

MONTGOMERY BLAIR SIBLEY

October 23, 2015

Via Email (Peter.maier2@usdoj.gov)
Peter R. Maier
Special Assistant United States Attorney
Washington DC 20001-2733

Via Email (William.Pittard@mail.house.gov)
William Pittard, Deputy General Counsel
United States House of Representatives
Washington DC 20515-0001

Re: *Sibley v. McConnell and Boehner*
D.C. Superior Court Case No.: 2015 CA 002442 B

Greetings:

In response to Bill's letter of October 21, 2015, first please find enclosed:

- (i) Plaintiff's First Amended Complaint for Declaratory Judgment and Mandamus;
- (ii) Plaintiff's First Notice of Depositions;
- (iii) Plaintiff's First Request for Admissions and First Request to Produce to Defendant The Honorable Mitch McConnell; and
- (iv) Plaintiff's First Request for Admissions and First Request to Produce to Defendant The Honorable John A. Boehner.

As to the Notice of Depositions, I am amenable to a reasonable change in date, time and location to accommodate the schedules of Defendants and/or their counsel.

Second, in further response to Bill's letter of October 21, 2015, I respectfully disagree that my past, present and intended future communications to Members of Congress is "problematic" in any respect. In particular:

- (i) The D.C. Rules of Professional Conduct do not apply to me;

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Rockville, Maryland 20850

Peter R. Maier, Special Assistant United States Attorney
William Pittard, Deputy General Counsel
October 23, 2015
Page 2

- (ii) It remains to be seen whether your claim that I am providing false information to “Members and their staff” is true or false. Moreover, I take such a claim as an attempt at prior restraint upon and the chilling of my exercise of the fundamental First Amendment right to petition the government which borders upon an actionable *Bivens* trespass, and;
- (iii) As to your tepid threat to restrain my future communication with Congress by seeking “relief from the Court”, to quote Dirty Harry, “Go ahead, make my day.”

As always, I am available to discuss this matter further and can be reached at the number below.

Yours,



**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

MONTGOMERY BLAIR SIBLEY,

Case. No.: 2015 CA 002442 B

PLAINTIFF,

**FIRST AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
MANDAMUS**

VS.

THE HONORABLE MITCH McCONNELL,
SOLELY IN HIS CAPACITY AS MAJORITY LEADER
OF THE SENATE, AND THE HONORABLE JOHN A.
BOEHNER, SOLELY IN HIS CAPACITY AS
SPEAKER OF THE UNITED STATES HOUSE OF
REPRESENTATIVES,

ADVISORY JURY TRIAL REQUESTED

DEFENDANTS.

_____ /

Plaintiff, Montgomery Blair Sibley (“Sibley”), sues Defendants, the Honorable Mitch McConnell and the Honorable John A. Boehner, and alleges as follows:

INTRODUCTION

By this suit, Sibley seeks:

- (i) A Declaratory Judgment that Sibley has the right, possessed by every United States Citizen, to require that the federal government be administered according to law; and
- (ii) A Declaratory Judgment that Applications to Congress have been made by the Legislatures of two-thirds of the several States for a Convention for Proposing Amendments to the United States Constitution thereby obligating Congress to Call such a Convention which, to date, Congress has failed to call; and
- (iii) A Writ of Mandamus directing Congress to carry out the affirmative action of Calling for a Convention for

Proposing Amendments to the United States
Constitution.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to the provisions of District of Columbia Statutes, §11-921.

2. Venue in this Court is proper under as a substantial part of the events or omissions giving rise to the claims herein occurred in the District of Columbia.

PARTIES

3. Plaintiff, Montgomery Blair Sibley, is a Citizen of the United States.

4. The Honorable Mitch McConnell is presently the Majority Leader of the United States Senate and is sued solely in that capacity.

5. The Honorable John A. Boehner is presently the Speaker of the United States House of Representatives and is sued solely in that capacity.

CLASS ACTION ALLEGATIONS

6. The named Defendants are proper representatives of a class within the meaning of Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

7. The members of the class are so numerous that the joinder of all of them is impractical. The class consists of one hundred (100) United States Senators and four hundred thirty five (435) Members of the House of Representatives.

8. The members of the class are readily identifiable.

9. There are questions of law and fact common to the class; their class defenses predominate over any individual defenses. Each class member shares the same federal protections.

10. The defenses of the named Defendants are typical of the defenses of the class. All Class Members are alleged to have violated Article V of the United States Constitution. The named Defendants' status as members of Congress typifies the status of the Class Members generally.

11. The named Defendants will fairly and adequately protect the interest of the class. The named Defendants are represented by counsel experienced in litigating federal lawsuits. The Plaintiff knows of no conflict of interest among Class Members. The named Defendants are and will vigorously defending this action.

12. The Plaintiff does not propose class notice at this time, but believes that class certification and notice can and should be achieved promptly.

**FIRST CLAIM
DECLARATORY RELIEF**

13. The United States Supreme Court in *Fairchild v. Hughes*, 258 U.S. 126, 130 (1922) affirmed that Sibley, as a Citizen of the United States, possess the general right: "to require that the Government be administered according to law. . . .". Moreover, Sibley maintains that under the implied covenant in the social compact which is the United States Constitution, he additionally possess such general right for to hold otherwise would be absurd. Finally, Sibley additionally maintains that this general right was expressly reserved unto him by the Ninth and Tenth Amendments to the United States Constitution.

WHEREFORE, Sibley respectfully requests that this Court:

- A. Assume jurisdiction of this action;
- B. Declare that, notwithstanding the holding of *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992) and its noxious progeny which by judicial fiat declared that when government actors

administer the government contrary to law that citizens do not have “standing” to “require” that the “Government be administered according to law”, Sibley in this instance still possesses that “general right” as expressly recognized in *Fairchild v. Hughes* and retained though action of the Constitution and the Ninth and Tenth Amendments.

C. Retain jurisdiction of this matter to enforce this declaratory degree if subsequently violated by Defendants; and

D. Enter such other and further relief as the Court deems just and proper.

**SECOND CLAIM
DECLARATORY RELIEF**

14. At least thirty-five (35) states have now made an “Application” pursuant to Article V of the United States Constitution for a “Convention for proposing Amendments” A list of those states with references to their respective “Applications” is attached as Exhibit “A” hereto. Accordingly, the ministerial duty imposed on Congress to call for such a Convention has been triggered.

15. On March 5, 2015, Sibley wrote Defendants the Honorable Mitch McConnell and the Honorable John A. Boehner a letter indicating that (35) states have now made an “Application” pursuant to Article V of the United States Constitution for a “Convention for proposing Amendments” and demanding that they make such a “call”. A copy of that letter is attached as Exhibit “B” hereto. Despite confirmation from the United States Postal Service of delivery of the March 5, 2015, letter, to date Sibley has not received any response to that letter from either of the Defendants nor have they made any such “call”.

WHEREFORE, Sibley respectfully requests that this Court:

- A. Assume jurisdiction of this action;
- B. Declare that: (i) two-thirds of the several states have called for a Convention to Propose Amendments and (ii) that Congress has failed to “call” for such a Convention;
- C. Retain jurisdiction of this matter to enforce its declaratory degree if subsequently violated by Defendants; and
- D. Enter such other and further relief as the Court deems just and proper.

**THIRD CLAIM
MANDAMUS**

16. As a court established by Act of Congress, this Court is empowered to issue Writs of Mandamus by the All Writs Act found at 28 U.S.C. §1651(a): “The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” A Writ of Mandamus: “. . .orders a person . . .to carry out some affirmative action.” *In re Grant*, 635 F.3d 1227 (D.C. Cir. 2011).

17. In *United States v. Sprague*, 282 U.S. 716 (1931) the Supreme Court unequivocally stated: “[A]rticle 5 is clear in statement and in meaning, contains no ambiguity and calls for no resort to rules of construction. . . . It provides two methods for proposing amendments. Congress may propose them by a vote of two-thirds of both houses, or, on the application of the legislatures of two-thirds of the States, must call a convention to propose them.”

18. Here, Congress has the duty to carry out the affirmative action of “calling” a Convention to Propose Amendments but has refused to do so.

WHEREFORE, Sibley respectfully requests that this Court:

- A. Assume jurisdiction of this action;

- B. Issue its Writ of Mandamus to compel the Defendants to carry out their duty by “calling” a Convention to Propose Amendments;
- C. Retain jurisdiction of this matter to enforce its Writ of Mandamus in this regard if subsequently violated by Defendants; and
- D. Enter such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Email on (i) Peter R. Maier, Special Assistant United States Attorney, Counsel for Defendant, The Honorable Mitch McConnell, 555 4th St., N.W., Washington, D.C. 20530, Telephone: (202) 252-2578, (Peter.maier2@usdoj.gov) and (ii) William Pittard, Deputy General Counsel, Counsel for The Honorable John A. Boehner, Office of General Counsel, United States House of Representatives, 219 Cannon House Office Building, Washington, District of Columbia 20515, Telephone: (202) 225-9700, (William.Pittard@mail.house.gov) this October 22, 2015.

MONTGOMERY BLAIR SIBLEY
Plaintiff
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Rockville, Maryland, 20850
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montybsibley@gmail.com



By: _____
Montgomery Blair Sibley

Number	State	Exhibit Page #	Authority for Article V Convention Call
1	Alabama	1	113 CONG. REC. 10,117-18 (1967).
2	Alaska	3	ALASKA SENATE JOINT RESOLUTION NO. 18
3	Arkansas	4	121 CONG. REC. 11,218 (1975).
4	California	5	98 CONG. REC. 4003-04 (1952).
5	Colorado	7	113 CONG. REC. 18,007 (1967)
6	Connecticut	8	104 CONG. REC. 8085-86 (1958).
7	Delaware	10	124 CONG. REC. 19,683 (1978).
8	Florida	11	115 CONG. REC. 24,116 (1969).
9	Georgia	12	GEORGIA HOUSE RESOLUTION 1215
10	Idaho	14	111 CONG. REC. 1437-38
11	Indiana	16	122 CONG. REC. 931 (1976).
12	Iowa	17,18	115 CONG. REC. 12,249 (1969); 44 CONG. REC. 1620 (1909).

13	Kansas	19	97 CONG. REC. 2936 (1951).
14	Kentucky	20	121 CONG. REC. 27,821 (1975).
15	Maine	21	46 CONG. REC. 4280 (1911).
16	Maryland	22	111 CONG. REC. 5820 (1965).
17	Massachusetts	23	123 CONG. REC. 22,002 (1977).
18	Michigan	24, 25	89 CONG. REC. 2944 (1943); 87 CONG. REC. 8904 (1941).
19	Minnesota	26	34 CONG. REC. 2560 (1901).
20	Mississippi	27-28	125 CONG. REC. 2111-12 (1979)
21	Missouri	29	121 CONG. REC. 12,867 (1975).
22	Nebraska	30	111 CONG. REC. 24,723 (1965)
23	Nevada	31	121 CONG. REC. 19,117 (1975)
24	New Jersey	32	119 CONG. REC. 11,446 (1973);
25	New Mexico	33	112 CONG. REC. 199 (1966).
26	New York	34	40 CONG. REC. 4551 (1906).
27	North Carolina	35	45 CONG. REC. 7117 (1910).

28	Ohio	36	111 CONG. REC. 25,237 (1965)
29	Oregon	37	84 CONG. REC. 985 (1939).
30	Pennsylvania	38	89 CONG. REC. 8220 (1943).
31	Texas	39	113 CONG. REC. 17,634 (1967).
32	Vermont	40	49 CONG. REC. 1433 (1913) [1912].
33	Washington	41	109 CONG. REC. 5867 (1963).
34	West Virginia	42-43	1907 W. Va. Acts 433-34.
35	Wisconsin	44	109 CONG. REC. 14,808 (1963).
	Total States Calling for Article V Convention	35	Sources: A General Theory of Article V: The Constitutional Lessons of the Twenty-seventh Amendment, 103 Yale L.J. 677 (1993); How to count to thirty-four: the constitutional case for a constitutional convention, Harvard Journal of Law & Public Policy, Jun 22, 2011; both by Michael Stokes Paulsen
Retreived from: www.MontgomeryBlairSibley.com/ArticleV.html			

MONTGOMERY BLAIR SIBLEY

March 5, 2015

Via USPS Signature Confirmation
The Honorable Mitch McConnell
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510-1702

Via USPS Signature Confirmation
The Honorable John A. Boehner
United States House of Representatives
1011 Longworth House Office Building
Washington, D.C. 20515-3508

Re: *Your Article V obligation to “call a convention for proposing amendments”*

Greetings:

I write to exercise “the right, possessed by every citizen, to require that the Government be administered according to law. . . .” *Fairchild v. Hughes*, 258 U.S. 126, 130 (1922). In particular, that you see that Congress promptly discharges its duty to call an Article V convention to propose amendments to the Constitution.

As you both well know, Article V of the Constitution states in pertinent part: “The Congress . . . on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress.” Your attention is respectfully drawn to the decision in *United States v. Sprague*, 282 U.S. 716 (1931) in which the Supreme Court unequivocally stated: “[A]rticle 5 is clear in statement and in meaning, contains no ambiguity and calls for no resort to rules of construction. . . . It provides two methods for proposing amendments. Congress may propose them by a vote of two-thirds of both houses, or, on the application of the legislatures of two-thirds of the States, **must call a convention to propose them.**” (Emphasis added). The math is simple: $50 \text{ states} * .66\% = 34 \text{ states}$ needed to “call a Convention”.

I write first to inform that in fact thirty-five (35) states have now made the “Application” for a such a Convention and thus Congress is obligated to discharge its

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Exhibit "B"

The Honorable Mitch McConnell
The Honorable John A. Boehner
March 5, 2015
Page 2

Constitutionally-imposed ministerial duty to “call” such a Convention. A list of those states with reproduced copies of their respective “Applications” is enclosed.

Hence, upon your Article VI “oath or affirmation, to support this Constitution”, you are now obligated to make the “call”. I trust you will. However, please be advised that your failure to make the “call” on or before April 15, 2015, will result in the filing by several different state officials of a Supreme Court Rule 17, Motion for Leave to File an Original Jurisdiction Action pursuant to 28 U.S. Code § 1251(b)(2) seeking a Writ of Mandamus to command Congress to perform the ministerial act of making the “call” that Article V recognizes as an absolute duty. I hope and trust that such an Action will not be necessary.

I close by reminding that no less than George Mason, a Virginia delegate to the Constitutional Convention, said that without providing the states a means of amending the document, “no amendments of the proper kind would ever be obtained by the people, if the [national] Government should become oppressive.”

I would expect the courtesy of an acknowledgment of your receipt of this letter. Of course, I am available to discuss this matter further.

yours,

A handwritten signature in black ink, appearing to read "Monty B. Sibley". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

MONTGOMERY BLAIR SIBLEY,

Case. No.: 2015 CA 002442 B

PLAINTIFF,

**PLAINTIFF'S FIRST NOTICE OF
DEPOSITIONS**

VS.

THE HONORABLE MITCH MCCONNELL, AND
THE HONORABLE JOHN A. BOEHNER,

DEFENDANTS.

_____ /

Please take notice that pursuant to Rules 30(b) and 34, Superior Court Rules of Civil Procedure, the undersigned will take the following previously noticed deposition made pursuant to served subpoenas upon oral examination of the following person at the following times and place:

The Honorable Mitch McConnell, at Neal R. Gross & Co., Inc., Court Reporters & Transcribers, 1323 Rhode Island Ave., NW, Washington, DC 20005-3701 on **Monday, November 16, 2015, at 1:00 p.m.**

The Honorable John A. Boehner at Neal R. Gross & Co., Inc., Court Reporters & Transcribers, 1323 Rhode Island Ave., NW, Washington, DC 20005-3701 on **Monday, November 16, 2015, at 2:00 p.m.**

The depositions: (i) testimony will be recorded by a Stenographer/ Notary Public in and for the District of Columbia, or some other officer duly authorized by law to take depositions, (ii) will also be taken by video/audio recording, and (iii) is being taken for the purpose of discovery, for use at trial, or both, and for such other purposes as are permitted under the Superior Court Rules of Civil Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Email on (i) Peter R. Maier, Special Assistant United States Attorney, Counsel for Defendant, The Honorable Mitch McConnell, 555 4th St., N.W., Washington, D.C. 20530, Telephone: (202) 252-2578, (Peter.maier2@usdoj.gov) and (ii) William Pittard, Deputy General Counsel, Counsel for The Honorable John A. Boehner, Office of General Counsel, United States House of Representatives, 219 Cannon House Office Building, Washington, District of Columbia 20515, Telephone: (202) 225-9700, (William.Pittard@mail.house.gov) this October 22, 2015.

MONTGOMERY BLAIR SIBLEY

Plaintiff

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Rockville, Maryland, 20850

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By: _____

Montgomery Blair Sibley

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

MONTGOMERY BLAIR SIBLEY,

Case. No.: 2015 CA 002442 B

PLAINTIFF,

VS.

**PLAINTIFF’S FIRST REQUEST FOR
ADMISSIONS AND FIRST REQUEST TO
PRODUCE TO DEFENDANT THE HONORABLE
MITCH MCCONNELL**

THE HONORABLE MITCH MCCONNELL, AND
THE HONORABLE JOHN A. BOEHNER,

DEFENDANTS.

_____ /

Plaintiff, Montgomery Blair Sibley, pursuant to District of Columbia Superior Court Rules of Civil Procedure, Rule 36, hereby requests that Defendant The Honorable Mitch McConnell within the time provided by the aforementioned Rule, admit the truth of the following facts:

1. That Exhibit “B” attached to the First Amended Complaint in this matter is a genuine copy of the original.
2. The following statements of fact are true:
 - a. Defendant The Honorable Mitch McConnell received on or about March 5, 2015, Exhibit “B” attached to the Complaint in this matter.
 - b. At least thirty-five (35) states have now made an “Application” to Congress pursuant to Article V of the United States Constitution for a “Convention for proposing Amendments”.

Additionally, Plaintiff, Montgomery Blair Sibley, pursuant to District of Columbia Superior Court Rules of Civil Procedure, Rule 34, requests that Defendant The Honorable Mitch McConnell produce and permit inspection and copying of the following described documents at a mutually agreeable place and within the time provided by the aforementioned Rule which are in the

possession, custody or control of the Defendant The Honorable Mitch McConnell.

DEFINITIONS

For the purposes of this Request for Production, the following definitions apply:

“Documents” shall mean any written or graphic manner or other means of preserving thought or expressions, and all tangible things from which information can be processed or transcribed, including, but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype messages, charts, ledgers, invoices, work sheets, computer printouts, schedules, affidavits, contracts, transcripts, surveys, graphic representations of any kinds, photographs, graphs, microfilm, videotapes, tape recordings, maps, motions pictures or other films.

“Related to” or “Relating to” shall mean directly or indirectly mentioning or describing, pertaining to, being connected with, or reflecting upon a stated subject matter.

If any documents called for are withheld on the basis of a claim of privilege, the identify of the documents and the nature of the claimed privileged shall be set forth as required by to District of Columbia Superior Court Rules of Civil Procedure, Rule 34(b).

In construing this Request:

- A. The singular shall include the plural and the plural shall include the singular.
- B. A masculine, feminine or neuter pronoun shall not exclude the other gender(s).
- C. Each request shall extend to all documents which are or have been in the possession or subject to the control of the Respondent’s agents, employees or attorneys at any time during the period of the time covered by this Request.

DOCUMENTS REQUESTED

1. All Documents relating to any and all “Applications” to Congress pursuant to Article

V of the United States Constitution for a “Convention for proposing Amendments”.

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By: _____
Montgomery Blair Sibley

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

MONTGOMERY BLAIR SIBLEY,

Case. No.: 2015 CA 002442 B

PLAINTIFF,

VS.

**PLAINTIFF’S’ FIRST REQUEST FOR
ADMISSIONS AND FIRST REQUEST TO
PRODUCE TO DEFENDANT THE HONORABLE
JOHN A. BOEHNER**

THE HONORABLE MITCH MCCONNELL, AND
THE HONORABLE JOHN A. BOEHNER,

DEFENDANTS.

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By: _____
Montgomery Blair Sibley