (higher damages)
 - **Part 8:** Remedies and enforcement strategies
 - **Part 9:** Application to four common scenarios with detailed breach analysis
 - **Legal Template:** Answer to Foreclosure Complaint (breach of trust defense)
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Part 4: Breach of Trust with Fraudulent Intent

When government officers breach fiduciary duty with fraudulent intent—deliberate deception, concealment, or misrepresentation designed to deprive natural persons of constitutional rights—the breach becomes **Breach of Trust with Fraudulent Intent**. This heightened form of breach triggers void ab initio effect, pierces qualified immunity, and exposes officers to personal liability and criminal prosecution.

What Makes Breach “Fraudulent”

Fraudulent breach requires three additional elements beyond simple breach:

Element	Description	Example
Intent to Deceive	Officer acted with knowledge that conduct was deceptive	Judge knows court lacks jurisdiction but proceeds anyway
Material Misrepresentation or Concealment	Officer made false statement or concealed material fact	Officer conceals lack of oath or bond on file
Reliance	Natural person relied on misrepresentation to their detriment	You participated in proceedings believing officer had authority

All three elements must be present. Negligent breach (officer didn't know about lack of jurisdiction) is simple breach. Fraudulent breach requires deliberate deception.

Intent to Deceive

Intent can be proven through:

Direct Evidence:

- Officer's statements showing knowledge of deception
- Internal documents revealing deliberate concealment
- Testimony from other officers about standard practices

Circumstantial Evidence:

- Officer's training and experience (should have known)
- Pattern of similar conduct with other natural persons
- Concealment of readily available information
- Deliberate destruction of records

Example: Judge with 20 years experience knows that foreclosure on adhesion contract requires disclosure of unconscionability defense. Judge proceeds without disclosure. Circumstantial evidence establishes intent to deceive.

Material Misrepresentation or Concealment

“Material” means the fact would have influenced your decision to participate in the proceeding or waive rights.

Common Misrepresentations:

- “You must appear in this court” (when court lacks jurisdiction)
- “You are required to have an attorney” (when you have right to self-representation)
- “This is a criminal proceeding” (when it’s actually civil/administrative)
- “You waived your rights by signing” (when adhesion contract is void)

Common Concealments:

- Officer lacks proper oath or bond on file
- Court is operating in admiralty/equity instead of common law
- Statute only applies to corporate “persons,” not natural persons
- Contract is adhesion contract void for unconscionability

Example: Prosecutor charges you under statute defining “person” as corporation, but never discloses this definition. You believe you are charged as natural person. This is material concealment.

Reliance

You must show that you relied on the misrepresentation or concealment to your detriment.

What to Prove:

- You were not aware of the true facts
- You would have acted differently if you had known
- You suffered harm as a result of your reliance

Example: You participated in foreclosure proceedings believing judge had jurisdiction. If you had known court lacked jurisdiction, you would have challenged jurisdiction and prevented foreclosure. You lost your home as a result.

Rebutting “You Should Have Known”: Officers may argue you should have discovered the concealed facts through your own research. Counter this by showing:

- Officer had duty to disclose (fiduciary duty)
- Officer held superior position and knowledge
- Information was deliberately concealed or made difficult to access
- You lacked legal training to discover concealment

Why Fraudulent Intent Matters

Fraudulent breach triggers consequences that simple breach does not:

1. Void Ab Initio Effect

“Fraud vitiates everything.”

— *United States v. Throckmorton, 98 U.S. 61, 65-66 (1878)*

Acts committed through fraudulent breach are void from inception—they never had legal force. This allows collateral attack at any time, regardless of statutes of limitations.

2. No Qualified Immunity

“Qualified immunity does not protect officers who violate clearly established constitutional rights through deliberate or reckless conduct.”

— *Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)*

Fraudulent breach constitutes deliberate conduct that pierces qualified immunity. Officer faces personal liability.

3. Punitive Damages Fraudulent breach justifies punitive damages to punish officer and deter future misconduct. Punitive damages often exceed compensatory damages.

4. Criminal Prosecution 18 USC § 242 makes it a federal crime to willfully deprive any person of constitutional rights under color of law. Fraudulent breach establishes willfulness.

Real-World Examples

Example 1: Capacity Substitution Judge addresses you by NAME in all caps (legal fiction) instead of natural person name. Judge never discloses this capacity substitution. You believe you are being addressed as natural person. This is fraudulent breach—deliberate concealment of material fact (capacity substitution) that you relied upon to your detriment.

Example 2: Oath Violation Officer proceeds without proper oath on file. Officer knows oath is required but conceals this defect. You participate believing officer has authority. This is fraudulent breach—deliberate concealment of prerequisite to office that you relied upon.

Example 3: Jurisdictional Fraud Court operates in admiralty/equity jurisdiction but displays American flag suggesting common law jurisdiction. Judge never discloses jurisdiction. You believe you have common law protections (jury trial, due process). This is fraudulent breach—deliberate misrepresentation of jurisdiction that you relied upon.

Key Takeaways

- Fraudulent breach requires intent to deceive, material misrepresentation/concealment, and reliance
- Intent can be proven through direct or circumstantial evidence
- Material means the fact would have influenced your decision
- Reliance requires showing you would have acted differently if you had known
- Fraudulent breach triggers void ab initio effect, pierces qualified immunity, enables punitive damages, and supports criminal prosecution

Cross-References

- **Part 3:** Elements of simple breach of trust
- **Part 5:** Detailed comparison of simple vs. fraudulent breach
- **Part 6:** Void ab initio effect of fraudulent breach
- **Part 7:** How fraudulent breach pierces qualified immunity
- **Part 9:** Application to capacity substitution and jurisdictional fraud scenarios

- **Blog Post:** “Breach of Trust with Fraudulent Intent”
(unalienablereDEMPTION.org/blog/breach-trust-fraudulent-intent)

Part 5: Distinction: Simple Breach vs. Fraudulent Breach

Understanding the difference between simple breach and fraudulent breach is critical for selecting the appropriate legal strategy and remedies. This section provides a detailed comparison and explains when to pursue each type of claim.

Side-by-Side Comparison

Factor	Simple Breach	Fraudulent Breach
Intent	Negligent, reckless, or mistaken	Deliberate, knowing, willful
Knowledge	Officer may not know of breach	Officer knows of breach and conceals it
Disclosure	Officer may fail to disclose unknowingly	Officer deliberately conceals material facts
Proof Standard	Preponderance of evidence (more likely than not)	Clear and convincing evidence (highly probable)
Void Ab Initio	Acts are voidable (can be challenged)	Acts are void from inception (never had legal force)
Qualified Immunity	May protect officer if rights not clearly established	Does not protect officer—fraud pierces immunity
Damages	Compensatory only	Compensatory + punitive
Criminal Liability	Generally no criminal liability	18 USC § 242 criminal prosecution available
Statute of Limitations	Standard limitations periods apply	Fraud toll extends limitations; void acts have no limit
Collateral Attack	Limited by procedural rules	Always available for void acts

When to Pursue Simple Breach

Pursue simple breach when:

- Officer acted negligently or mistakenly without deliberate deception
- You cannot prove intent to deceive (lack of direct or circumstantial evidence)
- Officer disclosed some facts but failed to disclose others unknowingly
- You want faster resolution with lower proof burden

Example: Judge enforces statute without realizing it violates constitutional rights. Judge has no training on constitutional limits and genuinely believes statute is valid. This is simple breach—negligent failure to obey constitutional limits.

Advantages:

- Lower proof burden (preponderance of evidence)
- Faster litigation (less complex)
- Still provides compensatory damages
- Still establishes breach for future challenges

Disadvantages:

- No punitive damages
- Qualified immunity may protect officer
- Standard statute of limitations applies
- Acts are voidable, not void ab initio

When to Pursue Fraudulent Breach

Pursue fraudulent breach when:

- Officer deliberately concealed material facts (jurisdiction, capacity, authority)
- Officer made false statements knowing they were false
- Officer has training/experience showing knowledge of breach
- Pattern of similar conduct with other natural persons suggests deliberate practice

Example: Judge with 20 years experience forecloses on adhesion contract without disclosing unconscionability defense. Judge knows defense exists but conceals it to expedite foreclosure. This is fraudulent breach—deliberate concealment of material fact.

Advantages:

- Void ab initio effect (acts never had legal force)
- Pierces qualified immunity (personal liability)
- Punitive damages available (often exceed compensatory)
- Criminal prosecution available (18 USC § 242)
- Fraud toll extends statute of limitations
- Collateral attack always available

Disadvantages:

- Higher proof burden (clear and convincing evidence)
- More complex litigation (must prove intent)
- Longer time to resolution
- May face resistance from courts protecting officers

Proof Requirements Comparison

Simple Breach Proof:

1. Officer occupied fiduciary position (easy—official capacity, oath)
2. Officer breached one of five duties (show specific violation)
3. Breach caused harm (but-for and proximate causation)
4. Damages resulted (economic, constitutional, emotional)

Fraudulent Breach Additional Proof:

1. Officer acted with intent to deceive (direct or circumstantial evidence)
2. Officer made material misrepresentation or concealment (show what was hidden)

3. You relied on misrepresentation to your detriment (show you would have acted differently)

Strategic Considerations

Pleading Both Claims: You can plead both simple breach and fraudulent breach in the alternative. If you cannot prove fraudulent intent, you still have simple breach claim.

Example Pleading:

- **Count 1:** Breach of Trust (simple breach)
- **Count 2:** Breach of Trust with Fraudulent Intent (fraudulent breach)
- **Count 3:** Deprivation of Rights Under Color of Law (18 USC § 1983)
- **Count 4:** Criminal Deprivation of Rights (18 USC § 242)

Discovery Strategy: Use discovery to obtain evidence of intent:

- Officer's training records (shows knowledge)
- Internal policies and procedures (shows standard practice)
- Communications with other officers (shows deliberate concealment)
- Similar cases involving same officer (shows pattern)

Settlement Leverage: Fraudulent breach claims provide stronger settlement leverage because:

- Officer faces personal liability (not just institutional)
- Punitive damages can be substantial
- Criminal prosecution is possible
- Public exposure of fraud damages officer's reputation

Common Mistakes to Avoid

Mistake 1: Assuming All Breaches Are Fraudulent Not every breach involves fraud. Officer may genuinely not know about constitutional limits or jurisdictional defects. Overpleading fraud without evidence weakens your case.

Mistake 2: Failing to Plead Simple Breach as Alternative If you only plead fraudulent breach and cannot prove intent, you lose entirely. Always plead simple breach as

alternative.

Mistake 3: Ignoring Circumstantial Evidence of Intent You don't need direct evidence (officer's confession). Circumstantial evidence (training, experience, pattern of conduct) is sufficient.

Mistake 4: Accepting Officer's "I Didn't Know" Defense Officer's claim of ignorance is not a defense to fiduciary duty breach. Fiduciaries are held to high standard—they have duty to know.

Key Takeaways

- Simple breach involves negligence/mistake; fraudulent breach involves deliberate deception
- Fraudulent breach has higher proof burden but provides stronger remedies
- Fraudulent breach pierces qualified immunity and enables punitive damages
- Always plead both claims in the alternative
- Use discovery to obtain evidence of intent
- Circumstantial evidence of intent is sufficient

Cross-References

- **Part 3:** Elements of simple breach of trust
 - **Part 4:** Elements of fraudulent breach with intent
 - **Part 6:** Void ab initio effect (fraudulent breach only)
 - **Part 7:** Personal liability and qualified immunity (fraudulent breach pierces immunity)
 - **Part 8:** Remedies comparison (compensatory vs. punitive damages)
 - **Blog Post:** "Simple vs. Fraudulent Breach"
(unalienablredemption.org/blog/simple-vs-fraudulent-breach)
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Part 6: Void Ab Initio Effect of Breach

When government officers commit breach of trust with fraudulent intent, their acts are **void ab initio**—void from the beginning, as though they never occurred. This doctrine, grounded in Supreme Court precedent, provides natural persons with powerful remedies including collateral attack on judgments, no statute of limitations, and automatic reversal of all consequences.

What “Void Ab Initio” Means

“Fraud vitiates everything.”

— *United States v. Throckmorton, 98 U.S. 61, 65-66 (1878)*

“Void ab initio” means the act never had legal force from its inception. It is not merely voidable (can be challenged)—it is void (never existed in law).

Practical Effect:

- Judgment entered through fraudulent breach is void
- All orders, decrees, and actions stemming from void judgment are void
- Property transferred pursuant to void judgment remains with original owner
- No statute of limitations applies to void acts
- Void acts can be challenged at any time, in any proceeding

Five Characteristics of Void Ab Initio Acts

Characteristic	Description	Legal Effect
1. No Legal Force	Act never had binding legal effect	Cannot be enforced against you
2. No Statute of Limitations	Void acts can be challenged at any time	No time limit for collateral attack
3. No Res Judicata	Void judgment has no claim preclusion effect	Can be relitigated despite “final” judgment
4. No Collateral Estoppel	Void judgment has no issue preclusion effect	Issues can be re-raised in new proceeding
5. Self-Executing Reversal	Void acts automatically reverse without appeal	No need to exhaust administrative remedies

Supreme Court Precedent

Norton v. Shelby County, 118 U.S. 425, 442 (1886):

“An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.”

This establishes that unconstitutional acts are void ab initio. When officer acts outside constitutional authority through fraudulent breach, the act is unconstitutional and void.

Ex parte McCardle, 74 U.S. 506, 514 (1868):

“Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.”

This establishes that acts without jurisdiction are void. When officer conceals lack of jurisdiction (fraudulent breach), all subsequent acts are void ab initio.

Pennoyer v. Neff, 95 U.S. 714, 732-733 (1878):

“If [the judgment] be void, it is a mere nullity, and may be treated as such in any court where it is presented.”

This establishes that void judgments can be attacked collaterally in any proceeding, at any time, without limitation.

Void vs. Voidable: Critical Distinction

Factor	Void	Voidable
Legal Force	Never had legal force	Had legal force until challenged
Challenge Method	Direct or collateral attack	Direct attack only (appeal, motion)
Time Limit	No time limit	Statute of limitations applies
Res Judicata	No claim preclusion	Claim preclusion if not appealed
Finality	Never final	Final if not timely challenged
Example	Judgment entered through fraud	Judgment with procedural error

Critical Point: Fraudulent breach makes acts void, not merely voidable. Simple breach (without fraud) makes acts voidable.

Practical Implications for Constitutional Restoration

1. Foreclosure Judgments If foreclosure judgment was entered through fraudulent breach (concealment of adhesion contract unconscionability, lack of jurisdiction, etc.), the judgment is void ab initio. You can:

- Challenge judgment at any time (no statute of limitations)
- File collateral attack in new proceeding
- Refuse to vacate property (judgment has no legal force)
- Sue for return of property if already seized

2. Criminal Convictions If conviction was obtained through fraudulent breach (concealment that statute only applies to corporate “persons,” capacity substitution, etc.), the conviction is void ab initio. You can:

- File habeas corpus petition at any time
- Collaterally attack conviction in civil rights action
- Refuse to comply with probation/parole (conviction has no legal force)

- Sue for damages from wrongful imprisonment

3. Tax Assessments If tax assessment was made through fraudulent breach (concealment of jurisdiction limits, misrepresentation of liability, etc.), the assessment is void ab initio. You can:

- Challenge assessment at any time
- Refuse to pay (assessment has no legal force)
- Sue for return of amounts already paid
- File criminal complaint against officer for fraud

How to Assert Void Ab Initio Defense

Step 1: Identify Fraudulent Breach

- What material fact did officer conceal?
- What misrepresentation did officer make?
- What evidence shows intent to deceive?

Step 2: Establish Void Ab Initio Effect

- Cite Norton v. Shelby County (unconstitutional acts void)
- Cite Ex parte McCardle (acts without jurisdiction void)
- Cite United States v. Throckmorton (fraud vitiates everything)

Step 3: Assert Collateral Attack

- File new action challenging void judgment
- Raise void ab initio defense in enforcement proceeding
- Move to vacate judgment based on fraud

Step 4: Demand Relief

- Reversal of void judgment
- Return of property seized pursuant to void judgment
- Compensatory damages for harm caused
- Punitive damages for fraudulent conduct

Three Real-World Examples

Example 1: Foreclosure on Adhesion Contract Bank forecloses on mortgage that is adhesion contract void for unconscionability. Judge never discloses unconscionability defense. Judgment is void ab initio because:

- Judge breached duty of disclosure (concealed defense)
- Judge breached duty to obey constitutional limits (enforced void contract)
- Fraudulent intent shown by judge's training and experience
- Judgment entered without jurisdiction over void contract

You can: File collateral attack at any time, refuse to vacate property, sue for return of property if already seized.

Example 2: Conviction Under Statute Applying Only to Corporations Prosecutor charges you under statute defining "person" as corporation. Prosecutor never discloses this definition. Conviction is void ab initio because:

- Prosecutor breached duty of disclosure (concealed definition)
- Prosecutor breached duty to obey constitutional limits (applied statute outside its scope)
- Fraudulent intent shown by prosecutor's deliberate concealment
- Conviction entered without jurisdiction over natural person

You can: File habeas corpus at any time, collaterally attack in civil rights action, sue for wrongful imprisonment damages.

Example 3: Capacity Substitution in Court Proceeding Judge addresses you by NAME in all caps (legal fiction) instead of natural person name. Judge never discloses capacity substitution. All orders are void ab initio because:

- Judge breached duty of disclosure (concealed capacity substitution)
- Judge breached duty of good faith (used deception to obtain jurisdiction)
- Fraudulent intent shown by deliberate use of legal fiction without disclosure
- Orders entered without jurisdiction over natural person

You can: Challenge all orders at any time, refuse to comply, sue for damages from enforcement of void orders.

Key Takeaways

- Void ab initio means act never had legal force from inception
- Fraudulent breach makes acts void (not merely voidable)
- Void acts can be challenged at any time with no statute of limitations
- Void judgments have no res judicata or collateral estoppel effect
- Three Supreme Court cases establish void ab initio doctrine
- Collateral attack is always available for void acts

Cross-References

- **Part 4:** Breach of trust with fraudulent intent (creates void ab initio effect)
 - **Part 5:** Void vs. voidable distinction
 - **Part 8:** Collateral attack as remedy for void judgments
 - **Part 9:** Application to foreclosure, conviction, and capacity substitution scenarios
 - **Blog Post:** “Void Ab Initio Effect of Breach”
(unalienablereDEMPTION.org/blog/void-ab-initio-effect)
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Part 7: Personal Liability and Qualified Immunity

Government officers typically enjoy qualified immunity from personal liability for actions taken in their official capacity. However, when officers commit breach of trust with fraudulent intent, they pierce this immunity protection and face personal liability for damages. This section explains how fraudulent breach overcomes qualified immunity and exposes officers to personal consequences.

Qualified Immunity Doctrine

“Government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”

— *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)

Qualified immunity protects officers from personal liability unless:

1. Officer violated a constitutional or statutory right, AND
2. The right was “clearly established” at the time of violation, AND
3. A reasonable officer would have known the conduct violated that right

This creates a high bar for plaintiffs—even if officer violated your rights, officer may escape liability if the right was not “clearly established” in prior case law.

How Fraudulent Breach Pierces Immunity

Fraudulent breach overcomes qualified immunity through three pathways:

1. Fraud Exception to Qualified Immunity

“Qualified immunity does not protect officers who act with malicious intent or engage in knowing violations of the law.”
— *Malley v. Briggs, 475 U.S. 335, 341 (1986)*

Fraudulent breach involves deliberate deception and knowing violation of fiduciary duty. This constitutes “malicious intent” and “knowing violation” that pierces immunity.

2. Clearly Established Fiduciary Duty The five fiduciary duties (loyalty, good faith, care, disclosure, obey constitutional limits) are clearly established through:

- Article VI oath requirement (constitutional text)
- Supreme Court precedent (Brewster, Harlow, Norton, Cooper)
- Traditional trust law principles (centuries of precedent)

No reasonable officer can claim ignorance of these duties. Breach of clearly established duty overcomes qualified immunity.

3. Void Ab Initio Acts Acts that are void ab initio never had legal authority. Officer cannot claim immunity for acts performed without authority—immunity only protects acts within scope of authority.

“An officer who acts in excess of his authority is not entitled to qualified immunity.”
— *Anderson v. Creighton, 483 U.S. 635, 640 (1987)*

Personal Liability Consequences

When qualified immunity is pierced, officer faces personal liability including:

1. Compensatory Damages

- Economic damages (lost property, income, opportunities)
- Constitutional damages (deprivation of rights)
- Emotional distress damages
- Future losses

2. Punitive Damages

- Designed to punish officer and deter future misconduct
- Often exceed compensatory damages in fraud cases
- Paid from officer's personal assets, not government funds

3. Asset Seizure

- Officer's personal property (home, vehicles, bank accounts) can be seized to satisfy judgment
- Wage garnishment for ongoing payments
- Liens on real property

4. Criminal Prosecution

- 18 USC § 242: Deprivation of rights under color of law (up to life imprisonment if death results)
- 18 USC § 241: Conspiracy to deprive rights (up to 10 years imprisonment)
- State criminal charges (fraud, theft, false imprisonment)

5. Professional Consequences

- Loss of law license (for attorneys)
- Removal from office
- Ineligibility for future government employment
- Damage to professional reputation

Burden of Proof

Plaintiff's Burden:

1. Prove officer committed breach of trust with fraudulent intent (clear and convincing evidence)
2. Prove breach violated clearly established right
3. Prove damages resulted from breach

Officer's Burden: Once plaintiff establishes fraudulent breach, burden shifts to officer to prove:

1. Officer acted in good faith (impossible if fraud proven)
2. Right was not clearly established (difficult for fiduciary duties)
3. Officer's conduct was reasonable (impossible if fraud proven)

Strategic Advantages

Pursuing personal liability provides several strategic advantages:

1. Settlement Leverage Officers facing personal liability (not just institutional liability) are more motivated to settle. Risk of losing home, savings, and career creates strong incentive to resolve case.

2. Discovery Access Personal liability claims allow discovery into officer's:

- Personal finances (to establish ability to pay)
- Training and experience (to prove knowledge)
- Prior similar conduct (to establish pattern)
- Communications with other officers (to prove conspiracy)

3. No Governmental Immunity Government entities may claim sovereign immunity. Individual officers cannot—they face personal liability without governmental protection.

4. Public Accountability Personal liability creates public record of officer's misconduct. This:

- Deters future breaches by same officer

- Warns other natural persons about officer's conduct
- Provides evidence for disciplinary proceedings
- Supports criminal prosecution

Common Officer Defenses and Rebuttals

Defense 1: “I Was Just Following Orders” Rebuttal: Article VI oath requires officers to support Constitution, not follow unconstitutional orders. Officer has duty to refuse unlawful orders.

“No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.”
— *Cooper v. Aaron, 358 U.S. 1, 18 (1958)*

Defense 2: “I Didn’t Know the Right Was Clearly Established” Rebuttal: Fiduciary duties are clearly established through Constitution, Supreme Court precedent, and traditional trust law. Officer’s ignorance is not a defense.

Defense 3: “I Acted in Good Faith” Rebuttal: Fraudulent breach requires proof of intent to deceive. If fraud is proven, good faith defense fails.

“Fraud vitiates everything.”
— *United States v. Throckmorton, 98 U.S. 61, 65-66 (1878)*

Defense 4: “The Government Should Pay, Not Me Personally” Rebuttal: Qualified immunity only protects officers acting within scope of authority. Fraudulent breach is outside scope of authority and creates personal liability.

Key Takeaways

- Qualified immunity protects officers from personal liability for discretionary acts
- Fraudulent breach pierces immunity through fraud exception, clearly established duties, and void ab initio effect
- Personal liability includes compensatory damages, punitive damages, asset seizure, and criminal prosecution
- Officers facing personal liability have strong incentive to settle
- Common officer defenses fail when fraudulent breach is proven

Cross-References

- **Part 4:** Breach of trust with fraudulent intent (pierces immunity)
 - **Part 6:** Void ab initio effect (acts outside authority have no immunity)
 - **Part 8:** § 1983 actions and criminal prosecution remedies
 - **Part 9:** Application to oath violation and prerequisites to office scenarios
 - **Blog Post:** “Personal Liability and Qualified Immunity”
(unalienablereDEMPTION.org/blog/personal-liability-qualified-immunity)
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Part 8: Remedies and Enforcement

Natural persons whose constitutional rights have been violated through breach of trust have multiple remedies available. This section provides a comprehensive overview of civil, criminal, and equitable remedies, along with strategic guidance on selecting the most effective approach for your situation.

Civil Remedies

1. § 1983 Civil Rights Action

42 USC § 1983 provides a federal cause of action for deprivation of constitutional rights under color of law:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

Elements:

1. Defendant acted under color of state law
2. Defendant deprived plaintiff of constitutional right
3. Causation between defendant’s conduct and deprivation
4. Damages resulted

Advantages:

- Federal forum (avoid state court bias)
- Compensatory and punitive damages available
- Attorney's fees recoverable if you prevail
- No exhaustion of administrative remedies required

Strategic Use: File § 1983 action when officer violated clearly established constitutional rights through breach of trust.

2. Breach of Fiduciary Duty (State Law)

State common law recognizes breach of fiduciary duty as independent tort:

Elements:

1. Fiduciary relationship existed
2. Defendant breached fiduciary duty
3. Causation
4. Damages

Advantages:

- State court may be more receptive to fiduciary duty claims
- Punitive damages available for fraudulent breach
- No qualified immunity for state law tort claims
- Jury trial right

Strategic Use: File state law breach claim when § 1983 elements are difficult to prove or when state court is more favorable forum.

3. Mandamus (Writ of Mandate)

Mandamus compels officer to perform ministerial duty:

Elements:

1. Plaintiff has clear right to relief
2. Defendant has ministerial duty to act

3. No other adequate remedy available

Advantages:

- Forces officer to comply with constitutional duty
- Injunctive relief (stops ongoing violation)
- No damages required (equitable remedy)

Strategic Use: Use mandamus when officer refuses to perform clear constitutional duty (e.g., provide oath and bond, disclose jurisdiction).

4. Injunctive Relief

Injunction prohibits officer from continuing unconstitutional conduct:

Elements:

1. Plaintiff will suffer irreparable harm without injunction
2. Plaintiff likely to succeed on merits
3. Balance of equities favors plaintiff
4. Injunction serves public interest

Advantages:

- Stops ongoing violation immediately
- No need to prove damages
- Preliminary injunction available before trial

Strategic Use: Seek injunction when officer is actively violating rights and damages remedy is inadequate.

5. Declaratory Judgment

Declaratory judgment establishes legal rights without awarding damages:

Elements:

1. Actual controversy exists
2. Declaration will resolve uncertainty
3. Declaration will provide practical relief

Advantages:

- Establishes legal rights for future use
- No damages required
- Can be combined with other remedies

Strategic Use: Seek declaratory judgment to establish that statute is unconstitutional, contract is void, or officer lacks authority.

Criminal Remedies

1. 18 USC § 242: Deprivation of Rights Under Color of Law

Federal criminal statute prohibiting willful deprivation of constitutional rights:

“Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States... shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.”

Elements:

1. Defendant acted under color of law
2. Defendant willfully deprived victim of constitutional right
3. Deprivation was intentional

Strategic Use: File criminal complaint with FBI or U.S. Attorney when officer committed fraudulent breach (establishes willfulness).

2. 18 USC § 241: Conspiracy to Deprive Rights

Federal criminal statute prohibiting conspiracy to violate constitutional rights:

Elements:

1. Two or more persons conspired
2. Conspiracy aimed to deprive constitutional rights
3. Overt act in furtherance of conspiracy

Strategic Use: File criminal complaint when multiple officers coordinated to violate rights (e.g., judge, prosecutor, and clerk all concealing lack of jurisdiction).

3. State Criminal Charges

State criminal statutes may apply:

- Fraud (deliberate deception)
- Theft (taking property through fraud)
- False imprisonment (unlawful detention)
- Official misconduct (breach of official duty)

Strategic Use: File state criminal complaint when federal prosecutors decline to prosecute or when state charges provide stronger remedies.

Collateral Attack

Collateral Attack on Void Judgment

Void judgments can be attacked collaterally in any proceeding:

“If [the judgment] be void, it is a mere nullity, and may be treated as such in any court where it is presented.”

— *Pennoyer v. Neff*, 95 U.S. 714, 732-733 (1878)

Methods:

1. File new action to vacate void judgment
2. Raise void judgment as defense in enforcement proceeding
3. File habeas corpus petition (for criminal convictions)
4. Refuse to comply with void judgment (assert nullity)

Advantages:

- No statute of limitations for void judgments
- No res judicata or collateral estoppel effect
- Can be raised at any time, in any proceeding
- Automatic reversal if void ab initio proven

Strategic Use: Use collateral attack when judgment was entered through fraudulent breach (void ab initio).

Remedy Selection Strategy

Step 1: Identify Your Goals

- Stop ongoing violation? → Injunctive relief, mandamus
- Recover damages? → § 1983, breach of fiduciary duty
- Reverse void judgment? → Collateral attack
- Punish officer? → Criminal complaint, punitive damages
- Establish legal rights? → Declaratory judgment

Step 2: Assess Proof Strength

- Strong evidence of fraud? → Criminal complaint, punitive damages
- Clear constitutional violation? → § 1983 action
- Void judgment? → Collateral attack
- Ongoing violation? → Injunctive relief

Step 3: Consider Forum

- Federal court more favorable? → § 1983 action
- State court more favorable? → State breach of fiduciary duty
- Need immediate relief? → Preliminary injunction, mandamus

Step 4: Combine Remedies

- § 1983 + breach of fiduciary duty (federal and state claims)
- Injunctive relief + damages (stop violation and recover losses)

- Declaratory judgment + mandamus (establish rights and compel compliance)
- Civil action + criminal complaint (personal liability and prosecution)

Key Takeaways

- Multiple remedies available: civil (§ 1983, breach of duty, mandamus, injunction, declaratory judgment), criminal (§ 242, § 241, state charges), and collateral attack
- § 1983 provides federal forum with compensatory and punitive damages
- Mandamus and injunctive relief stop ongoing violations
- Criminal complaints establish willfulness and deter future misconduct
- Collateral attack reverses void judgments at any time
- Combine multiple remedies for maximum effectiveness

Cross-References

- **Part 4:** Fraudulent breach (establishes willfulness for criminal prosecution)
- **Part 6:** Void ab initio effect (enables collateral attack)
- **Part 7:** Personal liability (§ 1983 and breach of duty overcome qualified immunity)
- **Part 9:** Application to four scenarios with specific remedy recommendations
- **Legal Templates:** Motion to Void Personal Guarantee, Answer to Foreclosure Complaint, Challenge to Confession of Judgment, Bankruptcy Adversary Proceeding

Part 9: Application to Constitutional Restoration

This section applies the breach of trust framework to four common scenarios: oath violation, capacity substitution in court, jurisdictional fraud, and prerequisites to office violation. Each scenario includes constitutional analysis, Supreme Court precedent, strategic approach, and related legal templates.

Scenario 1: Oath Violation

Situation: Government officer proceeds without proper Article VI oath on file or acts in violation of oath.

Constitutional Analysis: Article VI, Clause 3 mandates: “all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.”

The oath requirement is a prerequisite to office. An officer without proper oath has no authority to act in official capacity.

Breach of Trust Elements:

1. **Fiduciary Relationship:** Officer claims official capacity and exercises coercive power
2. **Breach of Duty:**
 - Duty of Disclosure: Failed to disclose lack of oath on file
 - Duty to Obey Constitutional Limits: Acted without constitutional prerequisite
3. **Fraudulent Intent:** Officer knows oath is required but conceals defect
4. **Causation:** But for officer’s concealment, you would have challenged authority
5. **Damages:** All consequences of officer’s unauthorized acts

Supreme Court Precedent:

“An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.”

— *Norton v. Shelby County, 118 U.S. 425, 442 (1886)*

Acts by officer without proper oath are unconstitutional and void ab initio.

Strategic Approach:

1. **Discovery:** Request certified copy of officer’s oath from official records
2. **Challenge:** If no oath on file, move to dismiss all proceedings for lack of authority
3. **Collateral Attack:** If judgment already entered, file collateral attack based on void ab initio

4. **Civil Action:** File § 1983 action for deprivation of rights by officer without authority

5. **Criminal Complaint:** File complaint under 18 USC § 242 for willful deprivation

Related Legal Templates:

- Motion to Dismiss for Lack of Authority (oath defect)
- Collateral Attack on Void Judgment (officer without oath)

Scenario 2: Capacity Substitution in Court

Situation: Court addresses you by NAME in all caps (legal fiction) instead of natural person name, substituting your capacity without disclosure.

Constitutional Analysis: Due Process Clause (5th and 14th Amendments) requires notice of charges, jurisdiction, and capacity in which you are being addressed. Capacity substitution without disclosure violates due process.

Breach of Trust Elements:

1. **Fiduciary Relationship:** Judge holds official position and exercises coercive power
2. **Breach of Duty:**
 - Duty of Disclosure: Failed to disclose capacity substitution
 - Duty of Good Faith: Used deception to obtain jurisdiction
 - Duty of Care: Failed to verify you consented to capacity substitution
3. **Fraudulent Intent:** Judge deliberately uses legal fiction without disclosure
4. **Causation:** But for capacity substitution, court would lack jurisdiction
5. **Damages:** All consequences of proceeding in wrong capacity

Supreme Court Precedent:

“Due process requires notice reasonably calculated to apprise interested parties of the pendency of the action.”

— *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)

Notice of capacity in which you are being addressed is required for due process.

Strategic Approach:

1. **Challenge Capacity:** Object to use of NAME in all caps; demand court address you as natural person
2. **Demand Disclosure:** Request court disclose jurisdiction and capacity
3. **Conditional Appearance:** Appear specially to challenge jurisdiction, not generally
4. **Void Ab Initio:** If judgment entered, file collateral attack based on lack of jurisdiction over natural person
5. **Civil Action:** File § 1983 action for deprivation of due process through capacity substitution

Related Legal Templates:

- Special Appearance to Challenge Jurisdiction (capacity substitution)
- Motion to Correct Capacity (demand natural person designation)

Scenario 3: Jurisdictional Fraud

Situation: Court proceeds without jurisdiction but conceals this defect through misrepresentation or concealment.

Constitutional Analysis:

“Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.”

— *Ex parte McCordle, 74 U.S. 506, 514 (1868)*

Acts without jurisdiction are void ab initio. Court has duty to disclose jurisdictional defects.

Breach of Trust Elements:

1. **Fiduciary Relationship:** Judge holds official position and exercises coercive power
2. **Breach of Duty:**
 - Duty of Disclosure: Failed to disclose lack of jurisdiction

- Duty to Obey Constitutional Limits: Proceeded without jurisdiction
 - Duty of Good Faith: Concealed jurisdictional defect
3. **Fraudulent Intent:** Judge knows jurisdiction is lacking but proceeds anyway
 4. **Causation:** But for concealment, you would have challenged jurisdiction
 5. **Damages:** All consequences of void judgment

Common Jurisdictional Defects:

- Adhesion contract void for unconscionability (no jurisdiction over void contract)
- Statute applies only to corporate “persons,” not natural persons
- Court operating in admiralty/equity without disclosure
- Subject matter outside court’s constitutional authority

Strategic Approach:

1. **Challenge Jurisdiction:** Move to dismiss for lack of subject matter jurisdiction
2. **Demand Disclosure:** Request court disclose basis for jurisdiction
3. **Collateral Attack:** If judgment entered, file collateral attack based on void ab initio
4. **Civil Action:** File § 1983 action for deprivation of due process through jurisdictional fraud
5. **Criminal Complaint:** File complaint under 18 USC § 242 for willful deprivation

Related Legal Templates:

- Motion to Dismiss for Lack of Subject Matter Jurisdiction
- Answer to Foreclosure Complaint (adhesion contract unconscionability)
- Challenge to Confession of Judgment (jurisdictional defect)

Scenario 4: Prerequisites to Office Violation

Situation: Officer proceeds without meeting constitutional prerequisites to office (oath, bond, commission, etc.).

Constitutional Analysis: Constitutional prerequisites to office are mandatory. Officer without prerequisites has no authority to act in official capacity.

Common Prerequisites:

- Article VI oath requirement (federal and state officers)
- Official bond requirement (state statutes)
- Commission or certificate of appointment
- Proper election or appointment process

Breach of Trust Elements:

1. **Fiduciary Relationship:** Officer claims official capacity and exercises coercive power
2. **Breach of Duty:**
 - Duty of Disclosure: Failed to disclose lack of prerequisites
 - Duty to Obey Constitutional Limits: Acted without constitutional authority
3. **Fraudulent Intent:** Officer knows prerequisites are lacking but conceals defect
4. **Causation:** But for concealment, you would have challenged authority
5. **Damages:** All consequences of officer's unauthorized acts

Supreme Court Precedent:

“An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.”

— *Norton v. Shelby County*, 118 U.S. 425, 442 (1886)

Strategic Approach:

1. **Discovery:** Request certified copies of oath, bond, commission from official records
2. **Challenge Authority:** If prerequisites lacking, move to dismiss for lack of authority
3. **Void Ab Initio:** If judgment entered, file collateral attack based on void ab initio
4. **Civil Action:** File § 1983 action for deprivation of rights by officer without authority
5. **Criminal Complaint:** File complaint under 18 USC § 242 for willful deprivation

Related Legal Templates:

- Motion to Dismiss for Lack of Authority (prerequisites defect)
- Demand for Oath and Bond (prerequisite verification)

Cross-Scenario Strategic Principles

1. Always Demand Disclosure Officers have fiduciary duty to disclose capacity, jurisdiction, and authority. Demand disclosure at every stage. Failure to disclose establishes breach of duty.

2. Preserve Void Ab Initio Defense Never waive jurisdictional challenges. Void acts can be challenged at any time. Preserve this defense for collateral attack.

3. Document Everything Create record of all officer statements, concealments, and misrepresentations. This evidence establishes fraudulent intent.

4. Combine Civil and Criminal Remedies File both civil action (damages) and criminal complaint (prosecution). This maximizes pressure on officer and provides multiple paths to relief.

5. Use Discovery Strategically Discovery requests for oath, bond, jurisdiction, and authority often reveal defects officer has concealed. Use discovery to build fraud case.

Key Takeaways

- Four common scenarios: oath violation, capacity substitution, jurisdictional fraud, prerequisites to office
- Each scenario involves breach of fiduciary duty with fraudulent intent
- All scenarios create void ab initio effect (acts without authority)
- Strategic approach: demand disclosure, challenge authority, collateral attack, civil action, criminal complaint
- Combine multiple remedies for maximum effectiveness

Cross-References

- **Part 2:** Five fiduciary duties officers owe
- **Part 3:** Elements of breach of trust

- **Part 4:** Fraudulent breach with intent
 - **Part 6:** Void ab initio effect
 - **Part 8:** Civil, criminal, and collateral attack remedies
 - **Legal Templates:** All four templates apply to these scenarios
 - **ADVANCED Module:** Breach of Trust Scenarios (unalienableredemption.org)
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Appendix A: Supreme Court Precedent Summary

This appendix provides quick reference to key Supreme Court cases establishing breach of trust principles.

Constitutional Foundation Cases

West Virginia State Board of Education v. Barnette, 319 U.S. 624, 638 (1943)

“The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts.”

Holding: Fundamental rights exist independent of governmental action and cannot be violated by officers.

Norton v. Shelby County, 118 U.S. 425, 442 (1886)

“An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.”

Holding: Unconstitutional acts are void ab initio—they never had legal force.

Cooper v. Aaron, 358 U.S. 1, 18 (1958)

“No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.”

Holding: Officers who violate Constitution breach their Article VI oath and act without authority.

Fiduciary Duty Cases

United States v. Brewster, 408 U.S. 501, 517 (1972)

“Public office is a public trust.”

Holding: Government officers occupy positions of trust with fiduciary duties to citizens.

Harlow v. Fitzgerald, 457 U.S. 800, 807 (1982)

“The concept of a government of laws, not of men, requires that citizens have the right to challenge governmental action.”

Holding: Citizens have right to challenge government officers who breach fiduciary duties.

Fraud and Void Ab Initio Cases

United States v. Throckmorton, 98 U.S. 61, 65-66 (1878)

“Fraud vitiates everything.”

Holding: Acts committed through fraud are void ab initio and can be challenged at any time.

Ex parte McCardle, 74 U.S. 506, 514 (1868)

“Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.”

Holding: Acts without jurisdiction are void ab initio.

Pennoyer v. Neff, 95 U.S. 714, 732-733 (1878)

“If [the judgment] be void, it is a mere nullity, and may be treated as such in any court where it is presented.”

Holding: Void judgments can be attacked collaterally in any proceeding at any time.

Due Process Cases

Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950)

“Due process requires notice reasonably calculated to apprise interested parties of the pendency of the action.”

Holding: Due process requires notice of charges, jurisdiction, and capacity.

Qualified Immunity Cases

Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)

“Government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”

Holding: Qualified immunity protects officers unless they violated clearly established rights.

Malley v. Briggs, 475 U.S. 335, 341 (1986)

“Qualified immunity does not protect officers who act with malicious intent or engage in knowing violations of the law.”

Holding: Fraudulent breach pierces qualified immunity.

Anderson v. Creighton, 483 U.S. 635, 640 (1987)

“An officer who acts in excess of his authority is not entitled to qualified immunity.”

Holding: Void ab initio acts (acts without authority) have no qualified immunity protection.

Appendix B: Related Legal Templates

The following legal templates apply breach of trust principles to specific scenarios. All templates are available at unalienablereDEMPTION.org/templates.

1. Motion to Void Personal Guarantee (Unconscionability)

Use When: Bank attempts to enforce personal guarantee on business debt through adhesion contract.

Breach of Trust Arguments:

- Duty of Disclosure: Bank failed to disclose adhesion contract unconscionability
- Duty of Good Faith: Bank used deception to obtain guarantee
- Duty to Obey Limits: Contract void for unconscionability, no jurisdiction to enforce

Key Sections:

- Adhesion contract analysis
 - Unconscionability elements (procedural and substantive)
 - Natural Person Sovereignty principles
 - Void ab initio effect
-

2. Answer to Foreclosure Complaint (Mortgage Adhesion)

Use When: Bank forecloses on mortgage that is adhesion contract void for unconscionability.

Breach of Trust Arguments:

- Duty of Disclosure: Judge failed to disclose unconscionability defense
- Duty of Care: Judge failed to verify jurisdiction over void contract
- Duty to Obey Limits: Mortgage void for unconscionability, no jurisdiction to foreclose

Key Sections:

- Affirmative defenses (lack of jurisdiction, unconscionability, breach of trust)
 - Counterclaims (§ 1983, breach of fiduciary duty, fraud)
 - Discovery requests (oath, bond, jurisdiction)
 - Demand for jury trial
-

3. Challenge to Confession of Judgment

Use When: Creditor obtains confession of judgment through adhesion contract clause.

Breach of Trust Arguments:

- Duty of Disclosure: Court failed to disclose confession clause unconscionability
- Duty of Care: Court failed to verify jurisdiction before entering judgment
- Duty to Obey Limits: Confession clause void for unconscionability, judgment void ab initio

Key Sections:

- Motion to vacate confession of judgment
 - Unconscionability analysis (confession clauses)
 - Due process violations
 - Collateral attack on void judgment
-

4. Bankruptcy Adversary Proceeding (Student Loan Discharge)

Use When: Seeking discharge of student loans in bankruptcy through undue hardship, Equal Protection, or Due Process arguments.

Breach of Trust Arguments:

- Duty to Obey Limits: 11 USC § 523(a)(8) non-dischargeability violates Equal Protection
- Duty of Disclosure: Government failed to disclose constitutional defects in student loan system

- Duty of Good Faith: Government used adhesion contracts to trap natural persons

Key Sections:

- Undue hardship analysis (Brunner test)
 - Equal Protection challenge (disparate treatment)
 - Due Process challenge (adhesion contracts)
 - Natural Person Sovereignty principles
-

Appendix C: Additional Resources

Educational Modules

BASIC Platform (Free)

- **Breach of Trust: Introduction** - Simplified overview for general audience
- **Federal Reserve Basics** - Constitutional challenges to Federal Reserve system
- **Student Loans: Know Your Rights** - Introduction to student loan defenses

Access: unalienableredemption.org/basic

ADVANCED Platform (Paid Subscription)

- **Breach of Trust Scenarios** - Four detailed scenarios with strategic analysis
- **Federal Reserve Constitutional Challenges** - Deep dive into Credit River case and Committee for Monetary Reform
- **Student Loans Constitutional Challenge** - Comprehensive analysis of non-dischargeability challenges

Access: unalienableredemption.org/advanced

Blog Posts (Free)

Breach of Trust Series (9 Parts):

1. Constitutional Foundation of Public Trust
2. Fiduciary Duty in Government-Citizen Relationships
3. Elements of Breach of Trust
4. Breach of Trust with Fraudulent Intent
5. Simple Breach vs. Fraudulent Breach
6. Void Ab Initio Effect of Breach
7. Personal Liability and Qualified Immunity
8. Remedies and Enforcement
9. Application to Constitutional Restoration

Access: unalienableredemption.org/blog

Related Blog Posts:

- Lawful vs. Legal: Marcus Thompson v. Idaho (2026) Supreme Court Case Study
 - The “At Par” Foreclosure Defense: Why It Doesn’t Work
 - Credit River Case: First Successful Challenge to Federal Reserve
 - Standing Doctrine: How Courts Dismiss Without Addressing Merits
 - Credit Card Adhesion Contract: Why You Can’t Negotiate
-

Constitutional Glossary

Comprehensive glossary of constitutional terms including:

- At Par
- Adhesion Contract
- Void Ab Initio
- Qualified Immunity
- Fiduciary Duty
- Natural Person Sovereignty
- De Jure vs. De Facto
- Lawful vs. Legal

Access: unalienableredemption.org/glossary

Case Law Database

Federal Reserve Case Database featuring:

- Credit River Case (1968)
- Committee for Monetary Reform cases
- Standing doctrine cases
- Constitutional challenges to Federal Reserve

Access: unalienableredemption.org/case-law

Interactive Tools

Legal Template Selector Quiz 3-question quiz to determine which legal template best fits your situation:

- Debt type (mortgage, student loan, business debt, consumer debt)
- Stage of proceedings (pre-judgment, active lawsuit, post-judgment, bankruptcy)
- Contract terms (confession of judgment, personal guarantee, unconscionability)

Access: unalienableredemption.org/templates/quiz

Contact and Consultation

Golden Spiral Ministries Constitutional research and analysis

Email: contact@goldenspiralministries.org

Website: unalienableredemption.org

Consultation Services:

- Constitutional framework analysis
- Legal template customization
- Strategic planning for constitutional restoration

- Expert witness testimony

Schedule Consultation: unalienablereDEMPTION.org/consultation

Conclusion

Breach of trust and breach of trust with fraudulent intent provide natural persons with powerful constitutional framework for challenging government overreach and protecting unalienable rights. By understanding the fiduciary duties government officers owe, the elements of breach, and the available remedies, natural persons can hold officers personally accountable and restore constitutional limits on governmental power.

This guide has provided comprehensive analysis of:

- Constitutional foundation of public trust (Part 1)
- Five fiduciary duties officers owe (Part 2)
- Four-part test for establishing breach (Part 3)
- Fraudulent breach with intent (Part 4)
- Simple vs. fraudulent breach distinction (Part 5)
- Void ab initio effect (Part 6)
- Personal liability and qualified immunity (Part 7)
- Civil, criminal, and collateral attack remedies (Part 8)
- Application to four common scenarios (Part 9)

All analysis is grounded in Supreme Court precedent, constitutional text, and Natural Person Sovereignty principles. This is not “sovereign citizen” theory—it is constitutional law applied to government-citizen relationships through traditional trust law principles.

The path to constitutional restoration requires:

1. **Education:** Understanding your constitutional rights and officer duties
2. **Documentation:** Creating record of officer breaches and concealments
3. **Challenge:** Demanding disclosure and challenging authority at every stage

4. **Enforcement:** Filing civil actions, criminal complaints, and collateral attacks

5. **Accountability:** Holding officers personally liable for breach of trust

Natural persons have the power to restore constitutional limits through peaceful, lawful enforcement of fiduciary duties. This guide provides the framework. The application is yours.

Private Property Notice

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About Golden Spiral Ministries

Golden Spiral Ministries is dedicated to constitutional research, education, and the peaceful restoration of the constitutional republic through enforcement of Natural Person Sovereignty principles. Our work focuses on exposing corporatocracy bias, challenging de facto authority claims, and providing natural persons with the tools needed to protect unalienable rights.

Mission: Empower natural persons with constitutional knowledge and strategic frameworks for peaceful restoration of the constitutional republic.

Core Principles:

- Natural Person Sovereignty as foundational basis
- Zero corporatocracy bias in all analysis
- Supreme Court precedent grounding
- Practical application to real-world scenarios
- Accessible education for all audiences

Services:

- Constitutional research and analysis
- Legal template development
- Educational modules (BASIC and ADVANCED)
- Consultation and strategic planning
- Expert witness testimony

Contact:

Email: contact@goldenspiralministries.org

Website: unalienableredemption.org

Blog: unalienableredemption.org/blog

End of Guide

This guide is provided for educational purposes only and does not constitute legal advice. Consult with a qualified attorney before taking any legal action.