

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X		
CARL E. PERSON,	:	Civil Action No.
	:	
Plaintiff,	:	
	:	COMPLAINT
-against-	:	
	:	[Mandamus Action to
UNITED STATES OF AMERICA (Executive	:	End Government Shutdown]
Branch, Article II of U.S. Constitution),	:	
STEVEN MNUCHIN, Secretary of the	:	
Department of the Treasury,	:	
KIRSTJEN NIELSEN, Secretary of	:	
Homeland Security,	:	
ANDREW WHEELER, Acting Administrator	:	
of Environmental Protection Agency,	:	
THE BOARD OF GOVERNORS OF THE FEDERAL	:	
RESERVE SYSTEM a/k/a the Federal Reserve, and	:	
JEROME POWELL, Chairman, The Board	:	
of Governors of the Federal Reserve System	:	
a/k/a the Federal Reserve,	:	
	:	
Defendants.	:	
	:	
-----X		

Plaintiff, acting *pro se*, for his complaint against the Defendants, alleges as follows:

INTRODUCTION

1. This action is brought as a “Bivens”¹ direct Constitutional action to require by mandamus each of the above-captioned Defendants to maintain by payment (or facilitation of payment) of all of the government pre-shutdown services (the “**Pre-Shutdown Services**”) unless and until any statute is enacted which ends or reduces the Pre-Shutdown Services.

1. Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971).

2. The Pre-Shutdown Services have been duly authorized by statutes, rules and regulations; the Defendants have the authority to print or otherwise create the money or credits needed for payment; payment for the shutdown services (the “**Shutdown Services**”) is impliedly included in any existing debt ceiling announced by Congress and/or the President; and there is no limitation on the amount of money that can be created by the Defendants because the Defendants are no longer prohibited from their Constitutional duty and right as a nation to create money by any gold or silver standard.²

3. The federal court system under Article III of the U.S. Constitution has the power as a co-equal branch of government to preserve itself by a *sue sponte* mandamus order compelling the Defendants to provide the money and/or credits needed to maintain the federal court system (and, arguably, any Pre-Shutdown Services that have meanwhile become essential). This is an important part of this action because this action could not be decided if the federal courts closed their doors for lack of funding (or essential services of government were not provided). A Bloomberg online article by Erik Larsen published January 4, 2019 entitled “Courts Run Out of Cash Next Friday. Here’s What Happens Then”, stated:

2. A 62-page article entitled “*An Essay on the History of Banking*” enables readers to acquire substantial historical information about the creation of money, fractional reserve system, gold and silver standards, statute requiring sale of all privately-owned gold to the Federal Reserve, location and/or disappearance of gold holdings, the Federal Reserve System in the United States, fractional banking, the right of a nation to issue its own money without interest, the English banking system, the Rothschilds, and other information which can help lead to the conclusion that no Act of Congress is required to further authorize payment of the lawful, shutdown operations of the United State government.

Source: <https://criminalbankingmonopoly.wordpress.com/banking-essay/>

The system has enough money left over from fees and other sources to run through Jan. 11, according to the Administrative Office of the U.S. Courts, which supports the judiciary. After that, nonessential workers at the 94 federal district courts, and at higher courts across the country, may have to stay home even as skeleton crews show up -- without pay -- to handle matters deemed essential under U.S. law, including many criminal cases.

Individual courts and judges will then decide how to fulfill those critical functions, said David Sellers, a spokesman for U.S. Courts. He pointed to earlier shutdowns, the longest of which was the 21-day furlough that started in December 1995 and ended in January 1996. A shutdown beyond Jan. 11 would break that record.

4. “Non-essential services” does not apply to all that has been shut down. A substantial amount of the Shutdown Services has or will become essential, with the consequence that the shutdown (the “**Shutdown**”) whether intentional or not necessarily includes essential governmental services, which is another reason that a partial shutdown of governmental services is unconstitutional and must be ended by the Courts.³

3. Historically, failure to fund governmental services did not cause a termination of services, but because of two Justice Department memoranda in 1980-1981, the government adopted the legal position that Congressional funding was required. This is explained in a Vox online article dated January 19, 2018, as follows:

The government has officially shut down 18 times since the modern process that Congress uses to pass budget and spending bills took effect in 1976. The first six of those didn't actually affect the functioning of government at all. It wasn't until a set of opinions issued by Attorney General Benjamin Civiletti in 1980 and '81 that the government started to treat "spending gaps" — periods when Congress has failed to allocate funds for the ongoing functions of government — as necessitating the full or partial shutdown of government agencies.

But from the Reagan years onward, any period in which Congress failed to pass funding measures has meant that major chunks of the government stop operating. Which parts differ from shutdown to shutdown, but it generally excludes essential services without which the economy would grind to a halt and people would die.

Source: <https://www.vox.com/2018/1/19/16910986/government-shutdown-what-shuts-down-exempt-essential-nonessential>

5. A *Washington Post* online article by Damian Paletta and Erica Werner published on January 4, 2019 states:

Food stamps for 38 million low-income Americans would face severe reductions

The Trump administration, which had not anticipated a long-term shutdown, recognized only this week the breadth of the potential impact, several senior administration officials said. The officials said they were focused now on understanding the scope of the consequences and determining whether there is anything they can do to intervene.

Thousands of federal programs are affected by the shutdown, but few intersect with the public as much as ... the Department of Agriculture's Supplemental Nutrition Assistance Program, the current version of food stamps.

The partial shutdown has cut off new funding to ... the USDA, leaving them largely unstaffed and crippling both departments' ability to fulfill core functions.

The potential cuts to food stamps ... illustrate the compounding consequences of leaving large parts of the federal government unfunded indefinitely — a -scenario that became more likely Friday when President Trump said he would leave the government shut down for months or even years

The SNAP program is rare among federal initiatives because it requires annual funding from Congress, even though its existence is automatically renewed.

PARTIES

6. Plaintiff, **Carl E. Person**, citizen of the United States and a resident of New York, NY, is an attorney, taxpayer and consumer of some of the services which have been shut down by Defendant. Plaintiff ran (unsuccessfully) for New York State Attorney General as a Libertarian in 2010 and 2014.

7. Defendant, **United States of America (Executive Branch, Article II of the U.S. Constitution)**, as of December 22, 2018 has shut down part of the government services deemed by it to be non-essential, such as National Parks, various State Department and Treasury Department services, museums, the IRS (delay in refunds), and environmental and food inspections, and parts of the Department of Homeland Security.

8. The extent of the shutdown involving 800,000 federal employees can be seen by reference to the 2013 shutdown.⁴

4. In October, 2013, a 16-day shutdown of government services affected all or parts of the services of the following federal agencies or activities: American Battle Monuments Commission; Congress; Consumer Product Safety Commission; Department of Agriculture; Department of Commerce; Department of Defense; Military Academies; Department of Education; Department of Energy; Department of Health and Human Services; Centers for Disease Control and Prevention; Food and Drug Administration; National Institutes of Health; Department of Homeland Security; Department of Housing and Urban Development; Department of the Interior; Department of Justice; Department of Labor; Department of State; Department of Transportation; Department of the Treasury; Internal Revenue Service; Department of Veterans Affairs; Environmental Protection Agency; Federal Communications Commission; Federally funded research and development centers; General Services Administration; Intelligence agencies; Library of Congress; National Aeronautics and Space Administration; National Archives; National Labor Relations Board; National Science Foundation; National Transportation Safety Board; Nuclear Regulatory Commission; Office of Special Counsel; Small Business Administration; Smithsonian Institution; Social Security Administration; and The White House.

Source:

https://en.wikipedia.org/wiki/List_of_agencies_affected_by_the_United_States_federal_government_shutdown_of_2013

9. Defendant, **Steven Mnuchin** (“**Secretary Mnuchin**”), Secretary of the Department of the Treasury, has his offices at 1500 Pennsylvania Ave., NW, Washington, DC 20220. Secretary Mnuchin has participated in the shutdown by terminating some of the governmental services that the Department of the Treasury was providing prior to the shutdown, and has the authority and duty not to shut down any such services. Secretary Mnuchin has the duty and authority to pay or require payment for and continuation of the pre-shutdown services being provided by his agency, and has failed to perform his duty.

10. Defendant, **Kirstjen Nielsen** (“**Secretary Nielsen**”), Secretary of Homeland Security, has her offices at 300 7th Street SW, Washington, DC 20024. Secretary Nielsen has participated in the shutdown by terminating some of the governmental services that the Department of Homeland Security was providing prior to the shutdown, and has the authority and duty not to shut down any such services. Secretary Nielsen has the duty and authority to pay or require payment for and continuation of the pre-shutdown services being provided by her agency, and has failed to perform her duty. :

11. Defendant, **Andrew Wheeler** (“**Acting Administrator Wheeler**”), Acting Administrator of the Environmental Protection Agency, has his offices at 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Acting Administrator Wheeler has participated in the shutdown by terminating some of the governmental services that the Environmental Protection Agency was providing prior to the shutdown, and has the authority and duty not to shut down any such services. Acting Administrator Wheeler has the duty and authority to pay or require payment for and continuation of the pre-shutdown services being provided by his agency, and has failed to perform his duty.

12. Defendant, **The Board of Governors of the Federal Reserve System a/k/a the Federal Reserve** (the “**Federal Reserve**”), a privately-owned entity, with offices at Constitution Avenue NW & 20th Street NW, Washington, DC 20551. The Federal Reserve has participated in the shutdown by not permitting creation of the money needed to make payment for the non-essential government services that have been shut down by the governmental Defendants, and has the authority and duty to make the money available for payment for such services. The Federal Reserve has the duty and authority to make money or credits available to each of the government agencies that is participating in the shutdown of non-essential services, and has failed to perform this duty.

13. Defendant, **Jerome Powell** (“**Chairman Powell**”), Chairman of The Board of Governors of the Federal Reserve System a/k/a the Federal Reserve, with offices at Constitution Avenue NW & 20th Street NW, Washington, DC 20551. Chairman Powell [in his capacity as Chairman] has participated in the shutdown by not permitting creation of the money needed to make payment for the non-essential governmental services that have been shut down by the other Defendants, and has the authority and duty to make the money available for payment for such services. Chairman Powell has the duty and authority to make money or credits available to each of the government agencies that is participating in the shutdown of so-called “non-essential services” (including some essential services), and has failed to perform his duty.

14. *The New York Times* reported on January 2, 2019 that

Nine departments, including those of Homeland Security, Justice, State and Treasury, are affected. So are several federal agencies, including the Environmental Protection Agency and NASA.

In all, about 800,000 government employees are feeling the effects, with just under half sent home on unpaid leave and just over half working without pay. Those who are working can expect

compensation when the government reopens, but those who have been furloughed have no such guarantee.

15. The effect of the shutdown is to create a partial shutdown of the nation's economy, which reduces the ability of most persons in the United States to pay for goods and services, and therefore adversely affects and threatens the economic and business interests of the Plaintiff as well as most other professional organizations and businesses in the United States.

16. Non-Payment begins for the bi-weekly pay period ending Wednesday, January 9, 2019, with payment to be received Wednesday, Thursday or Friday, the 9th, 10th or 11th of January, 2019, depending on the employee, and the method of payment. Thus, an injunction ordering Defendants to continue payments, if issued right away, would not be resurrecting payments that already have been stopped.

JURISDICTION

17. Federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331, which provides:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

Federal subject matter jurisdiction exists pursuant to 28 U.S.C. § 1331 because the Plaintiff's action arises under the Constitution and laws of the United States.

VENUE

18. Venue is proper pursuant to 28 U.S.C. §§ 1391(b)(1), 1391(b)(2), 1391(b)(3) and 1391(e)(1)(B).

FACTUAL BACKGROUND

19. Congress and the President of the United States were unable to enact a law or resolution providing for funding of various so-called “non-essential” services of various agencies of the Defendant by Friday, December 21, 2018 (the “Failure to Finance”).

20. By reason of the Failure to Finance, the Defendant shut down part of then existing governmental operations of non-essential (as well as some essential) services starting December 22, 2018 (the “Shutdown”).

21. The non-essential (and other) services that were shut down had been, prior to the Shutdown, duly authorized services of the Defendant and/or its agencies.

22. On August 15, 1971, President Richard M. Nixon eliminated the last restriction on issuance of money when he signed a bill which no longer required United States money to have any backing such as gold or silver. At the time, foreign governments flush with money were demanding payment in gold, which was draining the already diminished supply of gold held by the U.S. government.

23. During the period from 1879 to 1971, any money issued by the United States could only be issued if there was the required amount of gold. As a practical matter, the U.S. went off the gold standard in 1933, and President Nixon ended what little remained in 1971.⁵

5. The Founding Fathers wrote a bi-metallic gold-silver standard into the United States Constitution. For the first 40 years of its existence, the U.S. operated on a bi-metallic system of gold and silver. The U.S. stopped using silver as a standard in 1968 (or by the Nixon order in 1971).

24. As a result, starting on August 15, 1971, money could be printed by the Defendant or its agents without regard to any gold, silver or other backing, and was limited only by lawful acts of Congress and the President, through statutory enactments.

25. The non-essential activities were lawfully created by the Defendant and the Defendant is not required to have any further authorization to pay for what already has been authorized, because issuance of money by the Defendant or its agent no longer requires any gold, silver or other backing.

26. Whatever authorization was given by Congress and/or the President for the non-essential operations prior to the shutdown is the only authorization needed to make payment for such operations.

27. The Defendant, through enactment of a statute, is always able to eliminate or modify some or all of the non-essential services, but until this is accomplished, the Defendant has a Constitutional duty to continue with its government operations. Any shutdown of government services requires approval of Congress and/or the President.

28. The Defendants' duty to the Plaintiff and other citizens of the United States to continue these governmental services is a justiciable matter for which the Court may grant a writ of mandamus, pursuant to the Mandamus Act, 28 U.S.C. § 1361, to require the Defendants to continue and pay for (or participate in payment for) the non-essential (and other) governmental services unless and until these services have been eliminated or modified by duly enacted statute.

29. Plaintiff together with the other citizens and residents of the United States are irreparably injured by the Shutdown and are entitled to a preliminary injunction ordering the Defendants not to stop paying the U.S. government employees who are being threatened with non-payment of their salaries and other compensation starting on January 9-11, 2019.

AS AND FOR A FIRST CLAIM
(Mandamus pursuant to the Mandamus Act, 28 U.S.C. § 1361)

30. Plaintiff alleges and realleges each of the preceding paragraphs as if they were fully set forth herein.

31. The Mandamus Act, 28 U.S.C. § 1361, entitled “Action to compel an officer of the United States to perform his duty”, provides:

The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.

32. Defendants have a duty to Plaintiff to provide the governmental services authorized by law. The Constitution does not permit the government to be shut down in whole or in part, other than by procedures set forth in the Constitution. As to already authorized government functions, no “Continuing Resolution” or “CR” is needed for funding because the Congress and/or President through statute, rule or regulation has already authorized the governmental services, and instead of requiring an agreement to fund (through a CR) approval of a statute, rule or regulation is required to terminate a government service that has been approved. This is the obvious way to eliminate unconstitutional governmental shutdowns.

33. Defendants Federal Reserve and Chairman Powell are for this purpose an agency and employee of the United States which the Court may make subject to the Court’s mandamus.

34. Plaintiff has no way to enforce this duty other than by obtaining a writ of mandamus compelling the Defendants to pay (or participate in payment) for the non-essential services that have been shut down, so that the services may resume.

35. Plaintiff is being irreparably harmed by the Shutdown, through a partial destruction of the economy in the United States, which is a macro-economic injury incapable of being proven with certainty as to 99% of the citizens and residents of the United States (and micro-economic injury to 800,000 government employees and others no longer receiving their salaries), so that monetary relief is not possible and under law would not be available in any event, and inevitably is suffered by citizens and others (including the Plaintiff) without recourse.

36. Plaintiff is entitled to a writ of mandamus compelling each of the Defendants to perform his/her duty in the making of payments (or participate in the making of payments) to enable the Shutdown Services to be resumed, unless and until any such services have been terminated or modified by duly enacted statute or duly promulgated rule or regulation.

37. Plaintiff is entitled to a preliminary injunction ordering the Defendants not to stop paying the U.S. government employees who are being threatened with non-payment of their salaries and other compensation starting on January 9-11, 2019.

**AS AND FOR A SECOND CLAIM
(Mandamus or Mandatory Injunction under a Bivens Federal Civil Rights Action)**

38. Plaintiff alleges and realleges each of the preceding paragraphs as if they were fully set forth herein.

39. The Defendants have a duty under Article II of the U.S. Constitution of maintaining the Executive Branch of the U.S. Government. The Constitution does not permit the

government to be shut down in whole or in part, other than by procedures set forth in the Constitution. As to already authorized government functions, no “Continuing Resolution” or “CR” is needed for funding because the Congress and/or President through statute, rule or regulation has already authorized the governmental services, and instead of requiring an agreement to fund (through a CR) approval of a statute, rule or regulation is required to terminate a government operation that has been approved. This is the obvious way to eliminate unconstitutional governmental shutdowns.

40. Defendants have not followed the Constitutional procedures for reducing governmental services, and as a result continue to have a duty to provide the governmental services being provided without any shutdown of services, non-essential or otherwise.

41. Defendants have a duty to Plaintiff to provide the governmental services authorized by law that were being provided prior to the Shutdown.

42. Plaintiff has no way to enforce this duty other than by obtaining a writ of mandamus or mandatory injunction compelling the Defendants to pay (or facilitate payment) for the non-essential (and other) services that have been shut down, so that the services may resume.

43. Plaintiff is being irreparably harmed by the Shutdown, through a partial destruction of the economy in the United States, which is an injury incapable of being proven with certainty, so that monetary relief is not possible and under law would not be available in any event, and inevitably is suffered by citizens and others (including the Plaintiff) without recourse.

44. Plaintiff is entitled to a writ of mandamus or mandatory injunction compelling each of the Defendants to perform his/her duty in the making of payments to enable (or facilitate the making of payment) the Shutdown Services to be resumed, unless and until any such services have been terminated or modified by duly enacted statute or duly promulgated rule.

45. Plaintiff is entitled to a preliminary injunction ordering the Defendants not to stop paying the U.S. government employees who are being threatened with non-payment of their salaries and other compensation starting on January 9-11, 2019.

WHEREFORE, Plaintiff respectfully requests:

1. A writ of mandamus or mandatory injunction be granted against each of the Defendants requiring them to make payment and/or issue the money or credits needed to end the Shutdown of government services, unless and until any lawful statute or regulation or order terminates any unnecessary services, at which time the mandamus or mandatory injunction shall cease as to such lawfully terminated unnecessary governmental services.

2. A preliminary injunction ordering the Defendants not to stop paying the U.S. government employees who are being threatened with non-payment of their salaries and other compensation starting on January 9-11, 2019.

3. An award of Plaintiff's costs and disbursements; and

4. Such other and further relief which this Court deems just and equitable.

**Dated: New York, New York
January 7, 2019**



Carl E. Person, *pro se*
225 E. 36th Street – 3A
New York NY 10016-3664
Tel: 212-307-4444
Cell: 917-453-9376
Email: carlpers2@gmail.com

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

CARL E. PERSON

DEFENDANTS

See ATTACHMENT For NAMES of 6 Defendants

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

PRO SE
225 E. 36th ST. - Suite 3A
New York NY 10016-3664 212 307 4444

ATTORNEYS (IF KNOWN)

See ATTACHMENT

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

MANDAMUS ACT 28 U.S.C. § 1361 AND BIVENS v. Six UNKNOWN NAMED AGENTS,
403 U.S. 388 (1971). See ATTACHMENT For brief STATEMENT OF CAUSES OF ACTION.

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No Yes Judge Previously Assigned

If yes, was this case Vol. Invol. Dismissed. No Yes If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE? No Yes

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS

ACTIONS UNDER STATUTES

CONTRACT

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 151 MEDICARE ACT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
- 153 RECOVERY OF OVERPAYMENT OF VETERANS BENEFITS
- 160 STOCKHOLDERS SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

PERSONAL INJURY

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MED MALPRACTICE

PERSONAL INJURY

- 367 HEALTHCARE/ PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY
- 365 PERSONAL INJURY PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY
- 370 OTHER FRAUD
- 371 TRUTH IN LENDING

PERSONAL PROPERTY

- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

PRISONER PETITIONS

- 463 ALIEN DETAINEE
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 DEATH PENALTY
- 540 MANDAMUS & OTHER

ACTIONS UNDER STATUTES

CIVIL RIGHTS

- 440 OTHER CIVIL RIGHTS (Non-Prisoner)
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
- 446 AMERICANS WITH DISABILITIES - OTHER
- 448 EDUCATION

FORFEITURE/PENALTY

- 625 DRUG RELATED SEIZURE OF PROPERTY
- 21 USC 881
- 690 OTHER

PROPERTY RIGHTS

- 820 COPYRIGHTS
- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATION
- 840 TRADEMARK

LABOR

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY MEDICAL LEAVE ACT (FMLA)
- 790 OTHER LABOR LITIGATION
- 791 EMPL RET INC SECURITY ACT (ERISA)

IMMIGRATION

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

BANKRUPTCY

- 422 APPEAL
- 28 USC 158
- 423 WITHDRAWAL
- 28 USC 157

SOCIAL SECURITY

- 861 HIA (1395f)
- 862 BLACK LUNG (923)
- 863 DIWC/DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS-THIRD PARTY
- 28 USC 7609

OTHER STATUTES

- 375 FALSE CLAIMS
- 376 QUI TAM
- 400 STATE REAPPORTIONMENT
- 410 ANTI TRUST
- 430 BANKS & BANKING
- 450 COMMERCE
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 850 SECURITIES/ COMMODITIES/ EXCHANGE
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 896 ARBITRATION
- 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

IMMEDIATE PRE-TRIAL CONFERENCE SO, STATE: PRELIMINARY INJUNCTION

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y. AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13?

DEMAND \$ 0 OTHER MANDAMUS JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: YES NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from (Specify District)
- 6 Multidistrict Litigation (Transferred)
- 7 Appeal to District Judge from Magistrate Judge
- a. all parties represented
- b. At least one party is pro se.
- 8 Multidistrict Litigation (Direct File)

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

- 1 U.S. PLAINTIFF
- 2 U.S. DEFENDANT
- 3 FEDERAL QUESTION (U.S. NOT A PARTY)
- 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF [] DEF []	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF [] DEF []	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF [] DEF []
CITIZEN OF ANOTHER STATE	[] 2 [] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

COURTHOUSE ASSIGNMENT

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: WHITE PLAINS MANHATTAN

DATE 1/4/19 SIGNATURE OF ATTORNEY OF RECORD Carl P. Rosen, pro se &

ADMITTED TO PRACTICE IN THIS DISTRICT
[] NO
 YES (DATE ADMITTED Mo. 11 Yr. 1970)
Attorney Bar Code # 1067511

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

Attachment to Civil Cover Sheet

Carl E. Person v. United States of America, et al.

Defendants:

UNITED STATES OF AMERICA (Executive Branch, Article II of U.S. Constitution),
STEVEN MNUCHIN, Secretary of the Department of the Treasury,
KIRSTJEN NIELSEN, Secretary of Homeland Security,
ANDREW WHEELER, Acting Administrator of Environmental Protection Agency,
THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM a/k/a the Federal Reserve, and
JEROME POWELL, Chairman, The Board of Governors of the Federal Reserve System a/k/a the Federal Reserve

Attorneys for Defendants:

The purpose in including the names, addresses and telephone numbers of the anticipated attorneys for the Defendants is to enable the Court to schedule an immediate conference which could result in a consent order to end the shutdown, as a way to break the current impasse. Otherwise, the Court and parties might have to wait 60 days or more, when a regular appearance after service would be required.

Although the specific attorneys are now known, the Defendants (other than the Federal Reserve and Jerome Powell) are regularly represented in this SDNY by:

Geoffrey S. Berman, United States Attorney for the Southern District of New York
Offices of the United States Attorney
Southern District of New York
One St. Andrews Plaza
New York, NY 10007
Tel: (212) 637-2800 (Civil Division)

Defendants Federal Reserve and Jerome Powell have the following in-house counsel:

Mark Van Der Weide, General Counsel, Legal Division, Tel: 202-452-3000
Cary K. Williams, Assistant General Counsel, Legal Division, Tel: 202-452-3000

The Federal Reserve, through its branch in New York (The Federal Reserve Bank of New York, located at 33 Liberty Street, New York NY 10045 – Tel: 212-720-5000), is regularly represented in the SDNY by Harris, King, Fodera & Correia, 1 Battery Park Plaza – 29th Floor, New York NY 10004-1437 Tel: 212-487-9701 or by NY-FRB in-house attorneys, Jennifer Spain, Esq. and David Gross,

Esq., Federal Reserve Bank of New York 33 Liberty Street, New York, NY 10045 Tel: 212-720-2346; David.Gross@ny.frb.org; Jennifer.Spain@ny.frb.org.

Brief Statement of Cause of Action:

Mandamus action to compel Defendants to pay or participate in making payment or providing the money or credits for the so-called “non-essential services” being performed prior to the partial shutdown of government operations (the “Shutdown”) for the reasons that these services (including both non-essential and essential services) were lawfully created, the U.S. Constitution does not permit a Shutdown of any of the three co-equal branches of government, and that since 1971 when the U.S. was no longer on any gold or silver standard there is no need to obtain Congressional and/or Presidential approval to increase the nation’s money supply, which can be done at this time by one or more of the Defendants without Congressional authorization. By authorizing these services, Congress and/or the President impliedly included their funding and instead of requiring a further vote to fund these authorized services the termination of such services requires a vote of Congress and/or Presidential approval to terminate.

Preventing ongoing governmental services from being terminated is not a political issue and is justiciable. This differs having the Courts decide what government employees should be doing. The latter is political. In other words, having a functioning government is Constitutionally protected, but what the government does when functioning is political. Government reduction or partial shutdown should be by Congressional action, not by inaction.

