



## Sovereign citizens

Sovereign citizens are a loose affiliation of self-governing individuals with a complex, anti-government ideology. They hold a diverse range of conspiratorial theories but **share the basic ideological principle that laws do not apply to them**. Common sovereign citizen behaviours in court include:

- self-representation and pleading not guilty
- frustrating/delaying the court process and ‘paper terrorism’, the filing of voluminous documents and correspondence with the court
- becoming belligerent and disruptive, including refusals to identify themselves or answer questions
- peculiar, ritual-like conduct like rambling declarations and **pseudo-legal arguments**, grandiose legalese, Latin or biblical quotes.

The eccentric presentation of sovereign citizens might suggest mental illness, but shared ideology is not strictly delusional (i.e., irrational or out of touch with reality).

See the Canadian case of *Meads v Meads* (2012) ABQB 571 in which Rooke ACJ surveyed the history of the sovereign citizen movement and identified procedural approaches and courtcraft strategies to deter and address such claims.

## Pseudolaw and the law

‘**Pseudolaw**’ refers to self-represented litigants using legal-sounding but false and merit-less arguments that purport to be law. ‘Pseudo-legal gibberish’ has ‘been comprehensively rejected whenever [it has] been advanced in the past’: *Palmer v No Respondent* [2023] VSCA 322, [18]. See also *Kosteska v Magistrate Manthey* [2013] QCA 105, [23]; *Rossiter v Adelaide City Council* [2020] SASC 61, [50]; *Australian Prudential Regulation Authority v Garrett* [2023] FCA 956, [12].

Common **pseudo-legal arguments** include:

- **Religious and philosophical beliefs trump the law as enacted by parliament.** This is ‘completely lacking in legal foundation’: *Roberts v Harkness* (2018) 57VR 334, [67].
- **The ‘strawman duality’:** That the physical person is separate from the ‘artificial legal person’ or ‘corporate shell’, and the ‘flesh and blood person’ is not subject to government laws. The so called ‘strawman’ argument may properly be described as ‘nonsense’: see *Deputy Commissioner of Taxation v Casley* [2017] WASC 161, [15]; *Smadu v Stone* [2016] WASC 80, [5]; *Re Magistrate M M Flynn; ex parte McJannett* [2013] WASC 372, [14]-[15]; *R v Sweet* [2021] QDC 216, [8]; *Stefan v McLachlan* [2023] VSC 501, [24]. This argument has also been described as a ‘jumble of gobbledygook’: *Bradley v R* [2020] QCA 252.
- **Contract and consent:** That all laws are contracts and thus a person who does not consent to that contract is not bound by the law. This is ‘plainly misconceived’: see *Shaw v Attorney-General (WA)* [2004] WASC 144, [12].
- **Invalidity of legislation causing a ‘break in sovereignty’.** For Victoria, there is a line of authority supporting the validity of the *Constitution Act 1975* (Vic): *Smart v Greater City of Geelong* [2005] VSC 71; *Rutledge v State of Victoria* (2013) 251 CLR 457; *Sill v City of Wodonga* [2018] VSCA 195; *Holt v R* [2023] VSCA, 163, [20]. See also section 143 of the *Evidence Act 2008* (Vic). For the Commonwealth, section 5 of the *Constitution* provides that it and all laws made by the Parliament of the Cth bind all courts, judges and people of every State and the Cth, and section 58 of the *Constitution* provides the governor-general the ability to assent. International treaties are not law unless incorporated by statute: *Joosse v Australian Securities and Investment Commission* (1998) 159 ALR 260.
- **Imperial/ancient statutes (like the Magna Carta) displacing State or Cth statutes.** ‘[T]here can be no doubt that other legislation may displace the operation of Imperial statutes’: *Holt v The King* [2023] VSCA, 163, [20]. ‘[A]ny legislature acting within the powers allotted to it by the Constitution can legislate in disregard of Magna Carta and the Bill of Rights’: *Essenberg v The Queen* [2000] HCATrans 297.
- **Judicial decisions are invalid:** Claim that a judicial officer has not taken a valid oath or affirmation. This argument is ‘untenable’: *Baker v Attorney-General (NSW)* [2013] NSWCA 329. The making of an oath is a tradition, not a statutory requirement: *Sill v Wodonga* [2018] VSCA 195 (Beach JA).



## Procedural fairness

Judicial officers have a duty to ensure that a trial is conducted fairly and in accordance with law. A judicial officer is required to give 'proper assistance' to a self-represented litigant: see *MacPherson v R* (1981) 147 CLR 512; *Koshani v Gao* [2019] VSCA 141 [22]. A fair hearing is a balancing exercise requiring a combination of patience and judgment to determine cases where the interests of justice call for expeditious disposal: *Roberts v Harkness* (2018) 57 VR 334, [66]. **Prompt dismissal of arguments is open and may be compatible with procedural fairness given the manifest hopelessness of common pseudo-legal arguments, but beware of:**

- **Frustration leading to error:** See *Kelly v Fiander* [2023] WASC 187; *Hainaut v Queensland Police Service* [2019] QDC 223.
- **Legitimate legal points lurking beneath the pseudo-legal argument:** *Roberts v Harkness* (2018) 57 VR 334, [56].

## Querulant litigants

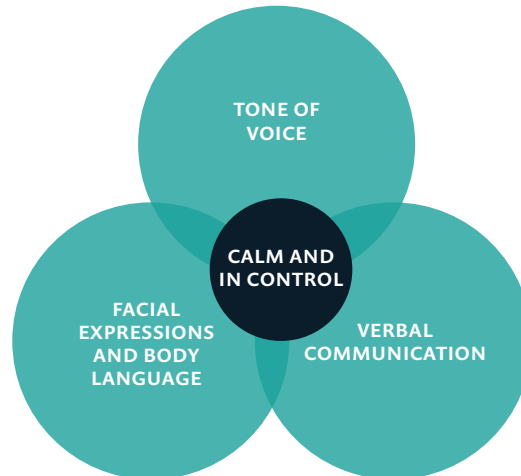
Querulant litigants are pathologically persistent and unreasonable complainers. They are a product of sensitising life experiences, vulnerable personality traits and a triggering event they perceive as a loss. Querulants have an innate belief of having been wronged and are often seeking an unreasonable outcome. They are typically self-represented and engage in a pattern of behaviour involving the unusually persistent pursuit of their personal grievance (be it real or imaginary). Behaviours include:

- multiple forms of excessive, emphasised, and persistent communication
- direct or (more often) implied threats.

Querulousness is a constellation of behaviours, not a mental illness, but over time some querulants become delusional.



## Dealing with high-conflict behaviours



**Set boundaries and manage expectations:** Be clear on your role from the outset, including the purpose and limits of the hearing. Ask what orders are sought, and ensure that these are clarified and appropriate. Be clear on expected courtroom behaviour, emphasising that interruptions and hostility will not be tolerated. Set filing timelines and limit the content/length of submissions.

**Actively listen but avoid inadvertently affirming or legitimising views/behaviours:** Allowing a sovereign citizen to present a pseudo-legal monologue or a querulant to outline the lengthy history of their grievance legitimises their belief or behaviour. Try to resolve what you can and emphasise what is outside of your jurisdiction or irrelevant.

**Manage emotions and maintain authority:** If you begin to feel overwhelmed or frustrated, take time to physically ground yourself. A display of frustration can fuel the litigant's perception of bias or judicial misconduct. Remain task orientated. When faced with hostility or inaccurate information, refrain from engaging in debate. Calmly and firmly redirect the focus back to the legal issue, ensuring aggression is neutralised and not tolerated.

**Explain the law:** Attempting to influence or change the individual's beliefs will not be successful. Instead, focus on providing clear and concise explanations of the applicable law and process. Be precise and factual.

**Prepare for escalation:** Consider how you might respond if matters escalate. Take threats seriously. Call (03) 9032 0005 for Court Services Victoria's 24/7 advice and incident reporting line. Call 000 in an emergency.

### Use the BIFF approach:

**B**

#### **Brief:**

Brevity is always preferred.  
Limit unnecessary communication. Avoid long responses that can complicate the message you're trying to convey.

**I**

#### **I-Informative:**

Stick to the facts. Provide straightforward information in a neutral manner. Avoid engaging in arguments and issuing opinions or blame.

**F**

#### **F-Fair:**

Situations may arise when you feel attacked, but it is important to remain calm and communicate professionally. Focus on your interactions, rather than the outcome.

**F**

#### **F-Firm:**

Resolve the issues and remove emotion. Articulate your decisions clearly and unequivocally, with brief explanations if necessary. Avoid arguments, personal criticisms, and apologies.