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Phone: Send email to address above and we will call you back at your number

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**DISTRICT COURT OF THE UNITED STATES**

**SOUTHERN DISTRICT OF CALIFORNIA**

|  |  |
| --- | --- |
| **United States of America, Plaintiff**  **<<U.S. ATTY NAME>>, Substitute Defendant**  **v.**  **<<YOUR FULL NAME>>, Alleged Defendant**  **Fiduciary for <<U.S. ATTY NAME>>** | **COMPLAINT FOR PERMANENT INJUNCTION**  **Case No: <<CASE NO.>>** |
| **<<YOUR FULL NAME>>**  **Cross-Plaintiff**  **v.**  **<<U.S. ATTY NAME>>, <<IRS AGENT NAME>>, <<DOJ EMPLOYEE FULL NAME>>, <<JUDGE FULL NAME>>, Cross-Defendants** | **CROSS-COMPLAINT TO PETITION FOR PERMANENT INJUNCTION:**  **AFFIDAVIT OF MATERIAL FACTS**  **Case No: <<CASE NO.>>** |

1. This pleading is filed for above captioned hearing in the “District Court of the United States”, and NOT the “United States District Court”. If the recipient clerk is unable to process this pleading, please direct it to the proper official.
2. The table of contents and points and authorities for this pleading being on the following page.

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“Whoever rewards evil for good,   
Evil will not depart from his house [or his government]”.  
[Proverbs 17:13, Bible, NKJV]

"The king [or judge] establishes the land by [justice](http://famguardian.org/TaxFreedom/CitesByTopic/justice.htm); but he who receives bribes [called “federal benefits” or “taxpayer” status and as either a litigant, Judge, or juror] overthrows it."

[[Prov. 29:4](http://www.biblegateway.com/cgi-bin/bible?passage=PROV%2B29%3A4&showfn=on&showxref=on&language=english&version=NKJV&x=18&y=9), Bible, NKJV]

# JURISDICTION AND VENUE

1. Cross-Plaintiff declares his domicile as no place on earth and in Heaven, because he wishes to exercise his First Amendment Constitutional right to disassociate with what he views as a corrupted government and “state”. This is recorded in public records of both the Republic of California and the United States, which evidence is attached as Exhibit 8 and explained in Exhibit 9 of the Answer, Docket #5. Cross-Plaintiff asserts that it amounts to compelled association and violation of his religious beliefs in violation of the First Amendment to change his declared domicile or residence to any other place. According to the U.S. Supreme Court, in *Elkins v. Moreno*, 435 U.S. 647 (1978), only the law of the domiciliary forum of the Cross-Plaintiff may determine the status of his declared domicile and the federal courts MAY NOT:

“For the reasons stated above, **the question whether G-4 aliens can become domiciliaries of Maryland is potentially dispositive of this case and is purely a matter of state law.** Therefore, pursuant to Subtit. 6 of Tit. 12 of the Md. Cts. & Jud. Proc. Code, [28](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=435&page=647" \l "f28#f28) the following question is certified to the Court of Appeals of Maryland” [Elkins v. Moreno, 435 647 (1978)]

1. Cross-Plaintiff claims diversity of citizenship under 28 U.S.C. §1332(a)(2), where the Cross-Plaintiff is a “non-citizen national of California”, which is a “foreign state”, while the Plaintiff is a “citizen and national of the United States” under 8 U.S.C. §1401 and/or a foreign corporation under 28 U.S.C. §3002(15)(A). Birth Certificate, which is a public record not excusable under F.R.E. Rule 802, is incorporated into Exhibit 5 of the Answer, Docket #5. Because diversity of citizenship is claimed:
   1. Cross-Plaintiff qualifies as a foreign sovereign.
   2. Cross-Plaintiff DOES NOT consent to be effectively kidnapped and his domicile moved to the District of Columbia under 26 U.S.C. §7701(a)(39) or 26 U.S.C. §7408(c). If this court allows this, it is:
      1. Participating in compelled association in violation of the First Amendment.
      2. Kidnapping, which is a criminal offense under 18 U.S.C. §1201
      3. Establishing a religion, if it does not prove that the above sections are positive law and that the American people in states of the Union consented to enforce it upon themselves. It is “presuming” and compelling the Cross-Plaintiff to falsely presume that there is a law and that it obligates him to do something. This type of compelled presumption violates my religious beliefs in Numbers 15:30, is a violation of due process, and has the equivalent affect of compelling “faith” in the judge as some superior being who must be worshipped. See Exhibit 2 of the Answer, Docket #5, sections 5.4 through 5.4.3.7 of the *Great IRS Hoax* for proof of why the government is establishing a religion using compelled false presumption and in violation of the First Amendment. See also section 3.16 of the attached Memorandum of Law for details, which is admitted as truthful if not rebutted by the Cross-Plaintiff in his next response.
   3. Rules of Decision under this diversity case are described under [28 U.S.C. §1652](http://www4.law.cornell.edu/uscode/html/uscode28/usc_sec_28_00001652----000-.html). These rules state that neither counsel nor the court may cite anything but forum law, which is the Holy Bible in accordance with Exhibits 6, 8, and 9 of the Answer, Docket #5.
   4. Neither party to this action nor the court may entertain anything but forum law of the foreign state in question. See *Erie R.R. v. Tompkins*, [304 U.S. 64](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=304&page=64) (1938). That foreign law is the Holy Bible. Judicial Notice of foreign law was provided in the Answer, Docket #5, pursuant to Fed.Rule.Civ.Proc. 44.1.
   5. Precedent from federal district and circuit courts does not apply. IRM 4.10.7.2.9.8 says that IRS is not obligated to change its position based on any ruling below the Supreme Court. If the IRS is not obligated to change its position for courts below the Supreme Court, then neither is the Cross-Plaintiff. Cross-Plaintiff claims equal protection of the laws under the Fourteenth Amendment and 42 U.S.C. §1981.
2. It is an undisputed fact that the court does *not* have jurisdiction over any of the website(s) in question.
   1. The Family Guardian website (<http://famguardian.org>, Exhibit 13 of the Answer, Docket #5) is located in Canada, as are all other websites in which speech by the author is available. This has been declared in the Answer, Docket #5, and not denied by the Plaintiff, making it fact under Fed.Rule.Civ.Proc. 8(d). This court does not have jurisdiction over affairs in a foreign country, and especially in the case of a person who is a “national” but not a “citizen” under 8 U.S.C. §1101(a)(21).
   2. According to the SEDM Fellowship Member Agreement, Exhibit 2, and the Disclaimers, Exhibits 3 and 7, none of the persons authorized to visit said websites may include anyone who the Plaintiff or the United States might have territorial or subject matter jurisdiction over.
3. The Court has jurisdiction under 9 U.S.C. §4 in the enforcement of the SEDM Fellowship Member Agreement, Exhibit 2, and the Copyright/Software/User License Agreement embodied within it because:
   1. By virtue of “commerce” conducted by the Cross-Defendants and SEDM in obtaining the materials that are the subject of this suit, Cross-Defendants have made themselves subject to the terms of the SEDM Fellowship Member Agreement.
   2. It’s enforcement arises out of “Maritime transactions” and “commerce” as defined in 9 U.S.C. §1, conducted between:
      1. The Cross-Defendants, who are domiciliaries of the District of Columbia or representing a federal corporation, the “United States”, that is a “U.S. citizen”…and
      2. A foreign state or domiciliary of a foreign state and not of the “United States”.
   3. The SEDM Fellowship Member Agreement, Exhibit 2, is an arbitration agreement, as described in 9 U.S.C. §4 which defines the terms under which any matters relating to SEDM *must* be litigated by the Cross-Defendants as private individuals and as officers of the federal corporation, the “United States”. Cross-Defendants have not observed the limitations imposed by that agreement and have refused to honor their obligations under the agreement, and yet have offered no reason why any of the said terms agreements are unenforceable.
   4. The Cross-Plaintiff is a Member of the SEDM Church and religious fellowship and subject to the terms of the Agreement.
   5. Consent to abide by the SEDM Fellowship Member Agreement, Exhibit 2, and Copyright/Software/License Agreements, Exhibits 3 and 7, was manifest unambiguously during the process of obtaining materials from said websites.
   6. The SEDM Fellowship Member Agreement, Exhibit 2, provides standing to Members of the Ministry to countersue those who are suing them in the context of their participation in the ministry. See Exhibit 2, Section 6.
4. The court has jurisdiction under 28 U.S.C. 1331 (civil action arising under the Constitution and laws of the United States) for all issues addressed by this Complaint.
5. The court has in personam jurisdiction against the Cross-Defendants, who purport to act as a pretended agent of the “United States”, a federal corporation pursuant to 28 U.S.C. §3002(15)(A)[[1]](#footnote-1).
6. The court has *no* in personam jurisdiction against the Cross-Plaintiff except as provided by the terms of the SEDM Fellowship Member Agreement, Exhibit 2, and ONLY to enforce said agreement, which amounts to “maritime transaction”. This results from the fact that:
   1. Cross-Plaintiff is not a “citizen of the United States” as defined in 8 U.S.C. §1401. Instead, he is a “national but not a “citizen” under 8 U.S.C. §1101(a)(21) who owes allegiance to a state and to the confederation of states called the United States of America, but NOT to the corporation called the “United States”. Note that a “state” is defined as the sovereign people, and not the de facto government that claims to represent or serve them. Cross-Plaintiff is also a “citizen of the United States” as defined by section 1 of the Fourteenth Amendment, which excludes statutory “citizens of the United States” defined in 8 U.S.C. §1401. This distinction arises out of the fact that the term “United States” as used in the Constitution means the Union of sovereign states and *excludes* federal territories and possessions, while the “United States” as used in most Acts of Congress excludes land within the exclusive jurisdiction of states of the Union and outside of the plenary power of Congress.

"The earliest case is that of Hepburn v. Ellzey, 2 Cranch, 445, 2 L. ed. 332, in which this court held that, under that clause of the Constitution limiting the jurisdiction of the courts of the United States to controversies between citizens of different states, a citizen of the District of Columbia could not maintain an action in the circuit court of the United States. It was argued that the word 'state.' in that connection, was used simply to denote a distinct political society. 'But,' said the Chief Justice, 'as the act of Congress obviously used the word 'state' in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is a state in the sense of that instrument. **The result of that examination is a conviction that the members of the American confederacy only are the states contemplated in the Constitution , . . . and excludes from the term the signification attached to it by writers on the law of nations.' This case was followed in Barney v. Baltimore, 6 Wall. 280, 18 L. ed. 825, and quite recently in Hooe v. Jamieson,** [**166 U.S. 395**](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=166&invol=395) **, 41 L. ed. 1049, 17 Sup. Ct. Rep. 596. The same rule was applied to citizens of territories in New Orleans v. Winter, 1 Wheat. 91, 4 L. ed. 44, in which an attempt was made to distinguish a territory from the District of Columbia. But it was said that 'neither of them is a state in the sense in which that term is used in the Constitution.'** In Scott v. Jones, 5 How. 343, 12 L. ed. 181, and in Miners' Bank v. Iowa ex rel. District Prosecuting Attorney, 12 How. 1, 13 L. ed. 867, it was held that under the judiciary act, permitting writs of error to the supreme court of a state in cases where the validity of a state statute is drawn in question, an act of a territorial legislature was not within the contemplation of Congress."

[Downes v. Bidwell, [182 U.S. 244](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=182&invol=244) (1901)]

* 1. “Domicile” of Cross-Plaintiff is Heaven and not any place on earth. Domicile is based on “intent” and only the Cross-Plaintiff can determine “intent” and provide voluntary consent. Domicile is a product of allegiance and allegiance must be voluntary. This intent is a product of sincerely held religious beliefs. Cross-Plaintiff does not seek, require, and does not wish to be compelled to either accept or subsidize protection of a “foreign corporation” and a “foreign state” called the “United States” federal corporation as defined under 28 U.S.C. §3002(15)(A). See Exhibit 8 of the Answer, Docket #5, Change of Address Affidavit, included with Affidavit of Material Facts for evidence in support. Any attempt to define domicile any other way amounts to compelled association in violation of the First Amendment.
  2. Cross-Plaintiff is an “ambassador and minister of a foreign state” called “Heaven”. His dwelling is a foreign embassy, and he is protected by the Foreign Sovereign Immunities Act, 28 U.S.C. Part IV, Chapter 97.
  3. The Cross-Plaintiff *does not* “reside” and is not found in any Internal Revenue District or United States Judicial district. Pursuant to Treasury Order 150-02, all Internal Revenue Districts outside of the District of Columbia were abolished as a result of the *IRS Restructuring and Reform Act of 1998*, 112 Stat. 685, and the Cross-Plaintiff does *not* reside within the District of Columbia and does not consent or volunteer to be treated like he does, under either 26 U.S.C. §7701(a)(39) or 26 U.S.C. §7408(c ).

1. This proceeding involves the criminal laws of the United States. As such, 18 U.S.C. §4001 applies. Although Cross-Plaintiff is not a “citizen” within the meaning of federal law, he is entitled to equal protection under the Fourteenth Amendment as a “non-citizen national”. To wit:

[TITLE 18](http://www4.law.cornell.edu/uscode/18/index.html) > [PART III](http://www4.law.cornell.edu/uscode/18/pIII.html) > [CHAPTER 301](http://www4.law.cornell.edu/uscode/18/pIIIch301.html) > Sec. 4001.

[Sec. 4001. - Limitation on detention; control of prisons](http://www4.law.cornell.edu/uscode/18/4001.html)

(a) No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

1. Federal Rules of Criminal Procedure, Rule 54(c ) prior to Dec. 2002 defined the term “Act of Congress” as follows:

[Rule 54(c) of the Federal Rules of Criminal Procedure](http://www2.law.cornell.edu/cgi-bin/foliocgi.exe/frcrm/query=*/doc/%7bt772%7d?) (prior to Dec. 2002)

"Act of Congress" includes any act of Congress **locally applicable to and in force in the District of Columbia, in Puerto Rico, in a** [**territory**](http://familyguardian.tax-tactics.com/TaxFreedom/CitesByTopic/territory.htm) **or in an insular possession.**"

1. Consequently, this court, the Plaintiff, and his employer the Dept. of Justice are collectively *without* jurisdiction to enforce the criminal or civil laws of the United States for offenses committed *outside* of the District of Columbia, Puerto Rico, federal areas within the states, and the territories and insular possessions of the United States.

"Judge Story, in his treatise on the Conflicts of Laws, lays down, as the basis upon which all reasonings on the law of comity must necessarily rest, the following maxims: First 'that **every nation possesses an exclusive sovereignty and jurisdiction within its own territory**'; secondly, '**that no state or nation can by its laws directly affect or bind property out of its own territory, or bind persons not resident therein, whether they are natural born subjects or others.**'  The learned judge then adds: 'From these two maxims or propositions there follows a third, and that is that whatever force and obligation the laws of one country have in another depend solely upon the laws and municipal regulation of the latter; that is to say, upon its own proper jurisdiction and polity, and upon its own express or tacit consent." Story on Conflict of Laws §23."

[Baltimore & Ohio Railroad Co. v. Chambers, 73 Ohio St. 16; 76 N.E. 91; 11 L.R.A., N.S., 1012 (1905)]

Based on the above, unless consent to be bound by the laws has been manifested by a nonresident person under the rules of comity, the subject must be presumed to be “foreign” to the jurisdiction of the federal courts. Burden of demonstrating *written consent* must be provided by the government in order to apply the laws of the United States outside its territory, and Cross-Plaintiff does not now and never has provided such consent, or “comity”.

1. Since the Cross-Plaintiff:
   1. Does not “Reside” or maintain a domicile within the confines of any judicial or internal revenue district. All IRS enforcement authority under 26 U.S.C. §7601 is only WITHIN internal revenue districts and the ONLY remaining district is the District of Columbia. Neither has the President, pursuant to 26 U.S.C. §7621, ever created any districts that include land subject to the exclusive, plenary jurisdiction of any state of the Union.
   2. Has not made an “election” by filing an IRS form 1040 or W-4 which would make him into a “resident” or a federal “employee” subject to the Internal Revenue Code.[[2]](#footnote-2)
   3. Is not engaged in any privileged activities, including a “trade or business” defined in 26 U.S.C. §7701(a)(26) that would subject him to any part of the Internal Revenue Code and has rebutted all evidence that might prove otherwise, including all information returns.
   4. Has rescinded the Social Security trust agreement to remove all vestiges of “comity”. See Docket #29, Exhibit 2 which might impart “extra-territorial”, private law jurisdiction over the Cross-Plaintiff.
   5. Is a “nontaxpayer” not subject to the Internal Revenue Code and not a statutory “citizen” under 8 U.S.C. §1401, who therefore cannot have his legal identify or “res” effectively “kidnapped” in violation of 18 U.S.C. §1201, by asserting the terms of 26 U.S.C. §7701(a)(39) or 26 U.S.C. §7408(c ) against him. Therefore, he remains a foreign sovereign protected by the Foreign Sovereign Immunities Act, 28 U.S.C. §1602 et seq.
   6. Has not committed any of the offense(s) fraudulently alleged by the Cross-Plaintiff within any judicial or internal revenue district as described in Treasury Order 150-02.
   7. Does not have any private contracts or agreements in place that would grant extra-territorial jurisdiction to the court other than the SEDM Fellowship Member Agreement, Exhibit 2.

…then both the Plaintiff and this court and the DOJ are *without* jurisdiction to enforce any part of the Internal Revenue Code against Cross-Plaintiff. Doing so would be a willful, intentional, criminal trespass upon the Cross-Plaintiff’s Constitutional rights to life, liberty, and the pursuit of happiness.

1. This court and the U.S. Government do not possess police powers or legislative jurisdiction within states of the Union, which are “foreign states” with respect to the federal government for the purposes of legislative jurisdiction for nearly all subject matters.

“**It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart,** [**247 U.S. 251, 275**](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=247&invol=251#275) **, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.** The question in respect of the inherent power of that government as to the external affairs of the Nation and in the field of international law is a wholly different matter which it is not necessary now to consider. See, however, Jones v. United States, [137 U.S. 202, 212](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=137&invol=202#212) , 11 S.Ct. 80; Nishimur Ekiu v. United States, [142 U.S. 651, 659](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=142&invol=651#659) , 12 S.Ct. 336; Fong Yue Ting v. United States, [149 U.S. 698](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=149&invol=698) , 705 et seq., 13 S.Ct. 1016; Burnet v. Brooks, [288 U.S. 378, 396](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=288&invol=378#396) , 53 S.Ct. 457, 86 A.L.R. 747.”

[Carter v. Carter Coal Co., [298 U.S. 238](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=298&invol=238) (1936)]

See also *Leisy v. Hardin*, [135 U.S. 100](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=135&page=100) (1890). Police powers include the authority to enforce “acts of Congress”, criminal laws, Subtitles A through C of the Internal Revenue Code, as well as most federal legislation within the exterior borders of states of the Union. Police powers, or what are also called “residual powers” by some federal courts, can only be transferred by a voluntary act of the state legislature and subsequent cession of an area of land within a state to the federal government by a Cession document registered with the Attorney General of the United States under the provisions of 40 U.S.C. §§3111, 3112. See *U.S. v. Bevans*, 16 U.S. 336 (1818), *Fort Leavenworth R.R. v. Lowe*, 114 U.S. 525 (1885).

1. For the purposes of this proceeding, the jurisdiction of this court to rule in favor of any result *other* than that requested by the Cross-Plaintiff in this pleading is *challenged*. Consequently, the government, as the moving party, has the burden of proof to demonstrate said jurisdiction, and it must be demonstrated *on the record by the court* and not the Cross-Plaintiff(s).
2. It is an undisputed fact that the pursuant to 28 U.S.C. §636, all involved parties must consent to a magistrate. Named Cross-Plaintiff does not consent to a magistrate and instead consents only to a full ARTICLE III District Court judge who presents his credentials on the record to the court, and provides evidence of residence within the judicial district as required by 28 U.S.C. §134.
3. This court does *not* have jurisdiction to sanction the Cross-Plaintiff for any aspect of this pleading, because first it would violate the First Amendment rights of the Cross-Plaintiff, but also because Rule 11 of the Federal Rules of Civil Procedure only authorizes sanctions against counsel, and not the parties they represent.

*“Rule 11, Federal Rules of Civil Procedure*

***Sanctions that involve monetary awards (such as a fine or an award of attorney's fees) may not be imposed on a represented party for violations of subdivision (b)(2), involving frivolous contentions of law. Monetary responsibility for such violations is more properly placed solely on the party's attorneys****. With this limitation, the rule should not be subject to attack under the Rules Enabling Act. See Willy v. Coastal Corp., \_\_ U.S. \_\_ (1992); Business Guides, Inc. v. Chromatic Communications Enter. Inc., \_\_ U.S. \_\_ (1991). This restriction does not limit the court's power to impose sanctions or remedial orders may have collateral financial consequences upon a party, such as dismissal of a claim, preclusion of a defense, or preparation of amended pleadings.” [F.R.C.P., Rule 11]*

# STANDING OF CROSS-PLAINTIFF:

1. The requests appearing in this petition constitute a First Amendment Petition for Redress of Grievances protected by the Constitution, and they are made by Cross-Plaintiff as a foreign sovereign not subject to the jurisdiction of this foreign state and who, under the First Amendment Petition Clause, need not subject himself to the legislative jurisdiction of this forum in order to procure peaceable relief or thereby restore the public tranquility. Motions are made to courts that have jurisdiction, which this court does not, nor has any evidence been presented by the Cross-Defendant to contradict this conclusion. Therefore, this Petition serves the same purpose without conferring jurisdiction upon this court over the Cross-Plaintiff, and is made by “presence” but not “appearance”.

***“appearance****.  A coming into court as a party to a suit, either in person or by attorney, whether as plaintiff or defendant.  The formal proceeding by which a defendant submits himself to the jurisdiction of the court.  The voluntary submission to a court's jurisdiction.*

*In civil actions the parties do not normally actually appear in person, but rather through their attorneys (who enter their appearance by filing written pleadings, or a formal written entry of appearance).  Also, at many stages of criminal proceedings, particularly involving minor offenses, the defendant's attorney appears on his behalf.  See e.g., Fed.R.Crim.P. 43.*

*An appearance may be either general or special; the former is a simple and unqualified or unrestricted submission to the jurisdiction of the court, the latter is a submission to the jurisdiction for some specific purpose only, not for all the purposes of the suit.  A special appearance is for the purpose of testing or objecting to the sufficiency of service or the jurisdiction of the court over defendant without submitting to such jurisdiction; a general appearance is made where the defendant waives defects of service and submits to the jurisdiction of court.  Insurance Co. of North America v. Kunin, 175 Neb. 260, 121 N.W.2d 372, 375, 376.”*

*[Black’s Law Dictionary, Sixth Edition, p. 97]*

1. An affidavit is provided as Federal Pleading Attachment, Exhibit 1, which documents the citizenship, domicile, and tax status of the Cross-Plaintiff. Further details on the standing and capacity to sue are provided below.
2. If the Court is going to try to dismiss this Cross Complaint case because Cross-Plaintiff has not submitted himself to the jurisdiction of this court, it also must dismiss the original Complaint as well for the same reason. This is a requirement of equal protection mandated by the Fourteenth Amendment, Section 1. There is no constitutional requirement that a foreign sovereign must surrender ALL of his or its rights to a foreign sovereign corporation in order to procure peaceable relief for the infringement of rights protected by the Constitution of the United States of America.
3. Cross-Plaintiff avers that the behavior of the Cross-Defendant has oppressed his Constitutionally protected rights, and that he possess said rights because:
   1. He has not knowingly surrendered them at any time.

"Waivers of Constitutional rights not only must be voluntary, but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences."

[[Brady v. U.S., 397 U.S. 742 (1970)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=397&invol=742)]

* 1. There is no evidence in the possession of the Cross-Defendants that he ever knowingly surrendered them.
  2. The Cross-Defendants have never argued that he surrendered them.

1. Standing to pursue this action is based upon
   1. Injuries arising out of violation of the rights of the Cross-Plaintiff under the Constitution of the United States, which is a contract within the meaning of the Contract clause found therein:

"A state can no more impair the obligation of a contract by her organic law [constitution] than by legislative enactment; for her constitution is a law within the meaning of the contract clause of the national constitution. Railroad Co. v. [115 U.S. 650, 673]   McClure, 10 Wall. 511; Ohio Life Ins. & T. Co. v. Debolt, 16 How. 429; Sedg. St. & Const. Law, 637 And the obligation of her contracts is as fully protected by that instrument against impairment by legislation as are contracts between individuals exclusively. State v. Wilson, 7 Cranch, 164; Providence Bank v. Billings, 4 Pet. 514; Green v. Biddle, 8 Wheat. 1; Woodruff v. Trapnall, 10 How. 190; Wolff v. New Orleans, [103 U.S. 358](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=103&invol=358) **.**"

[[New Orleans Gas Company v. Louisiana Light Company, 115 U.S. 650 (1885)](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=115&invol=650)**]**

The oath of the judge and the oath of the Cross-Defendant, as a “public officer” to protect, obey, and defend the Constitution against all enemies, foreign and domestic, are all that is required to create the duty on the part of the Cross-Defendant to defend the Constitutional rights at issue. All rights create duties on the part of public servants.

“Mandamus lies to compel the performance of ministerial acts with respect to the making and enforcement of police ordinances and regulations, [[3]](#footnote-3) if the right of the relator and the duty of the respondent are clear. [[4]](#footnote-4) Thus, the remedy is available to enforce a mandatory duty imposed on a city attorney to commence proceedings for the enforcement of an ordinance,[[5]](#footnote-5) or to compel a state housing board to enforce a statute relating to rentals against a municipal housing authority. [[6]](#footnote-6)”

[52 Am.Jur. 2d, Mandamus, §168]

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“All action taken by municipal officers [of the District of Columbia, in this case] must be both legal and reasonable, and this is particularly so under general grants of power. [[7]](#footnote-7) **Moreover, the officers of a municipal corporation have no power arbitrarily to interfere with the rights of a citizen in any case where the public interests are not involved.** [[8]](#footnote-8)”

[56 Am.Jur 2d, Municipal Corporations, Counties, and other Political Subdivisions, §275]

* 1. Injuries arising out of the operation of private contract law under the SEDM Fellowship Member Agreement, Exhibit 2.
  2. Injuries arising out of the operation of private contract law under the terms of the Copyright/Software/User License Agreement, attached to Docket #72, Exhibits 1 and 2.
  3. Alleged criminal conduct in violation of the Laws of the United States by the Cross-Defendants. A separate criminal complaint will be filed documenting extensive infractions.

## Sovereign Immunity Under the Foreign Sovereign Immunities Act

1. Cross-Plaintiff claims sovereign immunity under the Foreign Sovereign Immunities Act, 28 U.S.C. Part IV, Chapter 97.
2. Cross-Plaintiff is:
   1. An instrumentality and an ambassador of a foreign state called Heaven and California (but not the “State of” California under R&TC 17018 and R&TC 6017). See Exhibit 1 attached.
   2. Protected under 18 U.S.C. §112.
   3. Not a “citizen of the United States” under 8 U.S.C. §1401 or a “resident of the United States” pursuant to 26 U.S.C. §7701(b)(1)(A).
   4. A “national of California” under 8 U.S.C. §1101(a)(21) but not a “citizen of California”.
   5. Not engaged in any kind of commerce within the legislative jurisdiction of the “United States” federal corporation that would subject him to any of the exceptions to the FSIA found in 28 U.S.C. §1605.
   6. Has notified the Secretary of State of the above status by notarized affidavit with a Certificate of Service, available upon request.
3. Cross-Plaintiff states under penalty of perjury that:
   1. He is not a statutory “citizen of the United States” under 8 U.S.C. §1401, and therefore may act as a foreign sovereign. Cross-Defendant MUST rebut Answer, Docket #5, Exhibit 7 if he disagrees or be estopped from challenging this in the future. Since he has not done this after almost a year of litigation, then he agrees under Fed.Rule.Civ.Proc. 8(d) and *estoppel in pais* applies to this issue.
   2. At not time has he engaged in any activity, including commerce within the plenary jurisdiction of the “United States” as defined in 26 U.S.C. §7701(a)(9) or (a)(10), that might subject himself to any of the exceptions to sovereign immunity found in 28 U.S.C. §1605.

The burden of showing otherwise is upon the Cross-Defendants.

1. The Plaintiff and the Court have asserted sovereign immunity to invalidate the enforceability of the license agreements, Exhibits 2, 3 and 7. If the Court continues to insist on this approach, the Cross-Plaintiff is entitled to *equal protection*. The government cannot assert any more rights than those that were delegated by the Sovereigns it was created to serve, We the People, of which I am a part. It cannot assert sovereign immunity as an excuse to violate the contracts and promises that it undertakes, even in cases where those promises are undertaken in the context of procuring evidence to use within a legal proceeding:

"What, then, is meant by the doctrine that contracts are made with reference to the taxing power resident in the State, and in subordination to it? Is it meant that when a person lends money to a State, or to a municipal division of the State having the power of taxation, there is in the contract a tacit reservation of a right in the debtor to raise contributions out of the money promised to be paid before payment? **That cannot be, because if it could, the contract (in the language of Alexander Hamilton) would 'involve two contradictory things: an obligation to do, and a right not to do; an obligation to pay a certain sum, and a right to retain it in the shape of a tax. It is against the rules, both of law and of reason, to admit by implication in the construction of a contract a principle which goes in destruction of it.' The truth is, States and cities, when they borrow money and contract to repay it with interest, are not acting as sovereignties. They come down to the level of ordinary individuals. Their contracts have the same meaning as that of similar contracts between private persons. Hence, instead of there being in the undertaking of a State or city to pay, a reservation of a sovereign right to withhold payment, the contract should be regarded as an assurance that such a right will not be exercised. A promise to pay, with a reserved right to deny or change the effect of the promise, is an absurdity."**

“Is, then, property, which consists in the promise of a State, or of a municipality of a State, beyond the reach of taxation? We do not affirm that it is. A State may undoubtedly tax any of its creditors within its jurisdiction for the debt due to him, and regulate the amount of the tax by the rate of interest the debt bears, if its promise be left unchanged. A tax thus laid impairs no obligation assumed. It leaves the contract untouched. But until payment of the debt or interest has been made, as stipulated**, we think no act of State sovereignty can work an exoneration from what has been promised to the [446] creditor; namely, payment to him, without a violation of the Constitution. 'The true rule of every case of property founded on contract with the government is this: It must first be reduced into possession, and then it will become subject, in common with other similar property, to the right of the government to raise contributions upon it. It may be said that the government may fulfil this principle by paying the interest with one hand, and taking back the amount of the tax with the other. But to this the answer is, that, to comply truly with the rule, the tax must be upon all the money of the community, not upon the particular portion of it which is paid to the public creditors, and it ought besides to be so regulated as not to include a lien of the tax upon the fund. The creditor should be no otherwise acted upon than as every other possessor of money; and, consequently, the money he receives from the public can then only be a fit subject of taxation when it is entirely separated' (from the contract), 'and thrown undistinguished into the common mass.' 3 Hamilton, Works, 514 et seq. Thus only can contracts with the State be allowed to have the same meaning as all other similar contracts have.** “

[Murray v. City of Charleston, 96 U.S. 432 (1877)]

The Court will also note that the U.S. Supreme Court recognized all tax exactions as “debts”, which means they qualify as private contracts based on the above:

“Even if the judgment is deemed to be colored by the nature of the obligation whose validity it establishes, and we are free to re-examine it, and, if we find it to be based on an obligation penal in character, to refuse to enforce it outside the state where rendered, see Wisconsin v. Pelican Insurance Co., [127 U.S. 265](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=127&invol=265) , 292, et seq. 8 S.Ct. 1370, compare Fauntleroy v. Lum, [210 U.S. 230](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=210&invol=230) , 28 S.Ct. 641, **still the obligation to pay taxes is not penal. It is a statutory liability, quasi contractual in nature, enforceable, if there is no exclusive statutory remedy, in the civil courts by the common-law action of debt or indebitatus assumpsit. United States v. Chamberlin,** [**219 U.S. 250**](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=219&invol=250) **, 31 S.Ct. 155; Price v. United States,** [**269 U.S. 492**](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=269&invol=492) **, 46 S.Ct. 180; Dollar Savings Bank v. United States, 19 Wall. 227; and see Stockwell v. United States, 13 Wall. 531, 542; Meredith v. United States, 13 Pet. 486, 493. This was the rule established in the English courts before the Declaration of Independence.** Attorney General v. Weeks, Bunbury's Exch. Rep. 223; Attorney General v. Jewers and Batty, Bunbury's Exch. Rep. 225; Attorney General v. Hatton, Bunbury's Exch. Rep. [296 U.S. 268, 272]   262; Attorney General v. \_ \_, 2 Ans.Rep. 558; see Comyn's Digest (Title 'Dett,' A, 9); 1 Chitty on Pleading, 123; cf. Attorney General v. Sewell, 4 M.&W. 77. “ [Milwaukee v. White, [296 U.S. 268](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=296&page=268) (1935)]

The “contract” they are talking about is “domicile” in the forum state. Therefore, payment of taxes is a “private law” and “special law” issue that is enforceable as a civil judgment against those who consent, through comity and by voluntarily selecting a domicile, to procure government “protection”. Cross-Plaintiff is NOT a party who has forged such a contract and thereby procured the surety to pay an endless stream of unaccountable, irresponsible government debt. Therefore, he is not engaged in “private business” with the state to procure protection and consequent surety for “debt” he does not need and does not want. He has done this because his religious beliefs and practices mandate that it be done:

“A man devoid of understanding shakes hands in a pledge, and becomes surety for his friend [or the government or the “state”].”

[Bible, Proverbs 17:18]

“He who is surety for a stranger [or the government or the “state”] will suffer, but one who hates being surety is secure.”

[Prov. 11:15, NKJV]

“My son, if you become surety for your friend [or the government or the “state”], if you have shaken hands in pledge for a stranger, you are snared by the words of your mouth; you are taken by the words of your mouth. So do this, my son, and deliver yourself; for you have come into the hand of your friend [slavery!]: Go and humble yourself; plead with your friend. Give no sleep to your eyes, nor slumber to your eyelids. Deliver yourself like a gazelle from the hand of the hunter; and like a bird from the hand of the fowler.”

[Prov. 6:1-5, Bible, NKJV]

## Limited Power of Attorney on Behalf of Cross-Defendants in respect of this action

1. Cross-Plaintiff asserts Limited Power of Attorney for the Cross-Plaintiff, under the terms of the Copyright/Software License Agreement appearing in Exhibit 3. That Power of Attorney authorizes Cross-Plaintiff to act of behalf of Cross-Defendants <<IRS AGENT NAME>> and <<DOJ EMPLOYEE FULL NAME>>, both of whom have abused Copyrighted materials with a commercial (or anti-commercial) motive that subjects them to the terms of the Copyright, and based on their express consent, as will be shown.
2. It is an undisputed fact that Cross-Defendants individually and severally downloaded Copyrighted/Privileged information and materials off the Family Guardian website and therefore subjected himself to the terms of the Copyright/Software License Agreement. See Aff. Matl. Facts, section 5.1.1.
3. It is an undisputed fact that the terms of the Limited Power of Attorney associated with the Copyright/Software License Agreement authorize Cross-Plaintiff to do the following things on behalf of, and as an agent for the Plaintiff:
   1. Petition to dismiss any case against lincensor.
   2. Complete and submit voluntary payroll withholding forms so as to garnish his pay in satisfaction of liabilities incurred in violating the Copyright/Software License Agreement.
   3. Act as an exclusive witness on behalf of the prosecution in any trial directed against the licensor or any ministry or other entity to which he is connected or associated as a result of the litigation.
   4. Make withdrawals from the personal financial accounts of the User to satisfy liabilities incurred in violating the Copyright/Software License Agreement.
   5. Submit resignation papers to the private or government employer of User.
   6. Accept, cash, and take ownership of payments from Licensor to the Prosecution for any monetary liabilities resulting from litigation directed against Administrator or any group or ministry or other efforts he is or may be connected with.
4. In satisfaction of the Limited Power of Attorney granted to Cross-Plaintiff by virtue of the Copyright/Software License Agreement, Exhibits 2 and 3, to which Cross-Defendants severally and individually are parties, Cross-Plaintiff Petitions court to dismiss the Complaint of the Cross-Defendant, Docket #1. The Limited Power of Attorney may be found below and in Docket #72, Exhibit 3:

<http://famguardian.org/LPOA.pdf>

## Agency within other entities

1. Cross-Plaintiff is a Member of SEDM. The rules of the SEDM Ministry Membership Agreement are found in Docket #72, Exhibit 4.
2. Cross-Plaintiff is not authorized to act on behalf of or bind SEDM in any way whatsoever. This is a church and private religious ministry operated by a board of ministers, according to its Ministry Articles. Government must demonstrate a compelling public interest in order to invade the First Amendment nature of that organization as both a church and an organization of political activists. Cross-Plaintiff, however, does assert that the rights at issue do qualify for the Overbreadth Doctrine elucidated by the Supreme Court in *Broaderick v. Oklahoma*, 413 U.S. 601 (1973), in which those engaged in allegedly unprotected or persecuted speech may bring up the First Amendment rights of third parties who are engaged in protected speech.
3. According to About Us page of the SEDM Church, ministry Officers and Member information are secret under Gods Law. See section 3 of the following link: <http://sedm.org/AboutUs.htm>. Secrecy is therefore a protected religious practice.

"Take heed that you do not do your charitable deeds before men, to be seen by them. Otherwise you have no reward from your Father in heaven. **Therefore, when you do a charitable deed, do not sound a trumpet before you as the hypocrites [lawyers and politicians] do in the synagogues and in the streets [and in jury trials, SCUM!], that they may have glory from men. Assuredly, I say to you, they have their reward. But when you do a charitable deed, do not let your left hand know what your right hand is doing, that your charitable deed may be in secret; and your Father who sees in secret will Himself reward you openly.**"  [[Matt. 6:1-4](http://biblegateway.com/passage/?search=Matthew%206:1-4;&version=50;), Bible, NKJV]

The “charitable deed” in question is informing Americans on a large scale about violations of law and corruption within the government. The U.S. Supreme Court has also stated that protecting this type of speech, whether done freely or through commerce, is the main thing protected by the First Amendment:

"In the First Amendment, the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press [and this religious ministry] was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government. **The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people** and sending them off to distant lands to die of foreign fevers and foreign shot and shell. In my view, far from deserving condemnation for their courageous reporting, the New York Times, the Washington Post, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of government that led to the Vietnam war, the newspapers nobly did precisely that which the Founders hoped and trusted they would do."

[New York Times Co. v. United States, [403 U.S. 713](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=403&page=713) (1970)]

1. According to the SEDM Fellowship Member Agreement, Docket #72, Exhibit #4, those who are members have a contractual obligation not to reveal anything about the ministry to any outsiders. The About us page (<http://sedm.org/AboutUs.htm>) also says that being compelled to associate with the government or anyone within its legislative jurisdiction, including “taxpayers” or the IRS, amounts to compelled association in violation of the First Amendment.
2. It is an undisputed fact that under the First Amendment, government must have a “compelling state interest” that does not conflict with the forum law of the Cross-Plaintiff in order to justify any action to violate the privacy of Members of the Ministry and religious order. [[9]](#footnote-9)

# CIVIL CAUSES OF ACTION

The requests included in this section constitute a First Amendment Petition for Redress of Grievances protected by the Constitution, and they are made by Cross-Plaintiff as a foreign sovereign not subject to the jurisdiction of this foreign state and who, under the First Amendment Petition Clause, need not subject himself to the legislative jurisdiction of this forum in order to procure peaceable relief or thereby restore the public tranquility.

## Against Cross Defendant <<U.S. ATTY NAME>> as Private Individual

1. Causes of Action 1.1 and 1.2 relate to violations of the license agreements applicable to the evidence used by the Cross-Defendant.
   1. The only real legal issue for the Court is whether the Copyright/Software/User License Agreement constitutes a valid and enforceable contract under the Uniform Commercial Code Article 2.
   2. The only real factual issues for the Jury to decide are:
      1. Whether the Cross-Defendant received “reasonable notice” of the terms of the Copyright/Software/User License Agreement at the time he downloaded said materials. Or subsequently thereafter. See *Specht v. Netscape Communications Corporation*, 306 F.3d 17 (2d Cir. 10/01/2002) for excellent authorities on the requirement for “reasonable notice”.
      2. Who is obligated to the agreement by virtue of the terms of said agreement: The Cross-Defendant as a private party or the United States he claims to represent? The terms of the SEDM Fellowship Member Agreement, Exhibit 2 clearly indicate that he is responsible as a private party and may not assert sovereign immunity or official immunity to shield himself from personal liability for the consequences of obeying his private contracts.
2. Causes 1.3 through 1.5 relate to claims related to the protection of private rights under the Constitution.

### CAUSE 1.1: Monetary Damages for violation of Copyright/Software/License Agreement

**COUNT 1**: Deposition of 30NOV2005 of Cross-Plaintiff.

1. Cross-Defendant has incurred personal financial liability towards the Cross-Plaintiff in the amount of $10,800,000 plus 50% of pay and benefits as a federal employee for the rest of his life, for violations of the SEDM Fellowship Member Agreement, Exhibit 2 attached, in the context of these proceedings. Facts in support are explained in the accompanying Aff. Of Material Facts, section 3.1.2.
2. Cross-Plaintiff is pursuing this action in the context of abuse of SEDM materials as a Member of SEDM but not an officer or author of any of the materials. Section 6 of the SEDM Fellowship Member Agreement, Exhibit 2 attached, establishes that standing to sue for damages is conveyed to SEDM Members who are litigating against other SEDM Members.

### CAUSE 1.2: Enforcement of License Agreement Provisions Against Cross-Defendant Shoemaker

1. Section ‎5.1.12 of the attached Aff. Of Matl Facts proves that Cross-Defendant Shoemaker admitted that he downloaded licensed materials from the websites in question. By virtue of downloading said materials, he became subject to the terms of the Copyright/Software/User License Agreement contained in the SEDM Fellowship Member Agreement, Exhibit 2, Section 6.
2. One of the terms of these agreements, is that whoever initiates a lawsuit against any Member, author, or user of the websites in question agrees to substitute himself/herself as the adjudged party. Under the terms of that license agreement, the Cross-Plaintiff is not the proper Defendant of the Complaint filed by Cross-Defendant Mr. Shoemaker. <<U.S. ATTY NAME>>, along with <<IRS AGENT NAME>> and <<DOJ EMPLOYEE FULL NAME>>, pursuant to the terms of said agreement(s), and as private individuals not functioning in their official capacity, have become the Substitute Defendants in this action and the Cross-Plaintiff is thereby exonerated and relived of further obligation to participate.
3. Facts and evidence in support of deciding this matter appear in the attached Aff. Of Matl. Facts., Section 3.1.2.
4. Court is asked to enforce said contract by substituting parties and by compelling Cross-Defendant to honor all other provisions of said contract in the context of this proceeding.

### CAUSE 1.3: Deprivation of Rights, Equal Protection

**COUNT 2:**

1. The subject of denial of equal protection of rights was first raised in:
   1. The Answer, Docket #5, Section 7, pp. 16-20.
   2. Judicial Notice, Docket #44, pp. 29-30.
   3. Opposition to Motion for Discovery Sanctions, Mem. Of Law, Docket #57, p. 12, para. H.

Additional treatment of the issue appears below within this section.

1. Cross-Plaintiff has been deprived of equal protection of the law in violation of:
   1. The Fourteenth Amendment, Section 1.
   2. 42 U.S.C. §1983. While Cross-Plaintiff is not subject to 42 U.S.C. §1983, the offense was instituted by a state actor who was subject. 42 U.S.C. §1981, and who was acting against a foreign sovereign who he works for as a “public servant” located in a state of the Union.

“**No legislative act [including a statutory presumption] contrary to the Constitution can be valid.** **To deny this would be to affirm that the deputy (agent) is greater than his principal; that the servant is above the master; that the representatives of the people are superior to the people; that men, acting by virtue of powers may do not only what their powers do not authorize, but what they forbid…[text omitted] It is not otherwise to be supposed that the Constitution could intend to enable the representatives of the people to substitute their will to that of their constituents**. It is far more rational to suppose, that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. **A Constitution is, in fact, and must be regarded by judges, as fundamental law**. If there should happen to be an irreconcilable variance between the two, the Constitution is to be preferred to the statute.” [Alexander Hamilton, Federalist Paper # 78]

1. Equal protection has been denied because:
   1. The Cross-Defendant seeks to enjoin only speech. He suggests in his Complaint that there are activities, but he has not proven any interaction whatsoever with any third party by the Plaintiff.
   2. All of the speech sought go be enjoined by the Cross-Defendant identifies itself as strictly religious and political in character, not factual, and not actionable. See:
      1. Family Guardian Disclaimer, Exhibit 3.
      2. SEDM Disclaimer, Exhibit 7.
   3. The IRS enjoys complete protection by federal Courts for the entire content of the IRS Website and all of its publications and orals statements, which it similarly identify themselves as not actionable and consequently “frivolous” and irrelevant to the average American. To wit:

4.10.7.2.8  (05-14-1999)  
IRS Publications

IRS Publications, issued by the Headquarters Office, explain the law in plain language for taxpayers and their advisors. They typically highlight changes in the law, provide examples illustrating Service positions, and include worksheets. **Publications are nonbinding on the Service and do not necessarily cover all positions for a given issue. While a good source of general information, publications should not be cited to sustain a position.**

[SOURCE: <http://www.irs.gov/irm/part4/ch10s11.html>]

* 1. Federal courts routinely refuse to hold the IRS accountable for anything that it says, writes, or publishes:

“Taxpayers who rely on Treasury publications, which are mere guidelines, do so at their peril. Caterpillar Tractor v. United States, 589 F.2d 1040, 1043, 218 Ct. Cl. 517 (1978).”

[[CWT Farms Inc. v. Commissioner of Internal Revenue, 755 F.2d 790 (11th Cir. 03/19/1985)](http://famguardian.org/TaxFreedom/Authorities/Circuit/CWTFarsIncVCommIntRev-755F2d790(1985).pdf)]

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“Most taxpayers' requests for advice from the IRS are made orally.  Unfortunately, the IRS is not bound by answers or positions stated by its employees orally, whether in person or by telephone.  According to the procedural regulations, 'oral advice is advisory only and the Service is not bound to recognize it in the examination of the taxpayer's return.'  26 CFR §601.201(k)(2).  In rare cases, however, the IRS has been held to be equitably estopped to take a position different from that stated orally to, and justifiably relied on by, the taxpayer.  The Omnibus Taxpayer Bill of Rights Act, enacted as part of the Technical and Miscellaneous Revenue Act of 1988, gives taxpayers some comfort, however.  It amended section 6404 to require the Service to abate any penalty or addition to tax that is attributable to advice furnished in writing by any IRS agent or employee acting within the scope of his official capacity.  Section 6404 as amended protects the taxpayer only if the following conditions are satisfied:  the written advice from the IRS was issued in response to a written request from the taxpayer; reliance on the advice was reasonable; and the error in the advice did not result from inaccurate or incomplete information having been furnished by the taxpayer.  Thus, it will still be difficult to bind the IRS even to written statements made by its employees.  **As was true before, taxpayers may be penalized for following oral advice from the IRS.**"

[Tax Procedure and Tax Fraud, Patricia Morgan, 1999, ISBN 0-314-06586-5, West Group, p. 34]

* 1. The speech sought to be enjoined by the Cross-Defendant claims all the same protections as the IRS website and the IRS statements.
     1. Family Guardian Disclaimer, Exhibit 3, says the following on this subject:

We also refuse to be held to a higher standard of accountability than the IRS or the government itself.  The IRS claims in [section 4.10.7.2.8 of its own Internal Revenue Manual](http://www.irs.gov/irm/part4/ch10s11.html) that you cannot rely on its publications, which include its tax preparation forms.  The courts have also said that you cannot rely on the IRS' telephone support personnel or its [Internal Revenue Manual](http://www.irs.gov/irm/index.html).  Therefore, we will not be held to a higher standard than the IRS for our publications, statements, or actions, which include **everything** on this website, or for anything we say or write.  We make all the **same** disclaimer statements about our publications, statements, and support as the IRS, in fact, which means we can have no liability for anything we produce.  [Click here](http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm) for our article on this subject.

"Behold, the wicked [IRS] brings forth iniquity;  
Yes, he conceives trouble and brings forth falsehood [in their publications and their phone support],  
He made a pit and dug it out,  
And has fallen into the ditch [this disclaimer] which he made.  
His trouble shall return upon his own head,  
And his violent dealing shall come down on his own [deceitful] crown."  
[[Psalms 7:14-16](http://biblegateway.com/cgi-bin/bible?language=english&passage=Psalms+7%3A14-16&version=NKJV), Bible, NKJV]

Everything appearing on this website is based entirely on publications, forms, statements, laws, and regulations published or made by the government. If you find that the information is erroneous, then you should be suing the government, not us.  Furthermore, we would appreciate you promptly notifying both us and the government of their mistake so that both of us may prevent any harm from the government's mistake.  Furthermore, if  the government wishes to sue or prosecute this ministry or its officers for exercising its First Amendment rights, then they MUST sue the principal, and not the agent.  http://famguardian.org/images/pdfsmall.gif [We are acting entirely and only as a fiduciary for God himself](http://famguardian.org/GodFiduciary.pdf), and so you need to sue God and not us for the statements and actions of this ministry in obedience to God's laws and calling on this ministry, and doing so will cause you to prosecute yourself, not only because of the [Copyright License agreement](http://famguardian.org/disclaimer.htm#3.__COPYRIGHT_LICENSE_AGREEMENT_#3.__COPYRIGHT_LICENSE_AGREEMENT_) connected with all ministry materials, but also because you are tampering with federal witnesses of extensive criminal activity by specific public servants.

[SOURCE: Family Guardian Disclaimer, Exhibit 3]

* + 1. SEDM Website Disclaimer, Exhibit 7, says the following:

Members, users, and readers of this website, including government employees and officers, also stipulate and agree to refuse to hold SEDM to a higher standard of accountability than the IRS or the government itself.  The IRS claims in [section 4.10.7.2.8 of its own Internal Revenue Manual](http://www.irs.gov/irm/part4/ch10s11.html) that you cannot rely on its publications, which include its tax preparation forms.  The courts have also said that you cannot rely on the IRS' telephone support personnel or its [Internal Revenue Manual](http://www.irs.gov/irm/index.html).  Therefore, SEDM shall not be held to a higher standard than the IRS for its publications, statements, or actions, which include **everything** on this website and everything delivered to our members, or for anything SEDM or any of its agents say or write or do.  SEDM makes all the **same** disclaimer statements about its publications, statements, support, and actions as the IRS, in fact, which means they can have no liability for anything they do or produce. [Click here](http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm) for an article on this subject.

"Behold, the wicked [IRS] brings forth iniquity;  
Yes, he conceives trouble and brings forth falsehood [in their publications and their phone support],  
He made a pit and dug it out,  
And has fallen into the ditch [this disclaimer] which he made.  
His trouble shall return upon his own head,  
And his violent dealing shall come down on his own [deceitful] crown."  
[[Psalms 7:14-16](http://biblegateway.com/cgi-bin/bible?language=english&passage=Psalms+7%3A14-16&version=NKJV), Bible, NKJV]

Everything appearing on this website is based entirely on publications, forms, statements, laws, and regulations published or made by the government. If you find that the information is erroneous, then you should be suing the government, not us.  Furthermore, we would appreciate you promptly notifying both us and the government of their mistake so that both of us may prevent any harm from the government's mistake.  Furthermore, if  the government wishes to sue or prosecute this ministry or its officers for exercising its first amendment rights, then they MUST sue the principal, and not the agent.  We are acting entirely and only as a fiduciary for God himself, and so you need to sue God and not us for the statements and actions of this ministry in obedience to God's laws and calling on this ministry, and doing so will cause you to prosecute yourself, not only because of the [Copyright License Agreement](http://sedm.org/disclaimer.htm#3._COPYRIGHT_LICENSE_AGREEMENT_#3._COPYRIGHT_LICENSE_AGREEMENT_) connected with all ministry materials, but also because you are tampering with federal witnesses of extensive criminal activity by specific public servants.

[SOURCE: SEDM Disclaimer, Exhibit 7]

1. Cross-Defendant and the Court has been repeatedly made aware of the contents of this section, and continues to willfully ignore it, and thereby abuse legal process and institute malicious prosecution for speech that enjoys the same equal protection as that of the IRS itself, and this amounts to an injury to the Cross-Plaintiff and slavery in violation of 18 U.S.C. §1589. For evidence documenting when Cross-Defendant and Court have been warned about the above Disclaimers, Exhibits 3 and 7, applying to the speech sought to be enjoined, see Aff. Matl. Facts, Sections 3.1.1.
2. In regard to the kind of hypocrisy, favoritism, and unequal protection being afforded by this Court an the Cross-Defendant and the IRS and yet correspondingly and maliciously denied to the Cross-Plaintiff, the U.S. Supreme Court has said:

"No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government."

[Gulf, C. & S. F. R. Co. v. Ellis, [165 U.S. 150](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/165/150.html) (1897)]

"Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker [or a hypocrite with double standards], it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means...would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.”

[Justice Brandeis, Olmstead v. United States, [277 U.S. 438](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=277&page=438), 485 (1928)]

1. Damages sought for this violation of equal protection amount to:
   1. One man-year of labor expended so far to compensate Cross-Plaintiff for the theft of his labor and time, which is his rightful property.
   2. $400,000 in damages to his name, reputation, effected through the abuse of judicial process in pursuing this action.

### CAUSE 1.4: Deprivation of Rights, First Amendment

**COUNT 3:**

1. Cross-Defendant has pursued an injunction against speech that identifies itself as purely religious and political in character, not factual, and not actionable. See Exhibits 3 and 7 attached for proof of the exclusively religious and political character and non-factual nature of the speech in question. The specific speech he seeks to enjoin includes:
   1. Writings of the Cross-Plaintiff distributed as part of a religious ministry and not a business. See Docket #72, Exhibits 5 and 6 for evidence in support.
   2. Petitions for Redress of Grievances from concerned citizens to members of the Executive Branch of the government in the IRS. The First Amendment right to Petition includes the right to obtain information about government corruption to put into the petition, which is a main goal of all of the websites and writings in question. See Docket #72, Exhibits 5 and 6.
2. The First Amendment right is founded on the notation that we are free to not only communicate, but more importantly, to define the words we use and the significance of the communication. To deny this essentially is to destroy the protections of the First Amendment and gut it of all relevance.
3. It is an undisputed fact that there is no common law authority or statute which we could locate which delegates to any judge or government official the ability to “reclassify” speech to mean or define anything within specific speech as other than what the speaker him or herself identifies it as. Permitting a judge or government official that discretion would amount to Treason, in fact. Any such statute or authority would allow:
   1. The government to target select groups whose religious and political statements that it does not like.
   2. To reclassify their statements as factual and actionable.
   3. To reclassify political contributions and tithes to these groups as “commerce”.
   4. To then criminally prosecute the speakers for “false commercial speech” as a way to politically persecute people for their views.

The above are EXACTLY what Plaintiff Shoemaker seeks to do. Of the above seditious tyranny by government, the U.S. Supreme Court has ruled:

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens by word or act their faith therein.  If there are any circumstances which permit an exception, they do not now occur to us."

[[West Virginia State Board of Education v. Barnette, 319 U.S. 624; 63 S.Ct. 1178 (1943)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=319&page=624)]

1. Federal courts have a duty to jealously protect speech which identifies itself as strictly religious and political in character, not actionable, and not factual. To wit:

"**This court has not yet fixed the standard by which to determine** when a danger shall be deemed clear; how remote the danger may be and yet be deemed present; and **what degree of evil shall be deemed sufficiently substantial to justify resort to abridgment of free speech and assembly as the means of protection**. **To reach sound conclusions on these matters, we must bear in mind why a state is, ordinarily, denied the power to prohibit dissemination of social, economic and political doctrine which a vast majority of its citizens believes to be false and fraught with evil consequence.** [274 U.S. 357, 375]   Those who won our independence believed that the final end of the state was to make men free to develop their faculties, and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to the secret of happiness and courage to be the secret of liberty. **They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government.** [3](http://famguardian.org/SovImmunity.htm" \l "f3#f3) They recognized the risks to which all human institutions are subject. But **they knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that the fitting remedy for evil counsels is good ones. Believing in the power of reason as applied through public discussion, they eschewed silence** **[274 U.S. 357, 376]   coerced by law-the argument of force in its worst form. Recognizing the occasional tyrannies of governing majorities, they amended the Constitution so that free speech and assembly should be guaranteed.**”

[Whitney v. California, [274 U.S. 357](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=274&page=357) (1927)]

1. The main purpose of the First Amendment is to prevent exactly the kind of oppression and persecution being undertaken by Cross-Defendant Shoemaker. To wit:

"In the First Amendment, the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press [and this religious ministry] was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government. **The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people** and sending them off to distant lands to die of foreign fevers and foreign shot and shell. In my view, far from deserving condemnation for their courageous reporting, the New York Times, the Washington Post, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of government that led to the Vietnam war, the newspapers nobly did precisely that which the Founders hoped and trusted they would do."

[New York Times Co. v. United States, [403 U.S. 713](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=403&page=713) (1970)]

The Cross-Plaintiff and the Court will note that the MAIN purpose of all of the websites in question is only to educate the public about unlawful or unconstitutional behavior on the part of public servants, and to equip them with the legal education and tools to lawfully combat it. Therefore, such speech enjoys the highest level of protection afforded by the First Amendment. This is reveals on the SEDM About Us page, <http://famguardian.org/aboutus.htm>, which says the purpose is to exercise the religious right of hating, exposing, and prosecuting evil and violations of both God’s laws and man’s laws.

1. The fact that there may be evidence linking alleged “commerce” to said speech does not change its character as religious and political speech that is not factual or actionable, or add any degree of jurisdiction to this Court, nor impart subject matter jurisdiction. For instance, the fact that a church pastor receives tithes for what he says from the pulpit does not change the character of his speech to make it actionable or factual. It remains strictly religious in character unless he and only he explicitly identifies it otherwise.
2. Because Cross-Defendant has pursued to enjoin exclusively religious and political speech protected by the First Amendment, then he is engaging in deprivation of rights under the color of law in violation of the First Amendment.
3. Cross-Plaintiff will not be citing any federal statute as authority because as a foreign sovereign he is not subject to any federal to the legislative jurisdiction of the United States government and therefore, there is no statute that might be helpful. All that is needed to litigate in defense of rights is the Constitution itself, which itself is law:

**“And the Constitution itself is in every real sense a law-the lawmakers being the people themselves, in whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess.** **The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible.** 'We the People of the United States,' it says, 'do ordain and establish this Constitution.' Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. **The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly-'This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land.' (Const. art. 6, cl. 2.) The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution.** **And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, must apply the supreme law and reject the inferior stat-** **[298 U.S. 238, 297]   ute whenever the two conflict.** In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, Adkins v. Children's Hospital, [261 U.S. 525, 544](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=261&invol=525#544) , 43 S.Ct. 394, 24 A.L.R. 1238; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. Schechter Poultry Corp. v. United States, [295 U.S. 495, 549](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=295&invol=495#549) , 550 S., 55 S.Ct. 837, 97 A.L.R. 947.”

[Carter v. Carter Coal Co., [298 U.S. 238](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=298&invol=238) (1936)]

For instance, 42 U.S.C. §1983 would normally be cited in this case as authority by most misinformed Americans, but Cross-Plaintiff is a foreign sovereign protected by the Foreign Sovereign Immunities Act, and who is not “within the jurisdiction thereof” as required by 42 U.S.C. §1983. This statute is for persons domiciled within the “federal zone”, which Cross-Plaintiff <<YOUR LAST NAME>> is not. However, every *right* that is Constitutional in origin, imposes an equal and opposite *duty* upon those charged with protecting and defending that right through the oath of office they take to support and defend the Constitution. This was confirmed in the landmark case of *Marbury v. Madison*, in which the U.S. Supreme held:

“**The government of the United States has been emphatically termed a government of laws, and not of men**. It will certainly cease to deserve that high appellation, if the laws furnish no remedy for the violation of a vested legal right.”

[Marbury v. Madison, [5 U.S. 137](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=5&page=137); 1 Cranch 137, 2 L.Ed. 60 (1803)]

“The very essence of civil liberty certainly consists in the right of every individual [not **citizen**, but individual] to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection.” Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803)

1. This cause for deprivation or rights is being pursued instead as a claim for damages against said rights. As a person protected by the Constitution rather than “acts of Congress”, Cross-Plaintiff enjoys the same right to equal protection as those persons protected similar federal law.
2. Cross-Defendant’s violations of law, bad faith, and malicious interference with the exercise of First Amendment rights by the Cross-Plaintiff and others he is in association with has caused irreparable harm to his reputation, to his personal time in defending himself from this bogus action, and has destroyed the public faith in his employer, the United States. The reckless behavior has been witnessed by millions who visit the websites in question. The only way to prevent future harm of this kind and is to award exemplary damages as the Court and the jury finds just.

**COUNT 4:**

1. Cross-Defendant also seeks to interfere with the exercise of protected religious rights through this injunction.
2. The speech which Cross-Defendant seeks to enjoin relates to exposing, prosecuting, and preventing violations of both biblical and man’s law.
3. Cross-Plaintiff’s sincerely held religious convictions require that he “hate evil”:
   1. "Fearing the Lord" is the essence of our faith.  See [Deut. 6:13](http://biblegateway.com/passage/?book_id=5&chapter=6&verse=13&version=50&context=verse), [24](http://biblegateway.com/passage/?book_id=5&chapter=6&verse=24&version=50&context=verse); [Deut. 10:20](http://biblegateway.com/passage/?book_id=5&chapter=10&verse=20&version=50&context=verse)
   2. To "fear the Lord" is to "hate evil".  See [Prov. 8:13](http://www.biblegateway.com/passage/index.php?search=proverbs%208:13&version1=50).
   3. Hating evil is the way we love and protect our neighbor, in fulfillment of the last six commandments of the Ten Commandments.
   4. Therefore, hating, preventing, exposing, prosecuting, and punishing evil by biblical standards and man’s standards, is the essence of his religious faith.

For authorities supporting the above, see Docket #72, Exhibit 3, address at <http://famguardian.org/Subjects/Spirituality/Articles/HATEPub-040513.pdf>. This article is entitled “What Does the Bible Say About Hate?”.

1. Cross-Plaintiff seeks damages against Cross-Defendant for interference with the free exercise of his religious practice in hating, exposing, preventing, punishing, and prosecuting evil as the jury finds just and proper. The evils which he seeks to hate are documented in the following references:
   1. Great IRS Hoax, Docket #72, Exhibit 9.
   2. Federal and State Withholding Options for Private Employers, Docket #72, Exhibit 3, address at: <http://famguardian.org/Publications/FedStateWHOptions/FedStateWHOptions.pdf>
   3. What to Do When the IRS Comes Knocking, Docket #72, Exhibit 3, address at: <http://famguardian.org/TaxFreedom/Forms/Discovery/WhatToDoWhenTheIRSComesKnocking.pdf>.
2. Cross-Defendant has asked for an injunction and permission to oversee and censor the publication of speech which specifically identifies itself in the Disclaimers, Exhibits 3 and 7, as exclusively religious and political, not factual, and not actionable. See Complaint, Docket #1, in which the United States asks for continuing discovery and the creation of the equivalent of an uncompensated “employment arrangement” (e.g. SLAVERY) in helping the government censor his political and religious views and in helping in the destruction of his credibility among others by notifying them that his views are false. How can religious and political speech that identifies itself as not factual, be false?

“E. That this Court, pursuant to Code 4 7402, enter an injunction requiring defendant to contact by mail all persons who have bought his tax plans, arrangements, or programs, and inform those persons of the Court's findings concerning the falsity of the defendant's prior representations and attach a copy of the permanent injunction against the defendant, and to file with the Court, within 20 days of the date the permanent injunction is entered, a certification that he has done so;” [Complaint, p. 9]

1. On the subject of appointing a government censor to oversee such exclusively religious and political speech, the U.S. Supreme Court has said:

“**This case involves a cancer in our body politic [**[**democracy**](http://famguardian.org/TaxFreedom/CitesByTopic/democracy.htm)**, greed and wickedness and covetousness of our elected and appointed servants on a massive scale, see** [**James 1:19-27**](http://www.biblegateway.com/cgi-bin/bible?passage=JAS%2B1%3A19-27&showfn=on&showxref=on&language=english&version=NKJV&x=12&y=5) **and** [**Psalms 94:16-23**](http://www.blueletterbible.org/cgi-bin/tools/get_verses.pl?linkcolor=39398C&textcolor=000000&bgcolor=FFFFFF&icon=http%3A%2F%2Fwww.blueletterbible.org%2Fgifs%2Fyour_logo.gif&hr=http%3A%2F%2Fwww.blueletterbible.org%2Ffreeoffer.html&vlinkcolor=0000FF&Book=Psa&Chapter=94&Start=16&End=23&anything.x=0&anything.y=0)**].  It is a measure of the disease which afflicts us...Those who already walk submissively will say there is no cause for alarm. But submissiveness is not our heritage**. **The First Amendment was designed to allow rebellion to remain as our Heritage.** **The Constitution was designed to keep the government off the backs of the people. The Bill of Rights was added to keep the precincts of belief and expression, of the press, of political and social activities free from surveillance.** The Bill of Rights was designed to keep agents of government and official eavesdroppers away from Assemblies of People. The aim was to allow men to be free and independent to assert their rights against government.  There can be no influence more paralyzing of that objective than Army [government or DOJ] surveillance. When an intelligence officer looks over every nonconformist's shoulder in the library, or walks invisibly by his side in a picket line, or infiltrates his club [or forces him to submit an income tax return and then scrutinizes it for personal information or illegal activity], the America once extolled as the voice of liberty heard around the world no longer is [408 U.S. 1, 29]   cast in the image which Jefferson and Madison designed, but more in the Russian [[**Communist**](http://famguardian.org/TaxFreedom/CitesByTopic/Communism.htm)**!**] image, depicted in Appendix III to this opinion.”

[Laird v. Tatum, [408 U.S. 1](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=408&page=1); 92 S.Ct. 2318 (1972)]

Cross Plaintiff asks that this Court and the Cross-Defendants quit pretending that this is a free country and start admitting that it is a COMMUNIST country if the Court is not only going to demonstrate indifference toward the above type of COMMUNIST censorship of non-factual, religious speech, but to AID AND ABET it by granting the COMMUNIST Cross-Defendant what he is asking for, which is the role of state-appointed censor over every religious statement that comes out of the mouth of the Cross-Plaintiff.

### CAUSE 1.5: Involuntary Servitude

**COUNT 4:**

1. Cross-Defendant has caused the involuntary expenditure of over 5 man-months of personal effort responding to the requirements of this case by the Cross-Plaintiff, without any demonstrated jurisdiction or standing to proceed, in violation of the Thirteenth Amendment prohibition against involuntary servitude.
2. Cross-Defendant is proceeding under the authority of 26 U.S.C. 6700, 6701, and 7408. All of these statutes rely upon the definition of “person” found in 26 U.S.C. §6700(b), and 26 CFR §301.6671-1(b), which defines “person” as follows:

TITLE 26--INTERNAL REVENUE

Additions to the Tax and Additional Amounts--Table of Contents

[Sec. 301.**6671**-**1** Rules for application of assessable penalties.](http://frwebgate.access.gpo.gov/cgi-bin/getcfr.cgi?TITLE=26&PART=301&SECTION=6671-1&YEAR=2000&TYPE=TEXT)

(b) Person defined. For purposes of [subchapter B](http://www4.law.cornell.edu/uscode/26/stFch68schB.html) of [chapter 68](http://www4.law.cornell.edu/uscode/26/stFch68.html), **the term ``person'' includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.**

1. The “duty to perform the act” indicated above is *nowhere* imposed within the internal revenue code and can only arise within the context of a “public official” by virtue of the oath of office which he took. Such a public official would be engaged in a “trade or business”, which is defined in 26 U.S.C. §7701(a)(26) as “the functions of a public office”. This is exhaustively proven with overwhelming evidence in:
   1. Exhibit 4 attached.
   2. *Why Your Government is Either a Thief or You are a “public official” for income tax purposes*, available at:

<http://sedm.org/Forms/MemLaw/WhyThiefOrEmployee.pdf>. Docket #43, Exhibit 1, also contained an earlier version of this pamphlet. If Cross-Defendant disagrees that he is being asked to involuntarily assume the duties of a “public official” who is the person indicated above that is engaged in a “public office” and a “trade or business”, he is demanded to rebut the questions at the end of the current version of this pamphlet. Pursuant to Federal Rule of Civil Procedure 8(d), his answers are admit for anything he does not specifically deny, resulting in estoppel in pais.

1. The court was presented with the above “Why Your Government is Either a Thief or You Are a “Public Official for Income Tax Purposes” for income tax purposes in Docket #43 and failed to deny and therefore admits it under Fed.Rule.Civ.Proc. 8(d). See also: http://sedm.org/Forms/MemLaw/WhyThiefOrEmployee.pdf . Failure to deny is an admission of the truth of this document under Fed.Rule.Civ.Proc. 8(d). Therefore, the Court must treat this as an estoppel and proceed upon it as fact and an admission.
2. Consequently, the Cross-Defendant, by pursuing this malicious prosecution has willfully and in bad faith proceeded without jurisdiction and thereby:
   1. Imposed involuntary “eminent domain” upon the time and resources of the Cross-Plaintiff in the amount of approximately five man-months responding to his unwarranted and baseless litigation against a legal “person” who does not in fact even exist in the context of any of the alleged activities.
   2. Has converted thousands of dollars of “private property”, namely the labor of the Cross-Plaintiff, to a “public use”. Labor is property, according to the U.S. Supreme Court:

"Among these unalienable rights, as proclaimed in that great document [the Declaration of Independence] is the right of men to pursue their happiness, by which is meant, the right any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment...It has been well said that, THE PROPERTY WHICH EVERY MAN HAS IN HIS OWN LABOR, AS IT IS THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY SO IT IS THE MOST SACRED AND INVIOLABLE... to hinder his employing this strength and dexterity in what manner he thinks proper without injury to his neighbor, is a plain violation of this most sacred property.""

[Butcher’s Union Co. v. Crescent City Co., 111 U.S. 746 (1884)]

* 1. Has essentially required the Cross-Plaintiff to assume the duties of a “public official”, and fiduciary of the public:

“As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. [[10]](#footnote-10) **Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts**. [[11]](#footnote-11) **That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. [[12]](#footnote-12) and owes a fiduciary duty to the public. [[13]](#footnote-13) It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. [[14]](#footnote-14)** Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.[[15]](#footnote-15)”

[63C Am.Jur.2d, Public Officers and Employees, §247]

* 1. Is adversely affecting the Constitutional rights and liberties of the Cross-Plaintiff without just compensation. The Fifth Amendment says that no man shall be deprived of his property, including his labor, without just compensation.

**Fifth Amendment**

No person shall. . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

1. Proof of the fact that the Cross-Plaintiff has been recruited into involuntary federal servitude can be found by the Court satisfying its affirmative Constitutional duty to address the following questions. Pursuant to Federal Rule of Civil Procedure 8(d), failure to deny shall be an admission for both the Court and the Cross-Defendants.

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| **QUESTIONS RELATING TO WHETHER THE CROSS-PLAINTIFF HAS BEEN COMPELLED TO ASSUME THE DUTIES OF A FEDERAL EMPLOYEE, AGENT, OR CONTRACTOR**   1. Admit that labor is property. 2. Admit that pursuant to the Fifth Amendment, no man may be relieved of his property without just compensation. 3. Admit that Cross-Plaintiff has received NO COMPENSATION for the labor and the credibility that was STOLEN from him by the false allegations of the Cross-Defendant. 4. Admit that the Congress does not possess the power to “legislate generally upon the life, liberty, and property” of private persons in the states, because it is “repugnant” to the Constitution.   “The power to "legislate generally upon" life, liberty, and property, as opposed to the "power to provide modes of redress" against offensive state action, was "repugnant" to the Constitution. Id., at 15. See also United States v. Reese, [92 U.S. 214, 218](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=92&invol=214#218) (1876); United States v. Harris, [106 U.S. 629, 639](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=106&invol=629#639) (1883); James v. Bowman, [190 U.S. 127, 139](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=190&invol=127#139) (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, [379 U.S. 241](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=379&invol=241) (1964); United States v. Guest, [383 U.S. 745](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=383&invol=745) (1966), their treatment of Congress' §5 power as corrective or preventive, not definitional, has not been questioned.”  [[City of Boerne v. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=521&page=507)]   1. Admit that Acts of Congress which regulate “offensive state action” apply to those engaged mainly in federal employment, agency, contracts, benefits, and the military, and EXCLUDES the actions of private individuals not engaged in a public office. 2. Admit that the Internal Revenue Code is a tax upon those engaged in a “trade or business”. See: <http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm> 3. Admit that a “trade or business’ is defined as a “public office”. 4. Admit that a “public office” is a type of federal employment or agency. 5. Admit that the acceptance of the duties of a “public office” must be by voluntary consent. 6. Admit that compelling a person to accept the duties of a public office amount to slavery in violation of the Thirteenth Amendment prohibition against involuntary servitude. 7. Admit that Cross-Plaintiff has manifested no voluntary consent to engage in a privileged “public office”. 8. Admit that Cross-Plaintiff is a nonresident alien not engaged in a trade or business. 9. Admit that the Cross-Plaintiff’s estate is therefore a “foreign estate” and that he is not subject to any part of the Internal Revenue Code, pursuant to 26 U.S.C. §7701(a)(31). 10. Admit that if the Cross-Plaintiff is not subject to any part of the Internal Revenue Code because he has no “income” above the exemption amount, then he also cannot be subject to the provisions cited by the Cross-Plaintiff as authority, including I.R.C. §§6700, 6701, and 7408. 11. Admit that the “individual” mentioned in the I.R.C. §7701(a)(1) is not defined in the I.R.C. 12. Admit that this same “individual” is protected by the Privacy Act and is defined in 5 U.S.C. §552a(a)(2). 13. Admit that the “individual” defined in 5 U.S.C. §552a(a)(2) is a government employee who is also a “U.S. person” because that section falls under Title 5, which is entitled “Government Organization and Employees”. 14. Admit that the Cross-Plaintiff is not a government “employee”, and therefore is not an “individual” within the meaning of the Internal Revenue Code. |

1. 26 CFR §601.702(a)(2)(ii) says that no man’s rights may be adversely affected if implementing regulations are not published in the Federal Register.

[26 CFR §601.702](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=fa8764ba639140eb9cd04afa1cedad2d&rgn=div8&view=text&node=26:20.0.1.1.2.7.3.1&idno=26) Publication and public inspection

(a)(2)(ii) Effect of failure to publish. Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal Register, **such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision** (i) of this subparagraph. **Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.**

1. As pointed out in the Petition to Dismiss, Docket #43, Mem. Of Law, there are not implementing regulations for the sections that the Cross-Defendant cites as authority: 26 U.S.C. §§6700, 6701, 7408(c ). Therefore, Cross-Plaintiff’s Constitutional rights may not be adversely affected, including his right to enjoy the fruits of his own labor and to control 100% of his own time.

“Every man has a natural right to the fruits of his own labor, is generally admitted; and **no other person can rightfully deprive him of those fruits, and appropriate them against his will**…” [The Antelope, 23 U.S. 66; 10 Wheat 66; 6 L.Ed. 268 (1825)]

1. In Docket #43, Cross-Plaintiff established with exhaustive evidence that the requirement for implementing regulations published in the Federal Register may *only* be waived in the case of public employees, members of the military, federal contractors, and federal benefit recipients. It was also established that the Cross-Plaintiff falls into none of these groups and therefore, that implementing regulations were required in his case. Since neither the Cross-Defendant nor the Court had any defense or justification against these conclusions in their response or their order, they agree under Fed.Rule.Civ.Proc. 8(d) and are estopped from challenging it.
2. In the order of the Court, Docket #63, the Court’s only excuse for why implementing regulations were not required, starting on p. 4, was that the statutes are sufficiently clear and that implementing regulations are not therefore required. It cited as authority:
   1. *Granse v. United States*, 892 F.Supp. 219 (D.Minn 1995)
   2. *Watts v. Internal Revenue Serv*,. 925 F.Supp 271 (D.N.J. 1996)
   3. *Lovett’s Estate v. United States*, 621 F.2d 1130 (Ct.Cl. 1980).
   4. *E.I. du Pont de Nemours & Co. v. Comm’r of Internal Revenue*, 41 F.3d 130 (3rd Cir. 1994).
3. The Cross-Plaintiff Reply Brief, Docket #60, filed before the above order, clearly showed that the *Granse* case was off-point, because the Plaintiff was engaged in a “trade or business” and therefore a “public officer”, as defined in 26 U.S.C. §7701(a)(26) who was therefore exempt from the requirement for implementing regulations by virtue of 44 U.S.C. §1505(a)(1) and 5 U.S.C. §553(a)(2). This was so because:
   1. He opened up a bank account with an SSN, which is public property that can only be used in connection with a “public purpose”.
   2. He failed to refute Currency Transaction Reports filed against him that connected him with a “trade or business”, pursuant to 31 U.S.C. §5331 and 31 CFR §103.30(d)(2).
4. All of the other authorities subsequently cited by the Court in Docket #63 had the same defects as that in Granse, and all of these defects were pointed out in the Motion to Dismiss, Docket #43 and in the Reply Brief, Docket #60. The Court was silent in addressing most of the issues raised in the reply brief and the Motion to Dismiss on the regulation issue meaning that it agreed with the Movant, who was the Cross-Plaintiff, and yet refused to grant him what he was asking for and thereby obstructed justice. For instance:
   1. *In Watts v. I.R.C.*, 925 F.Supp. 271 (1996), the Court held:

“Plaintiff, Michael Watts, also claims that the levy on his salary is illegal because there are no implementing regulations pursuant to 26 U.S.C. § 7805(a) which would make Section 6331 applicable to him. This is a mere reprise of the argument made in Count 3. See, infra part III.C.1. As noted, the Secretary is empowered by Section 7805 to pass "needful" regulations, Section 6331 is not without the force of law simply because the Secretary does not find that any regulations for its enforcement are needed. See also Yalkut v. Gemignani, 873 F.2d 31, 35 (2d Cir. 1989) (noting that the Internal Revenue Code provides for collecting assessed taxes by levy pursuant to 26 U.S.C. § 6331 and that the authority to levy had been delegated to defendant IRS agents through 26 C.F.R. § 301.6331-1). \*fn6"

* 1. *Granse v. United States*, 892 F.Supp. 219 (D.Minn 1995), the Court held:

“This statute "is a general grant of authority by Congress to the Commissioner to promulgate - as necessary - 'interpretive regulations' stating the agency's views of what the existing Code provisions already require." Granse v. United States, 892 F. Supp. 2 19,224 ID. Minn. 1995)

1. The Court therefore DID NOT and HAS NOT dealt directly or responsibility with any of the major issues raised by the Cross-Plaintiff in Docket #42 and 43 relating to:
   1. The affirmative requirement for “due notice” and implementing regulations published in the Federal Register in the case of a person such as the plaintiff who is not a “taxpayer”, a federal “employee”, a “public official”, a federal benefit recipient, a federal contractor, or member of the military.
   2. The link between the above requirement for implementing regulations, and the nature of the Internal Revenue Code Subtitle A essentially as a tax upon a “public office”, and a “trade or business”, which are types of federal agency that 44 U.S.C.§1505(a)(1) and 5 U.S.C. §553(a)(2) specifically exempt from the requirement for implementing regulations.
2. The questions the Court and the Plaintiff once again need to ACCEPT RESPONSIBILITY TO DIRECTLY ADDRESS in order to resolve this controversy of implementing are summarized in the box below, which it has already answered in the affirmative by their silence on these same issues previously raised in said dockets, and which if once again ignored, constitutes an admission under Fed. Rule.Civ.Proc. 8(d). Failure to deny shall constitute an admission by both the Court and the Plaintiff in this case.

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| --- |
| **QUESTION BOX #1: QUESTIONS ABOUT IMPLEMENTING REGULATIONS:**   1. Admit that the Federal Register Act, 44 U.S.C. §1501 et seq, and the Administrative Procedures Act, 5 U.S.C. §551 et seq, both impose an affirmative duty to publish in the Federal Register implementing regulations to enforce every statute which will have “general applicability and legal affect”. 2. Admit that “general applicability and legal affect” is defined in 44 U.S.C. §1505(a)(3) as “For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.” 3. Admit that the only exception to the requirement for implementing regulations published in the Federal Register for EVERY code section within any Act of Congress is found in 44 U.S.C. §1505(a)(1) and 5 U.S.C. §553(a)(2). 4. Admit that no law may be enforced against any person or class of persons not identified in the above list of exceptions WITHOUT publication of an implementing regulation in the Federal Register. 5. Admit that this requirement for enforcement statutes and implementing regulations to be published in the Federal Register arises from the Constitutional requirement for “due notice” and “reasonable notice” of the conduct that is expected out of the general public whose rights are protected by the Constitution. 6. Admit that the exceptions found in 44 U.S.C. §1505(a)(1) and 5 U.S.C. §553(a)(2) to the requirement for publication of implementing regulations in the Federal Register DO NOT mention or include the case where a statute is sufficiently clear so as to not require an implementing regulation, such that this subject is IRRELEVANT to whether implementing regulations are required. Expressio unius est exclusio alterius 7. Admit that the Secretary of the Treasury, pursuant to I.R.C. §7805 has no lawful delegated authority to *waive* the requirement for implementing regulations in the case of persons who do *not* meet the above exceptions to the requirement for implementing regulations. 8. Admit that even if the requirement of a statute are clear, the requirement for implementing regulations which will be enforced against *other* than the groups *exempted* above may NOT be waived, because they originate from the Constitutional requirement for “due notice” and “reasonable notice”.   “**It never has been doubted by this court, or any other, so far as we know, that notice and hearing are preliminary steps essential to the passing of an enforceable judgment,** and that they, together with a legally competent tribunal having jurisdiction of the case, constitute basic elements of the constitutional requirement of due process of law.”  [Powell v. Alabama, 287 U.S. 45 (1932)]  “It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard, as that **no man shall be condemned in his person or property without due notice and an opportunity of being heard in his own defense.**”  [Holden v. Hardy, 169 U.S. 366 (1898)]   1. Admit that if the Secretary of the Treasury does *not* in fact provide implementing regulations for a particular section of the I.R.C., then it may *only* be enforced against persons who are *exempted* from the requirement for implementing regulations found in 44 U.S.C. §1505(a)(1) and 5 U.S.C. §553(a)(2). 2. Admit that there are no implementing regulations for 26 U.S.C. §§6700, 6701, or 7408. 3. Admit that the only parties against whom the above statutes may be enforced against are public officials, federal contractors, federal benefit recipients, federal agencies, and federal personnel BECAUSE there are no implementing regulations under Subtitle A of the I.R.C. 4. Admit that the Cross-Plaintiff is not a member of any of the above groups excepted from the requirement for implementing regulations. 5. Admit that the Cross-Plaintiff does not satisfy the definition of “person” found in 26 U.S.C. §6671(b). 6. Admit that the “person” defined in 26 U.S.C. §6671(b) **does** belong as a member of the groups indicated above that are exempted from the requirement for implementing regulations. 7. Admit that the rules of statutory construction forbid extending the applicability of a definition beyond what it actually says   “**Expressio unius est exclusio alterius**. A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded.” [Black’s Law Dictionary, Sixth Edition, page 581]   1. Admit that 26 U.S.C. §6671(b) DOES have an implementing regulations found in 26 CFR §301.6671-1(b) which exactly duplicates the statute and adds NOTHING to the statute and that this repetition of the statute is there to remind groups OTHER than the exempted groups that this statute may be enforced against them. 2. Admit that ALL of the individuals or groups of individuals included in the definition of “person” MUST be indicated somewhere in the Internal Revenue Code, or it is void for vagueness because it would require the Cross-Plaintiff to guess at the meaning of the statute.   That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well- recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law. International Harvester Co. v. Kentucky, [234 U.S. 216, 221](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=234&invol=216#221) , 34 S. Ct. 853; Collins v. Kentucky, [234 U.S. 634, 638](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=234&invol=634#638) , 34 S. Ct. 924  ...  [269 U.S. 385, 393]   ... The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.'  [Conally v. General Construction Co., 269 U.S. 385 (1926)]   1. Admit that there is no addition to the definition of “person” anywhere in the I.R.C. applicable to the definition of “person” found in 26 U.S.C. §6671(b) which would extend that definition to any group of persons to which the Cross-Plaintiff belongs or include anyone other than a “public officer”. 2. Admit that the Cross-Plaintiff therefore:    1. Has not been given “due notice” of the requirements imposed by 26 U.S.C. §§6700, 6701, or 7408 by publication in the Federal Register and therefore    2. May not be the target of enforcement of these provisions, in satisfaction of the constitutional requirement for “prior notice” or “reasonable notice”.    3. May not therefore have any of his constitutional rights adversely affected by any enforcement actions, pursuant to 26 CFR §601.702(a)(2)(ii). 3. Admit that the silence of both the Cross-Defendant and the Court on the above matters of fact and law constitutes an admission and estoppel against this Court. |

## Against Cross-Defendant <<IRS AGENT NAME>>

1. <<IRS AGENT NAME>> is an IRS Agent who provided an affidavit attached to the Motion for Summary Judgment, Docket #68, Exhibit 1.
2. <<IRS AGENT NAME>> is named as co-Cross-Defendant in this suit for the claims indicated below:
3. Causes of Action 2.1 and 2.2 relate to violations of the license agreements applicable to the evidence used by the Cross-Defendant.
   1. The only real legal issue for the Court is whether the Copyright/Software/User License Agreement constitutes a valid and enforceable contract under the Uniform Commercial Code Article 2.
   2. The only real factual issues for the Jury to decide are:
      1. Whether the Cross-Defendant received “reasonable notice” of the terms of the Copyright/Software/User License Agreement at the time he downloaded said materials. Or subsequently thereafter. See *Specht v. Netscape Communications Corporation*, 306 F.3d 17 (2d Cir. 10/01/2002) for excellent authorities on the requirement for “reasonable notice”.
      2. Who is obligated to the agreement by virtue of the terms of said agreement: The Cross-Defendant as a private party or the United States he claims to represent? The terms of the SEDM Fellowship Member Agreement, Exhibit 2, clearly indicate that he is responsible as a private party and may not assert sovereign immunity or official immunity to shield himself from personal liability for the consequences of obeying his private contracts.

### CAUSE 2.1: Monetary Damages for violation of Copyright/Software/License Agreement

**COUNT 1:** Affidavit attached to Motion for Summary Judgment, Exhibit 1.

1. Cross-Defendant has incurred personal financial liability towards the Cross-Plaintiff in the amount of $10,800,000 plus 50% of pay and benefits as a federal employee for the rest of his life, for violations of the SEDM Fellowship Member Agreement, Docket #72, Exhibit 4, in the context of these proceedings. Facts in support are explained in the accompanying Aff. Of Material Facts, section 3.2.1.
2. Cross-Plaintiff is pursuing this action in the context of abuse of SEDM materials as a Member of SEDM but not an officer or author of any of the materials. Section 6 of the SEDM Fellowship Member Agreement, Exhibit 2 attached, establishes that standing to sue for damages is conveyed to SEDM Ministry Members who are litigating against other Members.

### CAUSE 2.2: Enforcement of License Agreement Provisions Against Cross-Defendant <<IRS AGENT LASTNAME>>

1. It is an undisputed fact that the Cross-Defendant quoted materials of the Cross-Plaintiff in this pleading. These materials are covered by the Copyright/Software License Agreement, Exhibit 2 attached. One of the terms of the agreement is that whoever initiates a lawsuit against us for any materials or activities related to the author or his website agrees to substitute himself/herself as the adjudged party. Under the terms of that agreement, the Cross-Plaintiff is not the proper party. <<U.S. ATTY NAME>> and his accomplices are the proper parties, as the original Plaintiff who signed the complaint and provided licensed evidence. Therefore he becomes the Substitute Defendant.
2. The SEDM Fellowship Member Agreement, Exhibit 2 attached, Section 6, establishes that the purposes of this Copyright/Software License Agreement are in no way illegal. Plaintiff has not disputed any of the Undisputed Facts in the Affidavit of Material Facts attached to the Answer, Docket #5 and therefore agrees with the Cross-Plaintiff pursuant to Fed.Rule.Civ.Proc. 8(d). Therefore, Cross-Plaintiff requests that Cross-Defendant <<IRS AGENT NAME>> be substituted as the Proper Defendant in this case, hereinafter to be called the Substitute Defendant.
3. Beyond today, if the Substitute Defendant wishes to obtain the services or testimony of the Cross-Plaintiff in prosecuting himself, the fee for said services shall be $1,000 per hour. 24 hours have been expended so far, so he will need to personally pay $24,000 of unpaid services so far before Cross-Plaintiff will cooperate with him.
4. Court is asked to enforce said contract by substituting parties and by compelling Cross-Defendant to honor all other provisions of said contract in the context of this proceeding.

## Against Cross-Defendant <<DOJ EMPLOYEE FULL NAME>>

1. <<DOJ EMPLOYEE FULL NAME>> is one of the witnesses who provided an affidavit attached to the Motion for Summary Judgment, Docket #68, Exhibit 2.
2. <<DOJ EMPLOYEE FULL NAME>> is named as co-Cross-Defendant in this suit for the claims indicated below:
3. Causes of Action 3.1 and 3.2 relate to violations of the license agreements applicable to the evidence used by the Cross-Defendant.
   1. The only real legal issue for the Court is whether the Copyright/Software/User License Agreement constitutes a valid and enforceable contract under the Uniform Commercial Code Article 2.
   2. The only real factual issues for the Jury to decide are:
      1. Whether the Cross-Defendant received “reasonable notice” of the terms of the Copyright/Software/User License Agreement at the time he downloaded said materials. Or subsequently thereafter. See *Specht v. Netscape Communications Corporation*, 306 F.3d 17 (2d Cir. 10/01/2002) for excellent authorities on the requirement for “reasonable notice”.
      2. Who is obligated to the agreement by virtue of the terms of said agreement: The Cross-Defendant as a private party or the United States he claims to represent? The terms of the SEDM Fellowship Member Agreement, Exhibit 2 clearly indicate that he is responsible as a private party and may not assert sovereign immunity or official immunity to shield himself from personal liability for the consequences of obeying his private contracts.

### CAUSE 3.1: Monetary Damages for violation of Copyright/Software/License Agreement

COUNT 1: Affidavit attached to Motion for Summary Judgment, Exhibit 1.

1. Cross-Defendant has incurred personal financial liability towards the Cross-Plaintiff in the amount of $10,800,000 plus 50% of pay and benefits as a federal employee for the rest of his life, for violations of the SEDM Fellowship Member Agreement, Docket #72, Exhibit 4, in the context of these proceedings. Facts in support are explained in the accompanying Aff. Of Material Facts, section 3.1.1.

### CAUSE 3.2: Enforcement of License Agreement Provisions Against Cross-Defendant <<DOJ EMPLOYEE LASTNAME>>

1. It is an undisputed fact that the Co-Defendant quoted materials of the Cross-Plaintiff in this pleading. These materials are covered by:
   1. The Copyright/Software License Agreements, Exhibits 3 and 7 attached.
   2. SEDM Fellowship Member Agreement, Exhibit 2 attached.
2. One of the terms of the agreement is that whoever initiates a lawsuit against us for any materials or activities related to the author or his website agrees to substitute himself/herself as the adjudged party. Under the terms of that agreement, the Cross-Plaintiff is not the proper party. <<U.S. ATTY NAME>> is the proper party, as the original Plaintiff who signed the complaint. Therefore he becomes the Substitute Defendant and Cross-Defendant.
3. Court is asked to enforce said contract by substituting parties and by compelling Cross-Defendant to honor all other provisions of said contract in the context of this proceeding.

## Judge <<JUDGE FULL NAME>>

### CAUSE 4.1: Involuntary Servitude

1. Judge <<JUDGE FULL NAME>> is named as a co-Cross-Defendant to this complaint because he has colluded with the Cross-Defendant to effect involuntary servitude against the Cross-Plaintiff. The means by which this was done is documented in this section.
2. Cross-Defendant <<JUDGE LASTNAME>> has through his repeated failure to address the questions (in the boxes in these sections) raised in section ‎7.1 relating to the requirement for:
   1. “Due notice” by publication in the federal register of all statutes and implementing regulations it seeks to enforce.
   2. Evidence proving that Cross-Plaintiff meets the definition of “person” found in 26 U.S.C. §6671(b). Presumption may not be used as a substitute for such evidence:

American Jurisprudence 2d

Evidence, §181

**A presumption is neither evidence nor a substitute for evidence.** [[16]](#footnote-16) Properly used, the term "presumption" is a rule of law directing that if a party proves certain facts (the "basic facts") at a trial or hearing, the factfinder must also accept an additional fact (the "presumed fact") as proven unless sufficient evidence is introduced tending to rebut the presumed fact. [[17]](#footnote-17) In a sense, therefore, a presumption is an inference which is mandatory unless rebutted. [[18]](#footnote-18)

* 1. A statute somewhere in the I.R.C. that includes the Cross-Plaintiff within the definition of “person” applicable in 26 U.S.C. §6671(b) and the statutes cited as authority by the Cross-Defendant and an explanation of why the rules of statutory construction below do NOT apply in this case:

“**Expressio unius est exclusio alterius**. A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded.”

[Black’s Law Dictionary, Sixth Edition, page 581]

The above request more simply explained, is a request to show WHERE, in enacted law, does the provision appear EXPRESSLY putting the Cross-Plaintiff on notice that he is a member of the group covered by provisions cited as authority for the injunction by the Cross-Defendant, being I.R.C. §§6700, 6701, and 7408? Without due notice, Cross-Plaintiff cannot be held accountable to honor any order of this Court in the context of the injunction.

1. Cross-Plaintiff also asks that:
   1. Judge <<JUDGE LASTNAME>> be recused based on the Affidavit of Duress contained in the associated Aff. Matl. Facts, Section 4.
   2. The terms of the SEDM Fellowship Member Agreement, Exhibit 2, which is also a binding arbitration agreement be enforced by dismissing this case and remanding it to a state court where a jury decides all facts and law.
   3. Just compensation determined by a jury in connection with the involuntary servitude imposed by the Judge in servicing this proceeding as a compelled “public official” whose personal time has become the subject of unlawful “eminent domain” by the Judge and the Plaintiff through their omissions to deal directly with the issues raised in the Para. 2 above.

# ENFORCEABILITY OF APPLICABLE LICENSE AGREEMENTS

1. The Court is presented with only two questions of law relating to the enforcement of the SEDM Fellowship Member Agreement, Exhibit 2 and the Copyright/Software/User License Agreement that it contains. That question is:
   1. Are the SEDM Fellowship Member Agreement, Exhibit 2 and the Copyright/Software/User License Agreement constitute a valid and binding, enforceable contract?
   2. If they are enforceable, consensual contracts, do they have an illegal purpose that might thereby render them unenforceable?

This section shall provide authorities to answer these two questions. It will draw upon *Specht v. Netscape Communications Corporation*, 306 F.3d 17 (2d Cir. 10/01/2002) for the analysis.

1. The SEDM Fellowship Member Agreement, Exhibit 2 attached is a valid enforceable contract. It includes all the required provisions of an enforceable contract:
   1. Two or more parties. The paper version of the agreement contains a place for only one signature, which is for the signature of the party downloading the licensed materials. There is not signature block for a representative of the SEDM Ministry. However, the Ministry, by creating and posting this agreement, defined its terms and the conditions under which it consents and provided its constructive consent by posting the document. Cross-Defendant questioned the existence of only one signature during the 30NOV2005 Deposition of the Cross-Plaintiff. See Deposition Transcript, Docket #72, Exhibit 11, p. 64. he suggested that because there was only one place for signatures, that it was not a valid contract because the other Member or Ministry Officer did not sign. Here was the response:

Q. Yeah, but who's this contract with? There has to be two parties to the contract?

A. Right.

Q. You have signing the –

A. Well, actually, I wouldn't agree with that. I wouldn't agree with that at all. Q. All right. Well, this –

A. Let me give you an example. A 1040 tax return. Does that have two signatures on it? No. Is that a contract? Do the courts treat it like a contract? They sure do.

Q. I would dispute that, but we'll move on. Have you ever –

[Deposition Transcript, Docket #72, Exhibit 11, p. 64]

What Plaintiff was alluding to above is that if this Court is going to declare that a contract is not enforceable unless it has TWO signatures, then it will also have to:

* + 1. Invalidate ALL tax returns, which only have one signature typically.
    2. Invalidate ALL trust deeds on real property, which only have on signature. That would mean that NO ONE owns real property.
    3. Invalidate all Corporate Stock, which usually only has one signature.
    4. Invalidate all Federal Reserve Notes, which have two signatures from only ONE entity, the United States. The OTHER party to this debt instrument, the private, for profit, foreign corporation called the “Federal Reserve”, does not have a person who also signs.
  1. An offer. The existence of the agreement on the website on the website, and the way it is integrated into the Member Mailing List Join Screen, Exhibit 6, and the SEDM Ministry Bookstore Checkout Screen, Exhibit 5, constitute an offer.
  2. An acceptance. Users signal their assent or acceptance by clicking the Checkout button AFTER they read the short WARNING message in red letters indicating that they are signaling their assent.
  3. Full disclosure of terms and conditions. The terms and conditions are fully disclosed in the SEDM Fellowship Member Agreement, Exhibit 2 which contain, at present, 15 pages of very detailed provisions.
  4. Mutual consideration. In return for their consent to the terms of the agreement, Users get the benefit of information available through the SEDM Ministry Bookstore. They would not have the benefit of this information without agreeing unconditionally to the agreement. Both the SEDM Ministry and its other Ministry Members get the benefit of knowing that this new Ministry Member will not discredit or persecute or harm any officer or other Ministry Member of SEDM or discredit any of the information they obtain by misusing it or using it for any unlawful purpose.

1. The SEDM Fellowship Member Agreement, Exhibit 2, Section 6, also contains the text of the Copyright/Software/User License Agreement. The purpose of the Agreement is described below:

*The purpose of the above license agreement is not to condone or allow unlawful behavior of any kind by this website, but instead to:*

*1. Protect the* [*First Amendment*](http://caselaw.lp.findlaw.com/data/constitution/amendment01/) *rights of the authors.*

*2. Discourage and prevent anti-whistleblowing activity on the part of public servants.*

*3. Further the ends of* [*liberty*](http://famguardian.org/TaxFreedom/CitesByTopic/liberty.htm) *and* [*justice*](http://famguardian.org/TaxFreedom/CitesByTopic/justice.htm) *for ALL, which is the sole function of this website and the object of our pledge of allegiance.*

*4. Help eliminate ignorance, fear, and presumption of the average American towards the legal and judicial process through education and empowerment.*

*5. Encourage you, the reader, to take complete and exclusive and personal responsibility for yourself and to prevent you from transferring that responsibility in any form to us. It would be completely hypocritical of us to on the one hand say we want to encourage personal responsibility, but then on the other hand tell people that they can transfer any part of the responsibility for themselves, their lives, or their choices to us.*

*6. Provide strong protections for you and your* [*Fourth Amendment*](http://caselaw.lp.findlaw.com/data/constitution/amendment04/) *personal data by ensuring that our organization is never infiltrated by government moles who mean to do anyone harm.*

*7. Ensure that we are LEFT ALONE, which the Supreme Court has unequivocally ruled is a Constitutional Right:*

*"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations.* ***They conferred, as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued by civilized men.****" [Olmstead v. United States,* [*277 U.S. 438, 478*](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=277&invol=438#478) *(1928) (Brandeis, J., dissenting);  see also Washington v. Harper,* [*494 U.S. 210*](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=277&invol=438#478) *(1990)]*

*Therefore, it cannot be said that the above license agreement has any illegal purpose whatsoever that might render it unenforceable in a court of law*

*If either of the following two situations happens:*

1. *A Member becomes involved in a lawsuit as a witness against SEDM and the Plaintiff uses licensed materials or communications of the Ministry as evidence in the proceeding.*
2. *A Member is prosecuted as an alleged agent or officer of SEDM for alleged injuries arising from activities or offerings of the Ministry, even if they in fact are not, and the Plaintiff or Plaintiff Counsel, who is a Member, uses licensed materials or communications of the Ministry as evidence in the case.*

*Then the affected Member or Members who are the Defendant or witness in the above two cases are hereby authorized to do the following on behalf of the Ministry in the context of only that proceeding:*

1. *To initiate a lawsuit as Plaintiff to enforce the terms of the Copyright/Software/License Agreement against the other Member or third party who initiated the lawsuit against them .*

*1.1. They shall do so as natural persons and not acting in a representative capacity for SEDM, so as avoid the necessity of involvement by a licensed attorney (with a conflict of interest) to represent SEDM.*

*1.2. In doing so, they shall have no authority to obligate SEDM to any liability or consequence of the suit and implicitly agree to assume all risks and consequences of the lawsuit.*

*1.3. For the purposes of the jurisdiction of the Court and authority to act as private natural persons in their own self-defense, the Ministry agrees to convey to them an undivided portion of the equity ownership of the intellectual property covered by the Copyright/Software/User License Agreement so that they may have authority as party to this agreement to act personally rather than in a representative capacity.*

1. *To pay all expenses of the litigation from the proceeds of the Settlement for the litigation they initiate.*
2. *To keep 50% of what remains of the Settlement after all legal expenses have been paid.*
3. *To return the remainder of the Settlement to the Ministry.*

*Any Member who signs an affidavit about any aspect of SEDM that is submitted to any Court by a Plaintiff who is prosecuting SEDM or any Member or officer agrees, pursuant to* [*Federal Rule of Civil Procedure 4*](http://www.law.cornell.edu/rules/frcp/Rule4.htm)*(d), to waive personal service of process and accept service by mail with a Certificate of Service if legal proceedings are initiated by any Member against said Member to enforce the terms of this agreement.  Open season on license violators!*

The purposes of the above agreement are lawful, which is to

* 1. Maintain the character of all speech as exclusively religious and political, not factual, and not actionable.
  2. To defend the privacy and anonymity of the authors, which is a Constitutional right protected by the Fourth Amendment.
  3. To prevent litigation, harassment, or terrorism, or persecution of the authors or other ministry Members.
  4. To defend Constitutional rights.
  5. To prevent unlawful or unauthorized use of the materials, which is precisely the same thing that the Cross-Defendant seeks to enjoin also in this proceeding.
  6. To authorize Members to bring suit in defense of their interests within the agreement against injurious legal actions by other members that would prejudice their rights. This authority, in fact, is the sole authority for why the Cross-Plaintiff can bring this suit as a Member but not an officer of the SEDM ministry.

1. As to whether a contract is formed by viewing a warning message and clicking on a button, *Specht v. Netscape Communications Corporation*, 306 F.3d 17 (2d Cir. 10/01/2002) answers that question:

Whether governed by the common law or by Article 2 of the Uniform Commercial Code ("UCC"), a transaction, in order to be a contract, requires a manifestation of agreement between the parties. See Windsor Mills, Inc. v. Collins & Aikman Corp., 101 Cal. Rptr. 347, 350 (Cal. Ct. App. 1972) ("[C]onsent to, or acceptance of, the arbitration provision [is] necessary to create an agreement to arbitrate."); see also Cal. Com. Code § 2204(1) ("A contract for sale of goods may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of such a contract."). \*fn13 Mutual Downloadable software, however, is scarcely a "tangible" good, and, in part because software may be obtained, copied, or transferred effortlessly at the stroke of a computer key, licensing of such Internet products has assumed a vast importance in recent years. Recognizing that "a body of law based on images of the sale of manufactured goods ill fits licenses and other transactions in computer information," the National Conference of Commissioners on Uniform State Laws has promulgated the Uniform Computer Information Transactions Act ("UCITA"), a code resembling UCC Article 2 in many respects but drafted to reflect emergent practices in the sale and licensing of computer information. UCITA, prefatory note (rev. ed. Aug. 23, 2001) (available at www.ucitaonline.com/ucita.html). UCITA--originally intended as a new Article 2B to supplement Articles 2 and 2A of the UCC but later proposed as an independent code--has manifestation of assent, whether by written or spoken word or by conduct, is the touchstone of contract. Binder v. Aetna Life Ins. Co., 89 Cal. Rptr. 2d 540, 551 (Cal. Ct. App. 1999); cf. Restatement (Second) of Contracts § 19(2) (1981) ("The conduct of a party is not effective as a manifestation of his assent unless he intends to engage in the conduct and knows or has reason to know that the other party may infer from his conduct that he assents."). Although an onlooker observing the disputed transactions in this case would have seen each of the user plaintiffs click on the SmartDownload "Download" button, see Cedars Sinai Med. Ctr. v. Mid-West Nat'l Life Ins. Co., 118 F. Supp. 2d 1002, 1008 (C.D. Cal. 2000) ("In California, a party's intent to contract is judged objectively, by the party's outward manifestation of consent."), **a consumer's clicking on a download button does not communicate assent to contractual terms if the offer did not make clear to the consumer that clicking on the download button would signify assent to those terms**, see Windsor Mills, 101 Cal. Rptr. at 351 ("[W]hen the offeree does not know that a proposal has been made to him this objective standard does not apply."). California's common law is clear that "an offeree, regardless of apparent manifestation of his consent, is not bound by inconspicuous contractual provisions of which he is unaware, contained in a document whose contractual nature is not obvious." Id.; see also Marin Storage & Trucking, Inc. v. Benco Contracting & Eng'g, Inc., 107 Cal. Rptr. 2d 645, 651 (Cal. Ct. App. 2001) (same).

[. . .]

**As the foregoing cases suggest, receipt of a physical document containing contract terms or notice thereof is frequently deemed, in the world of paper transactions, a sufficient circumstance to place the offeree on inquiry notice of those terms.** "Every person who has actual notice of circumstances sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he might have learned such fact." Cal. Civ. Code § 19. These principles apply equally to the emergent world of online product delivery, pop-up screens, hyperlinked pages, clickwrap licensing, scrollable documents, and urgent admonitions to "Download Now!". What plaintiffs saw when they were being invited by defendants to download this fast, free plug-in called SmartDownload was a screen containing praise for the product and, at the very bottom of the screen, a "Download" button. Defendants argue that under the principles set forth in the cases cited above, a "fair and prudent person using ordinary care" would have been on inquiry notice of SmartDownload's license terms. Shacket, 651 F. Supp. at 690.”

1. Consistent with *Specht*, Cross-Plaintiff also emphasizes that:
   1. The Member Mail List Join Screen, Exhibit 6, has a small warning paragraph with a link to the SEDM Fellowship Member Agreement, Exhibit 2 which emphasizes in large red letters that going beyond that point signifies consent to be bound by the SEDM Fellowship Member Agreement.
   2. The SEDM Ministry Bookstore Checkout Screen, Exhibit 5, has the same type of warning message about constructive consent to the terms of the SEDM Fellowship Member Agreement, Exhibit 2 attached.
   3. The agreements were also delivered in paper form to the Cross-Defendants by the methods indicated in the attached Affidavit of Material Facts, Sections 3.1.1, 3.2.1, and 3.3.1.
2. In conclusion, there is absolutely no way the Court can reasonably conclude any of the following:
   1. That the SEDM Fellowship Member Agreement, Exhibit 2, is not enforceable as a contract.
   2. That the agreement has any unlawful purpose that would render it or any part of it unenforceable.
   3. That reasonable notice was not provided to those who are subject to it.
   4. That consent was not mandatory required in order to avail Cross-Defendants of the benefits sought through the websites in question.
   5. That the Cross-Plaintiff can be the Defendant in the original Complaint filed by the original Plaintiff. Whoever it is that the Plaintiff obtained the evidence from that he is using becomes the Substitute Defendant. The Substitute Defendants clearly identified themselves in the affidavits submitted with the Motion for Summary Judgment, Docket #67 and 68.
   6. That anyone in the government may assert sovereign, official, or judicial immunity to exempt themselves from any provision of the agreement, by virtue of their official duties as a government employee. The Copyright/Software/User License Agreement contains an express provision preventing any party who agrees to it from asserting official, sovereign, or judicial immunity to exempt themselves from any provision contained therein.

“7.4  Users and readers of our materials stipulate that their duty and allegiance to abide by this agreement is superior to their employment duties and any other agency they may claim to be exercising.   Judicial, sovereign, or official immunity are therefore subordinate to the terms of this agreement.   Readers and users of our materials agree that any and all lawsuits in which they are participants acting by or for or as witnesses for the Plaintiff shall be deemed to be filed by them personally, regardless of the party which they claim to be representing or which is named on the Complaint. For instance if a government attorney named "John Doe" quotes or uses our licensed materials in any legal proceeding in which he or she is the Plaintiff or an agent for the Plaintiff, and files the lawsuit in the name of the "United States", this agreement stipulates that the definition of "United States" or "United States of America" shall instead mean "John Doe" and John Doe stipulates that he is acting by and on his own behalf and not on the behalf of the government of the states united by and under the Constitution of the United States of America. This will ensure that the plaintiff or prosecuting attorney does not try to claim that he had no authority to bind the U.S. government to abide by this agreement. An important implication of this provision is that if John Doe prosecutes this case on paid time for the U.S. Government, then he can and will be fired and disciplined for conducting private business on company time.”

[SEDM Fellowship Member Agreement, Exhibit 2, Section 6, item #7.4]

# ADDITIONAL PETITITONS TO COURT:

## Petition for Declaratory Judgment

1. Pursuant to the Declaratory Judgments Act, 28 U.S.C. §2201, the Cross-Plaintiff demands answers to the questions indicated in the following subsections which bear directly upon the rights of the parties in this proceeding, and which both the Court and the Cross-Defendant have remained silent upon, to the prejudice of the rights of the Cross-Plaintiff.
2. In the Petition to Dismiss filed by the Cross-Plaintiff, Docket #42 and 43, the Court was requested to produce a similar Declaratory judgment. The Court’s Order, Docket #63, stated that Cross-Plaintiff would have to be the Complainant in order to request such a judgment. Therefore, this Cross Complaint shall furnish standing to elicit said Declaratory Judgment. The issues to be answered are those indicated in the box below:

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| **QUESTION BOX #2: DECLARATORY JUDGMENT QUESTIONS FOR THE COURT.**   1. Admit that the classification of the nature of speech as religious and political, not factual, and not actionable, is up to the *speaker* and not the *hearer* or the Court or the Cross-Defendant. 2. Admit that there is no common law applicable to the circumstances of the Cross-Plaintiff whereby the Plaintiff has any delegated authority to “reclassify” speech of a third party that identifies itself as not factual into speech that is factual. 3. Admit that the reclassification of speech that is not factual into speech that is factual against the will and express intent of the speaker constitutes a violation of the First Amendment protection of free speech. 4. Admit that Cross-Defendant, in his Motion for Summary Judgment, has attempted to reclassify speech that the speaker identifies as not factual into speech that is factual. 5. Admit that by reclassifying speech in the preceding question, the Cross-Defendant has violated the First Amendment rights of the speaker. 6. Admit that the speaker is protected by the First Amendment. 7. Admit that the Cross-Defendant is a state actor who must respect the constraints imposed by the First Amendment in the context of these proceedings. 8. Admit that 28 U.S.C. §134 requires that all district Court Judges MUST reside within the judicial district. 9. Admit that a District Court Judge who does not reside in the judicial district is a “de facto”, rather than “de jure” judge acting without lawful authority. 10. Admit that the Judicial District this case is being heard in is the Southern District of California. 11. Admit that the Southern District of California encompasses *only* federal territory, contracts, franchises, and property within the district.   "**Territory**:  A part of a country separated from the rest, and subject to a particular jurisdiction.  Geographical area under the jurisdiction of another country or sovereign power.  A portion of the United States not within the limits of any state, which has not yet been admitted as a state of the Union, but is organized with a separate legislature, and with executive and judicial powers appointed by the President."  [Black's Law Dictionary, Sixth Edition, page 1473]   1. Admit that the Southern District of California does NOT include land under exclusive state jurisdiction or land that is not federal “territory” as indicated in the above definition. 2. Admit that Judge <<JUDGE FULL NAME>> does not maintain an abode on federal territory that is within the limits of the exterior boundaries of the Southern District of California. 3. Admit that Judge <<JUDGE FULL NAME>> is a de facto judge without lawful authority. 4. Admit that pursuant to 28 U.S.C. §1865(b), federal jurists must be “citizens of the Untied States”. 5. Admit that the “citizen of the United States” mentioned in 28 U.S.C. §1865(b) is the same “citizen of the United States” defined in 8 U.S.C. §1401. 6. Admit that 8 U.S.C. §1401 qualifies as “legislation”. 7. Admit that Congress enjoys no legislative power within states of the Union.   “It is no longer open to question that **the general government, unlike the states**, Hammer v. Dagenhart, [247 U.S. 251, 275](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=247&invol=251#275) , 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, **possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.**“  [Carter v. Carter Coal Co., [298 U.S. 238](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=298&page=238), 56 S.Ct. 855 (1936)]   1. Admit that 8 U.S.C. §1401 cannot lawfully describe the citizenship status of any person born within the exclusive jurisdiction of any state of the Union. 2. Admit that the Fourteenth Amendment, Section 1 “citizen of the United States” describes persons born within or naturalized within the exclusive jurisdiction of a state of the Union and *excludes* the statutory “citizen of the United States” described in 8 U.S.C. §1401. 3. Admit that this country enjoys TWO political communities that each have their own “citizens” and separate laws: 1. The Federal zone; 2. States of the Union. 4. Admit that these two political communities are foreign with respect to each other, and that this separation was put there specifically for the protection of our Constitutional rights and liberties:   “We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U.S. Const., Art. I, 8. As James Madison wrote, "[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961). **This constitutionally mandated division of authority "was adopted by the Framers to ensure protection of our fundamental liberties." Gregory v. Ashcroft,** [**501 U.S. 452, 458**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=501&invol=452#458) **(1991) (internal quotation marks omitted). "Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.**" Ibid. “ [U.S. v. Lopez, [514 U.S. 549](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=514&page=549) (1995)]   1. Admit that confusing the Constitutional “citizen of the United States” found in the Fourteenth Amendment with the statutory “citizen of the United States” found in 8 U.S.C. §1401 results in a breakdown of this separation of powers that destroys our Constitutional rights and makes us subject to plenary powers of Congress that are unrestrained by the limits of the Bill of Rights:   “The idea prevails with some, indeed it has found expression in arguments at the bar, that we have in this country substantially two national governments; one to be maintained under the Constitution, with all of its restrictions; the other to be maintained by Congress outside the independently of that instrument, by exercising such powers [of absolutism] as other nations of the earth are accustomed to.. **I take leave to say that, if the principles thus announced should ever receive the sanction of a majority of this court, a radical and mischievous change in our system of government will result. We will, in that event, pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism.. It will be an evil day for American liberty if the theory of a government outside the supreme law of the land finds lodgment in our constitutional jurisprudence. No higher duty rests upon this court than to exert its full authority to prevent all violation of the principles of the Constitution.**”  [Downes v. Bidwell, 182 U.S. 244 (1901)]   1. Admit that this Court CANNOT participate in perpetuating this confusion over citizenship without involving itself in a deprivation of rights and violation of oath of office, 28 U.S.C. §453, for a party who is protected by the Constitution. 2. Admit that a no person may serve as a federal juror without being a statutory “citizen of the United States” as defined in 8 U.S.C. §1401. 3. Admit that Cross-Plaintiff is entitled to a “jury of his peers” under the Seventh Amendment. 4. Admit that the Cross-Plaintiff has indicated under penalty of perjury that he is not a statutory “citizen of the United States” as defined in 8 U.S.C. §1401. 5. Admit that a jury full of 8 U.S.C. §1401 “U.S. citizens” is not a “jury of peers” in the context of a person who is a Fourteenth Amendment, Constitutional but not statutory “citizen of the United States”. 6. Admit that the Seventh Amendment requirement for a jury of peers and the statutory requirement that all jurists be statutory “citizens of the United States” pursuant to 28 U.S.C. §1865(b) and 8 U.S.C. §1401:    1. Make this Court unable to hear this issue.    2. Would require the Judge to violate his oath in 28 U.S.C. §453 to support and Defend the Constitution of the United States if he did hear the case, because he would be willfully violating the Seventh Amendment. 7. Admit that the only way to reconcile these conflicts of law *without* waiving the affirmative requirements of any one of them is to make any one of the following false, prejudicial, unconstitutional, or injurious “presumptions” that would injure the rights of the Cross-Plaintiff and thereby violate due process of law:    1. To “presume” that the Cross-Plaintiff is a statutory “citizen of the United States” as defined in 8 U.S.C. §1401.    2. To “presume” that a statutory “citizen of the Untied States” under 8 U.S.C. §1401 is the same as a constitutional “citizen of the United States” mentioned in the Fourteenth Amendment, and thereby destroy the affect of the Separation of Powers Doctrine and the protection it affords.    3. To “presume” that the Cross-Plaintiff is acting as an officer or employee of the United States where therefore has no constitutional rights.    4. To “presume” that the Cross-Plaintiff is not protected by the Constitution and is domiciled where the Bill of Rights does not apply. This amounts to kidnapping and identity theft in violation of 18 U.S.C. §1201.    5. To impose the requirements of 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(c ), which the Cross-Plaintiff is not subject to as a “nonresident alien”, and use these provisions to essentially “kidnap” the Cross-Plaintiff (or his legal identity) against his will and place his effective domicile or “residence” for the purposes of this proceeding in the District of Columbia in violation of 18 U.S.C. §1201. 8. Admit that the Cross-Plaintiff in this Cross Complaint requested a jury trial pursuant to Federal Rule of Civil Procedure 38(a ). 9. Admit that this Court cannot assemble a “jury of peers” to the Cross-Plaintiff to hear this case because Cross-Plaintiff is a constitutional “citizen of the United States” pursuant to the Fourteenth Amendment but not a statutory “citizen of the United States” pursuant to 8 U.S.C. §1401. 10. Admit that more than half of the cases tried in this Court have exactly the same conflict of law described in these series of admissions, and have been or are being tried illegally by this Court. |

1. In addition to the questions above, the Court is also requested to rule on every one of the questions found in Question Box #1, section ‎5.1.5 or be found in default pursuant to Fed.Rule.Civ.Proc. 8(d). These issues have been attempted before in previous pleadings and the Court was silent, and therefore admitted to each one of the issues. Court and Cross-Defendant are given one last chance to do its job, or be found in Default.
2. In addition to the questions above, Cross-Plaintiff also demands a ruling on the following questions. Consistent with Section ‎5.1.4, Plaintiff and court are asked the following questions that show the irrationality of what he is asking for:

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| **QUESTION BOX #3: QUESTIONS RELATING TO COMPLYING WITH ORDERS**   1. How can a party who has no agency or influence on said entities, the Cross-Plaintiff, <<YOUR LAST NAME>>, cooperate with such a Court order? 2. How can speech that specifically says in the Disclaimers, Exhibits 2, 3, and 7, that it is religious and political in character, not factual, and not actionable, be false or furnish standing for the Cross-Defendant to sue for an injunction? 3. How can the United States claim that it has exhausted administrative remedies as required by *Myers v. Bethlehem Shipbuilding Corp.,*  303 U.S. 41 (1938), when after a year of litigation and three years of observation, it still has not provided “reasonable notice” or “due notice” of EXACTLY what part of the speech in question is false and needs to be corrected?   The corporation contends that, since it denies that interstate or foreign commerce is involved and claims that a hearing would subject it to irreparable damage, rights guaranteed by the Federal Constitution will be denied unless it be held that the District Court has jurisdiction to enjoin the holding of a hearing by the Board.[[19]](#footnote-19) So to hold would, as the government insists, in effect substitute the District Court for the Board as the tribunal to hear and determine what Congress declared the Board exclusively should hear and determine in the first instance. **The contention is at war with the long-settled rule of judicial administration that no one is entitled to judicial relief for a supposed or threatened injury until the pre-** **[303 U.S. 41, 51]   scribed administrative remedy has been exhausted.[[20]](#footnote-20) That rule has been repeatedly acted on in cases where, as here, the contention is made that the administrative body lacked** **power over the subject matter.**[[21]](#footnote-21)  Obviously, the rules requiring exhaustion of the administrative remedy cannot be circumvented by asserting that the charge on which the complaint rests is groundless and that the mere holding of the prescribed administrative hearing would result in irreparable damage.[[22]](#footnote-22) Lawsuits also often prove to have been ground- [303 U.S. 41, 52]   less; but no way has been discovered of relieving a defendant from the necessity of a trial to establish the fact.  [Myers v. Bethlehem Shipbuilding Corp., 303 U.S. 41 (1938)]  How can the United States claim that it has acted in good faith and clean hands in pursuing this injunction, if it has failed to even specify what speech is false and what basis they have to believe that it is even factual or actionable? |

1. Cross-Defendant filed a motion for Motion for Default Judgment, Dockets #69, 70. Cross-Plaintiff in this Cross complaint requests a Default Judgment against the Court on all the issues identified in this section for all the same reasons. Cross-Plaintiff is entitled to the same “equal protection of the laws” as Cross-Defendant indicated he was entitled to in Docket #69 and 70. Silence is acquiescence and the most silent party in the proceeding relating to the issues raised in this Cross Complaint are the Plaintiff and the Court on the issues raised in this Cross Complaint.

## Petition for Additional Time and Discovery

1. Because of the requirements imposed by this Cross Complaint, additional discovery will be required and a corresponding extension of the discovery window is mandatory.
2. Cross-Plaintiff has tried very hard to avoid the need for this cross complaint, but the following factors, created in part by the Court, have necessitated this Cross Complaint:
   1. Magistrate Judge violating 28 U.S.C. §636 and proceeding without consent of the Cross-Plaintiff to issue orders on DISPOSITIVE issues that adversely affect the rights of the Cross-Plaintiff, including financial discovery sanctions. See Order, Docket #62.
   2. The Court prejudicially granting Cross-Defendant, Shoemaker, things he never even asked for, including a second deposition at the expense of the Cross-Plaintiff, while refusing *every single request* of the Cross-Plaintiff to date in at least three motions.
   3. Cross-Defendant’s failure to cooperate fully with discovery of the Cross-Plaintiff to date, as documented in the Opposition to the Motion for Default Judgment, Docket #69 and 70.
   4. Blatant refusal of Judge <<JUDGE LASTNAME>> to address any of the issues raised in the Petition to Dismiss, Docket #42 and 43, relating to the requirement for implementing regulations. The cases he cites don’t address ANY of the issues raised by the Cross-Plaintiff in either that Petition or the corresponding Reply Brief, Docket #60. Those questions are again presented anew here as a request for Declaratory Judgment in the preceding section. It is ironic that the government seeks to make the Cross-Plaintiff assume responsibility for:
      1. Actions that never happened and which the government has no evidence to prove ever happened.
      2. Statements that identify themselves in the corresponding Disclaimers as exclusively religious and political in nature, not factual, and not actionable, and to seeks to compel and extort Cross-Plaintiff to treat such statements as factual and actionable.

. . .and yet the Judge isn’t refuses to accept responsibility to directly address the questions raised in the previous section. The Court is protecting its own irresponsibility, and yet refuses the Cross-Plaintiff the same equal protection.

1. Quite frankly, Cross-Plaintiff never expected to see the kind of widespread corruption witnessed in these proceedings to date, and therefore therefore requires additional time to undo the damage done by said corruption documented here. He also needs time to personally serve the additional defendants and to discover their service addresses. Cross-Defendant Shoemaker has so far interfered with the discovery of this information and thereby obstructed justice. A motion to compel may be required against him, for this reason.

## Jury Trial and Recusal of All Biased Parties Required under terms of License Agreements

1. Cross-Plaintiff demands a jury trial pursuant to FRCP Rule 38(a).
2. Pursuant to the Seventh Amendment, a “jury of peers” is demanded, which have all the same qualifications as the Cross-Plaintiff himself, who:
   1. Is a nonresident alien as defined in 26 U.S.C. §7701(b)(1)(B).
   2. Is not a “U.S. citizen” under 8 U.S.C. §1401.
   3. Is a “national” pursuant to 8 U.S.C. §1101(a)(21) and a Fourteenth Amendment citizen of the United States of America.
   4. Is a “nontaxpayer” not liable for any internal revenue tax and not subject to any part of the Internal Revenue Code.
   5. Is not an “individual” as defined in 5 U.S.C. §552a(a)(2).
   6. Does not qualify or receive any federal financial benefit that might create a conflict of interest or make him into “federal personnel” under 5 U.S.C. §552a(a)(13).
   7. Not engaged in a “public office” or a “trade or business”, as defined in 26 U.S.C. §7701(a)(26).
   8. Does not maintain a domicile within the “United States”, as defined in 26 U.S.C. §7701(a)(9) and (a)(10), within any United States Judicial District, or within any existing internal revenue district.
   9. Has no earthly domicile because he does not wish to be compelled to contract with, associate with, or otherwise seek protection from any government for anything other than his natural, constitutional rights.
   10. Is a “transient foreigner”, but not a “citizen”, “inhabitant”, “resident” within the jurisdiction of the United States.

"**Transient foreigner**.  One who visits the country, without the intention of remaining."    
[Black's Law Dictionary, Sixth Edition,, p. 1498]

1. Cross-Plaintiff also asserts that because his domicile is nowhere within the “United States” or within an United States Judicial District subject to the jurisdiction of this court, then it is therefore impossible to assemble a lawful jury to hear this case against him, and anyone who might be selected would not be a peer and would not physically be present within the district as required by 28 U.S.C. §1865(b).
2. The Cross-Plaintiff insists that that any judge who hears this case not pay federal income tax, and that his benefits not be derived from federal income tax. This is also a mandatory requirement of the Copyright/Software License Agreement that the Cross-Defendant Shoemaker has already stipulated to by quoting and using copyrighted materials of the Cross-Plaintiff. It is an undisputed fact that any other result will produce a conflict of interest in violation of 18 U.S.C. §208, 28 U.S.C. §455, 28 U.S.C. §144. The reasons are explained below and explained in more detail in Exhibit 2 to the Answer, Docket #5, Chapter 6:
   1. Since 1938 in the case of [O'Malley v. Woodrough, 307 U.S. 277](file:///J:\Main\CDs-Data\SEDM\HighLightsOfALPH\CourtCites\307US277.pdf) (1938), the independence and integrity of the federal judiciary has been severely compromised. In that year for the first time in the history of this country, the U.S. Supreme Court ruled that new federal judges could be subject to IRS extortion and abuse without violating the prohibition in the Constitution of not reducing the compensation of sitting judges. Since that time, all federal judges have had to live with the fear of crossing the IRS if they ruled against it. This has lead to a severe bias that is unfair and prejudicial to the rule of law in this once great country.
   2. Around the same time as the *O’Malley* ruling, socialism of FDR was taking hold and the Victory Tax was instituted to fund the war in 1942. The Victory Tax was a VOLUNTARY donation program to pay for the war, most of the revenues of which was derived from states of the Union. This resort to taxation INTERNAL to the states of the Union WAS NOT authorized by the Constitution. In fact, the founders, in Federalist Paper #45, said that wars were supposed to be paid by apportioned direct taxes upon the states, but not the people in them, and that FEDERAL and not STATE officers would collect these taxes. The tax was constitutional, however, because it could not be enforced under the authority of law, and has survived to this day as what people think of as a mandatory tax. See *Great IRS Hoax*, found as part of Exhibit 2 of the Answer, Docket #5, section 5.2.3.
   3. The reason that excise taxation INTERNAL to the states by the federal government could not be resorted to was because:
      1. The only type of tax authorized in the Constitution was a tax on IMPORTS, under Article 1, Section 8, Clause 3.
      2. A resort to taxation INTERNAL to the states would prejudice and corrupt the federal courts. A judge cannot claim to be a defender of justice and have a conflict of interest and priorities. The salaries of original federal judges, up until 1938, was paid mostly by Constitutional taxes upon imports. This prevented a conflict of interest because they were not asked to enforce taxation against people in the states the rights of which they were charged with protecting. The fox cannot be in charge of the chickens, and the Constitution prevented this situation.
   4. However, the system became corrupted in 1938 when judges became subject to IRS enforcement, and then the situation got worse in 1942 with the resort to the Victory Tax Act, which was a tax INTERNAL to the states. Now the judges were in charge of defending the rights of people in the states, but at the same time maximizing violation of their rights to ensure flow of money to pay for the war, and later, to expand their retirement benefits and pay. The corruption and the socialism it produces has been slow but steady. However, at every point, we must remember that the enforcement of payment of monies that no law authorizes amounts to organized crime and extortion and compelled bribery of everyone who works in government:

"And **you shall take no bribe**, **for a bribe blinds the discerning and perverts the words of the righteous**."

[[Exodus 23:8](http://www.blueletterbible.org/cgi-bin/tools/get_verses.pl?linkcolor=39398C&textcolor=000000&bgcolor=FFFFFF&icon=http%3A%2F%2Fwww.blueletterbible.org%2Fgifs%2Fyour_logo.gif&hr=http%3A%2F%2Fwww.blueletterbible.org%2Ffreeoffer.html&vlinkcolor=0000FF&Book=Exd&Chapter=23&Start=8&End=8&anything.x=0&anything.y=0), Bible, NKJV]

"He who is greedy for gain troubles his own house,  
**But he who hates bribes will live**."

[[Prov. 15:27](http://www.biblegateway.com/cgi-bin/bible?language=english&passage=Pro.+15%3A27&version=NKJV), Bible, NKJV]

"Surely oppression destroys a wise man's reason.  
And **a bribe debases the heart**."

[[Ecclesiastes 7:7](http://www.biblegateway.com/cgi-bin/bible?language=english&passage=Ecc.+7%3A7&version=NKJV), Bible, NKJV]

"The king establishes the land by [justice](http://famguardian.org/TaxFreedom/CitesByTopic/justice.htm); but he who receives bribes overthrows it."

[[Prov. 29:4](http://www.biblegateway.com/cgi-bin/bible?passage=PROV%2B29%3A4&showfn=on&showxref=on&language=english&version=NKJV&x=18&y=9), Bible, NKJV]

* 1. Since that time starting in about 1938, the IRS has been propagandizing and lying to the public by describing what is actually a voluntary donation program for the District of Columbia under Subtitle A of the I.R.C. as an enforceable “tax”. The House of Representatives Law Revision Counsel has since also been working closely with the IRS to obfuscate and confuse the tax code using “words of art” and removing key language so that it would be widely misunderstood and misapplied by people in the states as a MANDATORY, ENFORCEABLE contribution when in fact it is not. This type of deliberate deception essentially amounts to encouraging unlawful and unconstitutional behavior, which ironically is the very subject of this lawsuit. Does the jury smell a rat here? If you want to investigate further, then read the exhaustive evidence of this fraud for yourself in Chapter 6 of the *Great IRS Hoax*, included by reference as Exhibit 2 in the Affidavit of Material Facts attached to the Answer, Docket #5.
  2. Judges in the federal judiciary have involuntarily become compelled accomplices in this fraud, in many cases without even realizing it, by being subject to “selective enforcement” by the IRS in retaliation for their adverse rulings in violation 18 U.S.C. §208, 28 U.S.C. §144, and 28 U.S.C. §455. This has lead to the spread of lies, propaganda, and the misapplication of what is actually a completely Constitutional donation program, and persecution of all those who expose the truth about the matter, including the Cross-Plaintiff and even Congressman such as Congressman Traficant.
  3. The kind of financial conflict of interest and corruption that results from it in the courts vis a vis the income tax explains why the original founders implemented taxation the way they did:

“Citizens abroad, aliens at home.”

When the above rule is carefully observed, financial conflicts of interest can never occur in the judicial system. That is why this rule is universally applied in nearly every country on the planet to maintain a just tax system.

1. Lastly, JUDICIAL NOTICE is given that the Cross-Defendant has agreed to the terms of the Copyright/Software License Agreement on the Family Guardian website, because he quoted materials from it in this case. See Exhibits 3 and 7. The terms of the Copyright/Software License agreement explicitly specify:
   1. (item 8.1) Users agree to litigate ONLY in a state court WITH a jury trial under the laws of the state and not the federal government, and to allow the jury to rule on BOTH the facts AND the law. No member of the jury or the judge may be either a "[taxpayer](http://famguardian.org/TaxFreedom/CitesByTopic/taxpayer.htm)", a "[U.S. citizen](http://famguardian.org/TaxFreedom/CitesByTopic/USCitizen.htm)" under [8 U.S.C. §1401](http://www4.law.cornell.edu/uscode/8/1401.html), or be in receipt of any government benefit, to ensure that the trial is completely impartial. They also agree to allow us to say anything we want to the jury and call any witnesses we wish, and not to object to or rule out any of our testimony or our witnesses.
   2. (Item 8.3) None of the persons called as witnesses by either side at any trial involving this ministry may work for the federal or state government, receive retirement benefits from the government, receive financial benefits of any kind from the government, nor be "taxpayers", "U.S. citizens", or "U.S. residents". This will ensure that all witnesses called will be completely objective, neutral, and unbiased.
   3. (Item 5) The Cross-Defendant, as a private person, agrees to substitute himself/herself as being liable for any judgments against the Cross-Plaintiff and his ministry or its agents relating to complaints filed by him/her or evidence provided by him/her to third parties or litigation initiated by him/her which result in prosecution of this ministry or its agents.
2. Therefore, the Cross-Defendant has personally already agreed and consented, based on his conduct, that:
   1. He is prosecuting himself in this case and that he is the actual Cross-Defendant.
   2. Any judge who hears this case cannot be a “taxpayer” or “U.S. citizen” under 8 U.S.C. §1401.
   3. The jury will replace the judge and rule on both facts and law.
   4. No member of the jury can be a “taxpayer”, statutory “U.S. citizen” pursuant to 8 U.S.C. §1401, or receive any financial government benefit.
   5. The proper and only forum that can hear the case is a state court, and not a federal court.

# REBUTTED LIKELY OBJECTIONS BY CROSS-DEFENDANTS AND COURT TO ENFORCING LICENSE AGREEMENTS

## “Reasonable Notice” not received by Cross-Defendants (OR Plaintiff)

1. No doubt, the Court may try to assert that one or more of the Cross-Defendants did not receive “reasonable notice” or convey their consent to the terms of the applicable license agreement. The response of the Cross-Plaintiff is that if the Court is going to try to protect the Cross-Defendants in this way, it owes a duty to equally protect the same rights of the Cross-Plaintiff as explained below. The Constitutional requirement for “reasonable notice” or “due notice” or “general notice” is the most basic element of due process and the foundation for the protection of all rights guaranteed by the Constitution.
2. All of the discussion about the requirement for implementing regulations found in sections ‎5.4.1, ‎7.1, and this section really boils down to the argument that *the Cross-Plaintiff never received reasonable notice of the laws which he is to be bound by and therefore he cannot be held accountable to obey them*. The Federal Register, the Federal Register Act at 44 U.S.C. §1505, and the Administrative Procedures Act at 5 U.S.C. §551 in fact, were collectively created *primarily* in order to satisfy the following Constitutional requirements towards the general public at large:
   1. To provide “reasonable notice” or “due notice” to the public at large provide of the laws that they collectively will be required to abide by.
   2. To provide a “notice and comment” mechanism to incorporate the needs of the public into the lawmaking process.
3. The above requirements originate from the following:

“It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard, as that **no man shall be condemned in his person or property without due notice and an opportunity of being heard in his own defense.**”

[Holden v. Hardy, 169 U.S. 366 (1898)]

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**It never has been doubted by this court, or any other, so far as we know, that notice and hearing are preliminary steps essential to the passing of an enforceable judgment,** and that they, together with a legally competent tribunal having jurisdiction of the case, constitute basic elements of the constitutional requirement of due process of law.  The words of Webster, so often quoted, that, by "the law of the land" is intended "a law which hears before it condemns" have been repeated in varying forms of expression in a multitude of decisions.  In Holden v. Hardy, 169 U.S. 366, 389, **the necessity of due notice and an opportunity of being heard is described as among the "immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard."**  And Mr. Justice Field, in an earlier case, Galpin v. Page, 18 Wall. 350, 368-369, said that the rule that no one shall be personally bound until he has had his day in court was as old as the law, and it meant that he must be cited to appear and afforded an opportunity to be heard.

Judgment without such citation and opportunity wants all the attributes of a judicial determination; it is judicial usurpation and oppression, and never can be upheld where justice is justly administered.”

[Powell v. Alabama, 287 U.S. 45 (1932)]

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Finally, §553(b)(A) [of U.S.C. Title 5] permits agencies to issue procedural rules without prior notice.  This exemption reflects “the congressional judgment that such rules, because they do not directly guide public conduct, do not merit the administrative burdens of public input proceedings.

[Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 307]

1. All of the above requirements apply as equally to the occasion of passing laws as they do to enforcing them. The process of passing regulations, which are the *only* Constitutionally available method to enforce statutes passed by Congress upon the general public protected by the Constitution, is called “rulemaking”. The following provisions of law are intended to satisfy this requirement in the context of the public at large within either states of the Union or territories and possessions of the United States to the “rulemaking” process:
   1. The Federal Register Act, 44 U.S.C. §1505(a)(1), requires that all laws “having generally applicability and legal affect” MUST be published in the federal register. This includes both statutes AND the regulations which implement them. Then it defines “having general applicability and legal affect” as meaning “prescribing a penalty” as follows:

“For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect. “

You will note that a penalty has the affect of depriving a man of some aspect of his Constitutional liberty, which the U.S. Supreme Court has also said is a power that the Congress does not have the ability to do in the context of the “general public”:

**“The power to "legislate generally upon" life, liberty, and property, as opposed to the "power to provide modes of redress" against offensive state action, was "repugnant" to the Constitution.** Id., at 15. See also United States v. Reese, [92 U.S. 214, 218](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=92&invol=214#218) (1876); United States v. Harris, [106 U.S. 629, 639](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=106&invol=629#639) (1883); James v. Bowman, [190 U.S. 127, 139](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=190&invol=127#139) (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, [379 U.S. 241](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=379&invol=241) (1964); United States v. Guest, [383 U.S. 745](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=383&invol=745) (1966), their treatment of Congress' §5 power as corrective or preventive, not definitional, has not been questioned.”

[[City of Boerne v. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=521&page=507)]

* 1. *5 U.S.C. §553* governs the rulemaking process, and then proceeds in 5 U.S.C. §553(a)(1) to effectively waive all of its constraints in the case of: (1) a military or foreign affairs function of the United States; or; (2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. Then in 5 U.S.C. §553(b), it prescribes the absolute requirement for “general notice” of the rules to be published. The reason for so publishing said rules is to give “reasonable notice” to those who will be bound by them, in fulfillment of the Constitutional requirement for due notice. Laws TAKE AWAY RIGHTS, and when you are going to take away rights, you have to let people know before you do it and give them an opportunity to comment, just like this court proceeding.
  2. 4 U.S.C. §72 says that all “public offices” shall be exercised ONLY in the District of Columbia and no place else except as “expressly provided” by law. This is an method of putting the public on notice that if Congress is going to enforce a law within the exclusive jurisdiction of a state, it MUST expressly provide a “public office” through enacted law with enforcement provisions published in the Federal Register BEFORE it can adversely affect the Constitutional rights of members of the general public. This was never done in the case of the Internal Revenue Code Subtitle A, and the only provision of law extending said “public offices” outside the District of Columbia is found in 48 U.S.C. §1612 and NO PLACE ELSE. Therefore, the public have not been put on “general notice” or “reasonable notice” that the I.R.C. Subtitle A could or would be enforced against them within states of the Union and they cannot therefore be bound by it. This is consistent with the definition of “United States” found in 26 U.S.C. §§7701(a)(9) and (a)(10), with 26 U.S.C. §7701(a)(39), and 26 U.S.C. §7408(c ) which the Cross-Defendant is citing in this case. The Internal Revenue Code Subtitle A also describes itself primarily a tax upon a “trade or business”, which is defined in 26 U.S.C. §7701(a)(26) as “the functions of a public office”. This is exhaustively proven in “The Trade or Business Scam” found at <http://sedm.org/Forms/MemLaw/TradeOrBusScam.pdf>. A “public office is a type of federal privilege and franchise that is taxable. Since there are no acts of Congress which expressly extend “public offices” to states of the Union which are the object of I.R.C. Subtitle A, then pursuant to the provisions of 4 U.S.C. §72, I.R.C. Subtitle A can only apply in the District of Columbia and the Virgin Islands and NO PLACE ELSE.
  3. 26 CFR §601.702(a)(2)(ii) says that those who did not receive the equivalent of “reasonable notice” by publication in the Federal Register MAY NOT have their rights adversely affected:

[26 CFR §601.702](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=fa8764ba639140eb9cd04afa1cedad2d&rgn=div8&view=text&node=26:20.0.1.1.2.7.3.1&idno=26) Publication and public inspection

(a)(2)(ii) Effect of failure to publish. Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal Register, **such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision** (i) of this subparagraph. **Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.**

The only way the above can be true and ALSO that any Judge or litigant can lawfully waive the requirement for implementing regulations for enforcement against a litigant is for the Judge to unlawfully and prejudicially presuming that the litigant has not rights, which is the most prejudicial presumption of all that violates the very purpose for the creation of government to begin with. The Declaration of Independence says that all governments are created EXCLUSIVELY for the protection of rights. “That to secure these rights, governments are instituted among men, deriving their JUST powers from the CONSENT of the governed.” The process of procuring said consent thus satisfies the Constitutional requirement for “reasonable notice”. To assume the *nonexistence* of such rights is to violate the *very purpose* for the existence of civil government and to deny the main purpose for the establishment of this court, which is the EQUAL protection of ALL rights.

"**Justice [which is rendering due notice to every man and requesting his consent to participate] is the end of government. It is the end of civil society.** It ever has been, and ever will be pursued, until it be obtained, or until liberty be lost in the pursuit."  [James Madison, Federalist #51]

So far, the only “RIGHT” the Plaintiff has expressed any interest in defending in the context of this proceeding is the UNEQUAL protection of *government rights* to eminent domain over the labor and services of its employee SERFS and PUBLIC OFFICIALS and all those who inhabit the kings land in the District of Columbia, and in KIDNAPPING the Cross-Plaintiff and placing his residence in the District of Columbia pursuant to 26 U.S.C. §7408(c ) against his will and in violation of 18 U.S.C. §1201. This is TERRORISM, not JUSTICE.

**Title 28: Judicial Administration**

[PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?idno=28;region=DIV1;type=boolean;c=ecfr;cc=ecfr;sid=96ac0e58503b8a686b63f73c7441c2f1;q1=terrorism;rgn1=Section;op2=and;rgn2=Section;op3=and;rgn3=Section;rgn=div5;view=text;node=28:1.0.1.1.1#28:1.0.1.1.1.27.1.)

[§ 0.85   General functions.](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?idno=28;region=DIV1;type=boolean;c=ecfr;cc=ecfr;sid=96ac0e58503b8a686b63f73c7441c2f1;q1=terrorism;rgn1=Section;op2=and;rgn2=Section;op3=and;rgn3=Section;rgn=div5;view=text;node=28:1.0.1.1.1#28:1.0.1.1.1.27.1.1)

**(1) [. . .] Terrorism includes the unlawful use of [judicial or government] force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.**

1. The only basis for violating the requirement for “due notice” or “reasonable notice”, which is satisfied by publication of implementing regulations in the Federal Register for a statute, is because:
   1. The parties to be affected by it do not have Constitutional rights because they reside in the District of Columbia, where the Bill of Rights do not apply. See 28 U.S.C. §1366.
   2. The parties are members of the military. See 5 U.S.C. 553(a)(1).
   3. The parties are government employees, contractors or benefit recipients who have knowingly forfeited their Constitutional rights in the process of procuring “privileges” or one kind or another. See 5 U.S.C. §553(a)(2) and 44 U.S.C. §1505(a)(1).
   4. The law affects only public property, such as loans, grants, and contracts. See 5 U.S.C. §553(a)(2). Such property and contracts include franchises of the federal government offered to citizens of the states. The Internal Revenue Code Subtitle A, in fact, is private law and special law, not public law. It essentially amounts to a franchise agreement governing the enjoyment of “privileges” in exercising “the functions of a public office”, which is what a “trade or business” amounts to. This is exhaustively analyzed in Docket #72, Exhibit 1.
2. The Cross-Defendant has been effectively asked repeatedly for legally admissible evidence of “reasonable notice” for the enforcement of the provisions cited by the Cross-Defendant as authority: 26 U.S.C. §6700, 6701, and 7408. See Petition to Dismiss, Docket 43 and the accompanying Judicial Notice, Docket 44. Legally admissible evidence consists of the Federal Register publication in which the statute and the regulation sought to be enforce BOTH appear. None was provided, and all this Court could come up with is lame excuses by saying:

“Congress has vested the Secretary of the Treasury with the authority to "prescribe all needful rules and regulations for the enforcement of [the IKC], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue," 26 U+S.C. $ 7805(a). This statute "is a general grant of authority by Congress to the Commissioner to promulgate - as necessary - 'interpretive regulations' stating the agency's views of what the existing Code provisions already require." Granse v. United States, 892 F. Supp. 2 19,224 ID. Minn. 1995)' (citing E.I. du Pont de Nemours & Co. v. Comm 'r of lnternal Revenue, 41 F.3d 130, 135 & n.20 (3d Cir. 1994)). Under its terms, 5 7805 does not require the promulgation of regulations as a prerequisite to the enforcement of each and every provision of the IRC. Id. at 224-25; see Watts v. Internal Revenue Sen., 925 F. Supp. 27 1,277 {D.N.J. 1996) ("By 'needful rules and regulations,' Congress did not intend to require the promulgation of unnecessary regulations."). If the Congressional mandate, as set forth in a particular provision of the IRC, is sufficiently clear, it is not necessary for the Secretary to implement an interpretive regulation:”

[Docket #63, p. 5]

The above arguments are unavailing and unpersuasive because no judge has the authority to waive the affirmative requirements of positive law found in the Federal Register Act and the Administrative Procedures Act for “reasonable notice” to the public of any provision that could adversely affect their liberty interests (e.g.: be “enforced”). The Supreme Court said above that this requirement may NOT be waived and that it is the *foundation* of our system of justice. *Holden v. Hardy*, 169 U.S. 366 (1898). Congress has NO AUTHORITY to impose ANY KIND OF DUTY upon the public at large or to “*legislate generally upon the rights and liberties*” of Americans domiciled in states of the Union who are protected by the Bill of rights. *City of Boerne v. Florez, Archbishop of San Antonio*, 521 U.S. 507 (1997), United States v. Reese, [92 U.S. 214, 218](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=92&invol=214#218) (1876); United States v. Harris, [106 U.S. 629, 639](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=106&invol=629#639) (1883); James v. Bowman, [190 U.S. 127, 139](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=190&invol=127#139) (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, [379 U.S. 241](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=379&invol=241) (1964); United States v. Guest, [383 U.S. 745](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=383&invol=745) (1966). This authority, it says, is “repugnant to the Constitution”, and yet the Cross-Defendant and this Court (so far) are WILLFULLY EVADING this legal requirement and thereby engaging in conspiracy against rights in violation of 18 U.S.C. 241. This Court may therefore NOT make any of the following prejudicial presumptions without violating the Constitution and adversely affecting the liberty interests of the Cross-Plaintiff and the general public at large:

* 1. “Presume” that a statute may be enforced against the general public without “due notice” AND the corresponding publication in the Federal Register as required by 44 U.S.C. §1505 and 5 U.S.C. §553.
  2. Presume that a party protected by the Bill of Rights is not so protected.
  3. Shift the domicile or residence of a party protected by the Bill of Rights to a place where he is not protected without his explicit written consent in some form. See 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(c ). This is KIDNAPPING and it is a criminal offense in violation of 18 U.S.C. §1201.
  4. Presume that “reasonable notice” or “due notice” is NOT required if the statute is sufficiently clear. This presumption can ONLY lawfully be made against persons who are *explicitly exempted* from the requirement for “reasonable notice” found in 44 U.S.C. §1505(a)(1) and 5 U.S.C. §553(a). It MAY NOT be made against parties who are not so exempted. The Cross-Plaintiff has stated under penalty of perjury in his Answer, Docket #5 that he is NOT a member of any exempted group, and yet the Court continues to prejudice his rights by assuming absent evidence that He IS. This is TREASON!

1. What the Court was admitting indirectly above is that the Plaintiff was a member of a group *specifically exempted* from the “reasonable notice” by publication of implementing regulations published in the Federal Register. Judge <<JUDGE LASTNAME>> therefore was admitting that Cross-Plaintiff <<YOUR LAST NAME>> met one of the following criteria, and at the same time ***was obstructing justice*** by refusing to disclose ***which*** one or to provide admissible evidence upon which that determination was based:
   1. That Cross-Plaintiff is a member of a group which is explicitly exempted from the requirement for implementing regulations and corresponding “due notice”. This would include federal employees, contractors, agencies, public officers engaged in a “trade or business”, and federal benefit recipients.
   2. That the Cross-Plaintiff was domiciled or resident in a place not protected by the Constitution, such as the District of Columbia. See Art. 1, Sect. 8, Clause 17.
2. Cross-Plaintiff <<YOUR LAST NAME>> has stated in his Answer, Docket #5, Aff. Matl Facts, and repeatedly throughout this proceeding that he is NOT a member of any of the above two groups. Therefore, the Court may NOT prejudicially presume otherwise without disclosing the evidence upon which that determination is based. It has refused its constitutional duty to do so, and in so doing and based on its silence on this subject, it has rebelled against stare decisis of the Supreme Court on the requirement for “reasonable notice” and is:
   1. Creating a state sponsored religion based on presumption. A “religion” is simply the worship or obedience to any being that has “unequal” rights or rights not authorized by enacted law. The object of worship of such a false religion in this case is the Judge and the Plaintiff.
   2. Prejudicing and injuring the Constitutional rights of the Cross-Plaintiff.
   3. Implementing and perpetuating involuntary servitude of the Cross-Plaintiff towards the government and the Cross-Defendant.
   4. Violating the oath of office of its officers found in 28 U.S.C. §453 to do justice by addressing the controversies on both sides EQUALLY. All it has done so far is preferentially grant to the Cross-Defendant not only everything he asked for, but even things he NEVER asked for, and to grant NOTHING to the Cross-Defendant that he asked for. Is THIS what you call JUSTICE and EQUAL PROTECTION?
3. If the Court is going to assert that the Cross-Defendants individually or severally did not receive “reasonable notice” and provide consent in the process of procuring the “privilege” of obtaining the evidence that is being used to prosecute this case by the United States, then it must also:
   1. Equally protect the Cross-Plaintiff by acknowledge that the Cross-Plaintiff was ALSO never given “general notice” via the Federal Register that the provisions of the Internal Revenue Code cited by the Cross-Defendant, namely I.R.C. 6700, 6701, and 7408(c ), would be directly enforced against his Constitutional rights and that he would be adversely affected by it.
   2. Reveal which of the two groups in paragraph 7 that the Cross-Plaintiff is a Member of.
   3. Provide evidence proving WHY Cross-Plaintiff <<YOUR LAST NAME>> is a member of that group.
   4. Dismiss the Complaint of the Cross-Defendant Shoemaker, because no reasonable notice was given of the terms of the “I.R.C. contract”.
4. There is no other lawful or just or EQUAL way out of this dilemma for the Plaintiff or the government:
   1. Dismissal of both the Complaint and the Cross Complaint because none of the parties were given “reasonable notice”.
   2. Enforcement of the I.R.C AND enforcement of the License Agreements against all parties concerned EQUALLY, and the substitution of the Cross-Defendants for the Defendant in this case.
5. The Plaintiff and the Court cannot have its cake and eat it too, without denying equal protection of the requirement for “reasonable notice” to ALL parties.

## Cross-Defendant’s Use of Licensed Materials Do Not Constitution “Fair Use” Or Eliminate License Agreements

1. The Cross-Defendant may attempt to assert that even if he did download the materials in question and make himself subject to the SEDM Fellowship Member Agreement, Exhibit 2, he still may assert any of the defenses below in order to shield him or herself from liability under such agreements.
2. Cross-Defendant may assert that use of the materials within this litigation constitutes an occasion subject to the “Fair Use” exception found in 17 U.S.C. §107. This defense is insufficient because the SEDM Fellowship Member Agreement, Exhibit 2, and the Copyright/Software/User License Agreement are *separate* and distinct form the protections afforded by the Copyright Act itself. The terms of the applicable license agreement trigger upon consent of the parties based on their explicit conduct and are a SUPERSET of the protections afforded by the Copyright Act. The right to contract is unlimited, and therefore the terms of the license agreements can include any and every provision imaginable, none of which the Court may interfere with the enforcement of, save those provisions which accomplish an illegal purpose. Since there are not illegal purposes and the only end is the protection of all speech in question as religious and political, not factual, and not actionable, then they can have not illegal purpose.
3. The Fair Use Exception found in 17 U.S.C. §107 relates to non-commercial uses of protected copyrighted information. The Cross-Defendant: is attempting to use protected information within this proceeding to:
   1. DESTROY any possibility of commercial value of the information. An “anti-commercial use” is equivalent to a “commercial use”. Therefore, this exception doesn’t apply anyway.
   2. Is attempting to use the ABSENCE of the availability of the materials to the average American, caused by the injunction he is demanding, as a way to promote and expand the continued flow of unlawful commerce to the United States government. This flow of commerce has created monopolistic commerce in violation of 18 U.S.C. §§1 & 2 in areas NOT even authorized by the Constitution in states of the Union, being “social insurance”. One of the goals of the information sought to be enjoined is to *prevent* these violations of law by those who read it. Therefore, any attempt to enjoin the speech in question, which identifies itself in the applicable Disclaimers, Exhibits 3 and 7, as exclusively religious and political, not factual, and not actionable, is an attempt to interfere with the political affairs of those participating in it, which this court is enjoined from doing:[[23]](#footnote-23)

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty [and INCLUDING a judge], can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens by word or act their faith therein.  If there are any circumstances which permit an exception, they do not now occur to us."

[[West Virginia State Board of Education v. Barnette, 319 U.S. 624; 63 S.Ct. 1178 (1943)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=319&page=624)]

## Official, Judicial, and Sovereign Immunity as Defense

1. Cross-Defendant may also attempt to assert official or sovereign immunity as a shield to evade liability under the license agreements.
2. The SEDM Fellowship Member Agreement, Exhibit 2, Section 6, rules out this possibility, because it says the following:

7.4  Users and readers of our materials stipulate that their duty and allegiance to abide by this agreement is superior to their employment duties and any other agency they may claim to be exercising.   Judicial, sovereign, or official immunity are therefore subordinate to the terms of this agreement.   Readers and users of our materials agree that any and all lawsuits in which they are participants acting by or for or as witnesses for the Plaintiff shall be deemed to be filed by them personally, regardless of the party which they claim to be representing or which is named on the Complaint. For instance if a government attorney named "John Doe" quotes or uses our licensed materials in any legal proceeding in which he or she is the Plaintiff or an agent for the Plaintiff, and files the lawsuit in the name of the "United States", this agreement stipulates that the definition of "United States" or "United States of America" shall instead mean "John Doe" and John Doe stipulates that he is acting by and on his own behalf and not on the behalf of the government of the states united by and under the Constitution of the United States of America. This will ensure that the plaintiff or prosecuting attorney does not try to claim that he had no authority to bind the U.S. government to abide by this agreement. An important implication of this provision is that if John Doe prosecutes this case on paid time for the U.S. Government, then he can and will be fired and disciplined for conducting private business on company time.

[SEDM Fellowship Member Agreement, Section 1, Docket #73, Exhibit 4]

## Case cannot be tried in federal court and must be dismissed

1. Cross-Defendant may assert that this Cross Complaint cannot be enforced in a federal court and must be dismissed or moved to a state court. This defense is inadequate as well for reasons set forth below.
2. The SEDM Fellowship Member Agreement, Exhibit 2, as well as the Family Guardian Copyright/Software/User License Agreement, Docket #72, Exhibit 1 constitute a *binding arbitration agreement* that governs litigation originated by ALL parties who are subject to it. If the Court dismisses the Cross-Plaintiff’s case or remands it to a state Court, then it must also dismiss the Plaintiff’s original Complaint for the very same reason. All parties are equally subject to all the same terms. The United States is NOT a party to this suit, because the agreement itself makes the Cross-Defendants to this Cross Complaint AS PRIVATE INDIVIDUALS, into the only parties to the Complaint.

# DEFINITIONS OF TERMS IN ORDERS

1. Pursuant to the provisions of the SEDM Fellowship Member Agreement, Exhibit 2 attached, Section 6, the Substitute Defendants in the original Complaint filed in this action, Docket #1, are <<U.S. ATTY NAME>>, <<IRS AGENT NAME>>, and <<DOJ EMPLOYEE FULL NAME>> as private individuals and not as federal officers or employees.
2. Sovereign immunity may not be invoked to protect the *private* conduct and *privat*e contracts of these individuals.
3. Consequently, in the Courts final order regarding the Complaint, the Motion for Summary Judgment, Docket #67 and 68, and the Motion for Default Judgment, Docket #69 and 70, and in regard to the original Complaint, the following terms shall have the meaning indicated to the Plaintiff in this matter, pursuant to the private licenses agreements that all are subject to and have consented to AS PRIVATE INDIVIDUALS and as agents for the government on official business:

| ***Term*** | ***Meaning by private contract/license agreement*** |
| --- | --- |
| <<YOUR FULL NAME>> | <<U.S. ATTY NAME>>, <<IRS AGENT NAME>>, <<DOJ EMPLOYEE FULL NAME>> |
| Defendant | <<U.S. ATTY NAME>>, <<IRS AGENT NAME>>, <<DOJ EMPLOYEE FULL NAME>> |
| Family Guardian (<http://famguardian.og>) | IRS (<http://irs.gov>) |
| SEDM (<http://sedm.org>) | IRS (<http://irs.gov>) |
| United States  UNITED STATES  Untied States of America  UNITED STATES OF AMERICA | Defendant (see Exhibit 2, Section 6, Item 7.4) |

1. The First Amendment guarantees me the right to freely communicate. That right BEGINS with the right to define the meaning of the terms the subject uses and HEARS. The right to contract of the Substitute Co-Defendants by engaging in privileged use of licensed materials:
   1. Allow them to consent to the above definitions based on the terms of the license agreements they make themselves subject to.
   2. May not be interfered with by any state of the Union. See Const. Article 1, Section 10.
   3. May not be interfered with by any court of the United States. See *Sinking Fund Cases*:

"**Independent of these views, there are many considerations which lead to the conclusion that the power to impair contracts [either** [**the Constitution**](http://www.findlaw.com/casecode/constitution/) **or the** [**Holy Bible**](http://biblegateway.com/)**], by direct action to that end, does not exist with the general [federal] government.** **In the first place, one of the objects of the Constitution, expressed in its preamble, was the establishment of justice, and what that meant in its relations to contracts is not left, as was justly said by the late Chief Justice, in Hepburn v. Griswold, to inference or conjecture.** As he observes, at the time the Constitution was undergoing discussion in the convention, the Congress of the Confederation was engaged in framing the ordinance for the government of the Northwestern Territory, in which certain articles of compact were established between the people of the original States and the people of the Territory, for the purpose, as expressed in the instrument, of extending the fundamental principles of civil and religious liberty, upon which the States, their laws and constitutions, were erected. **By that ordinance it was declared, that, in the just preservation of rights and property, 'no law ought ever to be made, or have force in the said Territory, that shall, in any manner, interfere with or affect private contracts or engagements bona fide and without fraud previously formed.**' The same provision, adds the Chief Justice, found more condensed expression in the prohibition upon the States [in Article 1, Section 10 of the Constitution] against impairing the obligation of contracts, which has ever been recognized as an efficient safeguard against injustice; and though the prohibition is not applied in terms to the government of the United States, he expressed the opinion, speaking for himself and the majority of the court at the time, **that it was clear 'that those who framed and those who adopted the Constitution intended that the spirit of this prohibition should pervade the entire body of legislation, and that the justice which the Constitution was ordained to establish was not thought by them to be compatible with legislation [or judicial precedent] of an opposite tendency.**' 8 Wall. 623. [99 U.S. 700, 765]  Similar views are found expressed in the opinions of other judges of this court." [[Sinking Fund Cases, 99 U.S. 700 (1878)](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=99&invol=700)]

# CONCLUSIONS

1. The Cross-Plaintiff’s religious ministry, and all of his attempts to inform, educate, and empower Americans have, from the very beginning, been based entirely on the concept of “separation of church and state”. He and those who might view his writings are the church, and the government and all of his fellow non-believing Americans are the “state”.
2. Throughout this proceeding, Cross-Defendant Shoemaker and the Plaintiff have attempted to impose a legal “duty” upon the Cross-Plaintiff essentially to:
   1. Allow the government to become self-appointed censor over his religious practices, which identify themselves in the Disclaimers, Exhibits 3 and 7 as exclusively religious and political speech that is not factual and not actionable.
   2. Turn Cross-Plaintiff into essentially “bait” and a “decoy” so that the government may abuse its continued requested discovery powers to further violate the privacy of those who wish to do nothing but share their views and beliefs in a lawful manner.
   3. Abuse this tribunal to create the equivalent of a federal employment relationship without just compensation.
   4. Destroy his own privacy to conduct his political and religious affairs as he sees fit, based on LIES of the Cross-Defendant that were made in order to gain enough of a discovery foothold to demand irrelevant but politically sensitive data that it wants to use to persecuted terrorize, and harass the Cross-Plaintiff for his religious and political views.
   5. Involuntarily impose the duties of an “officer or employee of a corporation or partnership”, which is what the “person” who is the subject of a tax injunction must satisfy in order to be the proper subject of this injunction proceeding. Not once has the Court nor the Cross-Defendant bothered to reconcile that definition with the circumstances of the Cross-Plaintiff and with the rules of statutory construction below, and therefore they admit the have not jurisdiction:

“**Expressio unius est exclusio alterius**. A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded.”

[Black’s Law Dictionary, Sixth Edition, page 581]

1. The Plaintiff cannot maintain the public trust, and yet continue to act so irresponsibly and callously. The Court cannot evade the questions raised in the boxes in sections ‎7.1 and then say with without lying that it is doing justice to the issues in this case. Failure to address these issues, in fact, is causing the Cross-Plaintiff to be the object of involuntary, unlawful servitude in this case, in violation of the Thirteenth Amendment, 42 U.S.C. §1994, and 18 U.S.C. §1589 and is depriving all Americans of the benefit of an honest, accountable government that stays within the bounds of the Constitution.

# AFFIRMATION

1. The Affirmation applying to this document and the following associated documents shall be as set forth in the attached Federal Pleading Attachment, Exhibit 1:

Dated:

|  |
| --- |
| <<YOUR NAME>> (and NOT <<ALL CAPS NAME>>)  Domiciled no place on earth (and in Heaven) and *outside* of the “United States” under 26 U.S.C. §7701(a)(10) and 28 U.S.C. §1603(c ), outside any Internal Revenue District in accordance with Treasury Order 150-02, and outside any United States Judicial district |

# CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing, and all attached exhibits has been made upon the following addressee by depositing a copy in the United States mail, postage prepaid, this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_ addressed to:

<<U.S. ATTY NAME>>

Department of Justice

PO Box 7238

Washington, DC 20044

I furthermore certify that:

1. I am at least 18 years of age
2. I am not related to either party to this legal proceeding by blood, marriage, adoption, or employment
3. I serve as a “disinterested third party” to this action
4. That I am in no way connected to, or involved in or with, the person and/or matter at issue in this instant action.

|  |  |
| --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  Printed Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date |

# EXHIBIT 1: FEDERAL PLEADING ATTACHMENT

This is the affirmation covering this OPPOSITION TO MOTION FOR SUMMARY JUDGMENT and the associated two documents:

1. Memorandum of Law in Support of Cross Complaint.
2. Affidavit of Material Facts in Support of Cross Complaint.

# EXHIBIT 4: WHY MOST “TAXPAYERS” ARE “PUBLIC OFFICIALS”

The U.S. Supreme Court has said many times that the ONLY purpose for lawful, constitutional taxation is to collect revenues to support ONLY the machinery and operations of the government and its “employees”. This purpose, it calls a “public use” or “public purpose”:

“The power to tax is, therefore, the strongest, the most pervading of all powers of government, reaching directly or indirectly to all classes of the people. **It was said by Chief Justice Marshall, in the case of McCulloch v. Md., 4 Wheat. 431, that the power to tax is the power to destroy.** A striking instance of the truth of the proposition is seen in the fact that the existing tax of ten per cent, imposed by the United States on the circulation of all other banks than the National Banks, drove out of existence every \*state bank of circulation within a year or two after its passage. This power can be readily employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is no implied limitation of the uses for which the power may be exercised.

**To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.**

**Nor is it taxation. ‘A tax,’ says Webster’s Dictionary, ‘is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.’ ‘Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.’ Cooley, Const. Lim., 479.**

Coulter, J., in Northern Liberties v. St. John’s Church, 13 Pa. St., 104 says, very forcibly, ‘I think the common mind has everywhere taken in the understanding that **taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.**’ See, also Pray v. Northern Liberties, 31 Pa.St., 69; Matter of Mayor of N.Y., 11 Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47; Whiting v. Fond du Lac, supra.”

[[Loan Association v. Topeka, 20 Wall. 655 (1874)](http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q05.008a.pdf)]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

"A tax, in the general understanding of the term and as used in the constitution, signifies an exaction for the support of the government. The word has never thought to connote the expropriation of money from one group for the benefit of another."

[[U.S. v. Butler, 297 U.S. 1 (1936](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=297&page=1))]

Black’s Law Dictionary defines the word “public purpose” as follows:

“**Public purpose**. In the law of taxation, eminent domain, etc., this is a term of classification to distinguish the objects for which, according to settled usage, the government is to provide, from those which, by the like usage, are left to private interest, inclination, or liberality. The constitutional requirement that the purpose of any tax, police regulation, or particular exertion of the power of eminent domain shall be the convenience, safety, or welfare of the entire community and not the welfare of a specific individual or class of persons [such as, for instance, federal benefit recipients as individuals]. “Public purpose” that will justify expenditure of public money generally means such an activity as will serve as benefit to community as a body and which at same time is directly related function of government. Pack v. Southwestern Bell Tel. & Tel. Co., 215 Tenn. 503, 387 S.W.2d 789, 794.

The term is synonymous with governmental purpose. As employed to denote the objects for which taxes may be levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; **the essential requisite being that a public service or use shall affect the inhabitants as a community, and not merely as individuals.** A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business.”

[Black’s Law Dictionary, Sixth Edition, p. 1231, Emphasis added]

A related word defined in Black’s Law Dictionary is “public use”:

**Public use**.  Eminent domain.  The constitutional and statutory basis for taking property by eminent domain.  For condemnation purposes, "public use" is one which confers some benefit or advantage to the public; it is not confined to actual use by public.  It is measured in terms of right of public to use proposed facilities for which condemnation is sought and, as long as public has right of use, whether exercised by one or many members of public, a "public advantage" or "public benefit" accrues sufficient to constitute a public use.  Montana Power Co. v. Bokma, Mont., 457 P.2d 769, 772, 773.

Public use, in constitutional provisions restricting the exercise of the right to take property in virtue of eminent domain, means a use concerning the whole community distinguished from particular individuals.  But each and every member of society need not be equally interested in such use, or be personally and directly affected by it; if the object is to satisfy a great public want or exigency, that is sufficient. Ringe Co. v. Los Angeles County, 262 U.S. 700, 43 S.Ct. 689, 692, 67 L.Ed. 1186.  The term may be said to mean public usefulness, utility, or advantage, or what is productive of general benefit.  It may be limited to the inhabitants of a small or restricted locality, but must be in common, and not for a particular individual.  The use must be a needful one for the public, which cannot be surrendered without obvious general loss and inconvenience.  A "public use" for which land may be taken defies absolute definition for it changes with varying conditions of society, new appliances in the sciences, changing conceptions of scope and functions of government, and other differing circumstances brought about by an increase in population and new modes of communication and transportation.  Katz v. Brandon, 156 Conn. 521, 245 A.2d 579, 586.

See also Condemnation; Eminent domain.

[Black's Law Dictionary, Sixth Edition, p. 1232**]**

Black’s Law Dictionary also defines the word “tax” as follows:

“Tax: A charge by the government on the income of an individual, corporation, or trust, as well as the value of an estate or gift. The objective in assessing the tax is to generate revenue to be used for the needs of the public.

A pecuniary [relating to money] burden laid upon individuals or property to support the government, and is a payment exacted by legislative authority. In re Mytinger, D.C.Tex. 31 F.Supp. 977,978,979. **Essential characteristics of a tax are that it is NOT A VOLUNTARY PAYMENT OR DONATION, BUT AN ENFORCED CONTRIBUTION, EXACTED PURSUANT TO LEGISLATIVE AUTHORITY.** Michigan Employment Sec. Commission v. Patt, 4 Mich.App. 228, 144 N.W.2d 663, 665. …”

[Black’s Law Dictionary, 6th Edition, page 1457]

So in order to be legitimately called a “tax” or “taxation”, the money we pay to the government must fit all of the following criteria:

1. The money must be used ONLY for the support of government.
2. The subject of the tax must be “liable”, and responsible to pay for the support of government under the force of law.
3. The money must go toward a “public purpose” rather than a “private purpose”.
4. The monies paid cannot be described as wealth transfer between two people or classes of people within society
5. The monies paid *cannot* aid one group of private individuals in society at the expense of another group, because this violates the concept of equal protection of law for all citizens found in section 1 of the Fourteenth Amendment

If the monies demanded by government do *not* fit *all* of the above requirements, then they are being used for a “private” purpose and *cannot* be called “taxes” or “taxation”, according to the Supreme Court. Actions by the government to enforce the payment of any monies that do *not* meet all the above requirements can therefore only be described as:

1. Theft and robbery by the government in the guise of “taxation”
2. Government by decree rather than by law
3. Extortion under the color of law in violation [18 U.S.C. §872](http://www4.law.cornell.edu/uscode/18/872.html).
4. Tyranny
5. Socialism
6. Mob rule and a tyranny by the “have-nots” against the “haves”
7. [18 U.S.C. §241](http://www4.law.cornell.edu/uscode/18/241.html): Conspiracy against rights. The IRS shares tax return information with states of the union, so that both of them can conspire to deprive you of your property.
8. [18 U.S.C. §242](http://www4.law.cornell.edu/uscode/18/242.html): Deprivation of rights under the color of law. The Fifth Amendment says that people in states of the Union cannot be deprived of their property without due process of law or a court hearing. Yet, the IRS tries to make it appear like they have the authority to just STEAL these people’s property for a fabricated tax debt that they aren’t even legally liable for.
9. [18 U.S.C. §247](http://www4.law.cornell.edu/uscode/18/247.html): Damage to religious property; obstruction of persons in the free exercise of religious beliefs
10. [18 U.S.C. §872](http://www4.law.cornell.edu/uscode/18/872.html): Extortion by officers or employees of the United States.
11. [18 U.S.C. §876](http://www4.law.cornell.edu/uscode/18/876.html): Mailing threatening communications. This includes all the threatening notices regarding levies, liens, and idiotic IRS letters that refuse to justify why government thinks we are “liable”.
12. [18 U.S.C. §880](http://www4.law.cornell.edu/uscode/18/880.html): Receiving the proceeds of extortion. Any money collected from Americans through illegal enforcement actions and for which the contributors are not "liable" under the law is extorted money, and the IRS is in receipt of the proceeds of illegal extortion.
13. [18 U.S.C. §1581](http://www4.law.cornell.edu/uscode/18/1581.html): Peonage, obstructing enforcement. IRS is obstructing the proper administration of the Internal Revenue Code and the Constitution, which require that they respect those who choose NOT to volunteer to participate in the federal donation program identified under subtitle A of the I.R.C.
14. [18 U.S.C. §1583](http://www4.law.cornell.edu/uscode/18/1583.html): Enticement into slavery. IRS tries to enlist “nontaxpayers” to rejoin the ranks of other peons who pay taxes they aren't demonstrably liable for, which amount to slavery.
15. [18 U.S.C. §1589](http://www4.law.cornell.edu/uscode/18/1589.html): Forced labor. Being forced to expend one’s personal time responding to frivolous IRS notices and pay taxes on my labor that I am not liable for.

We also cannot assume or suppose that our government has the authority to make “gifts” of monies collected through its taxation powers, and especially not when paid to private individuals or foreign countries because:

1. The Constitution DOES NOT authorize the government to “gift” money to anyone within states of the Union or in foreign countries, and therefore, this is not a Constitutional use of public funds, nor does unauthorized expenditure of such funds produce a tangible public benefit, but rather an injury, by forcing those who do not approve of the gift to subsidize it and yet not derive any personal benefit whatsoever for it.
2. The Supreme Court identifies such abuse of taxing powers as “robbery in the name of taxation” above.

Based on the foregoing analysis, we are then forced to divide the monies collected by the government through its taxing powers into only two distinct classes. We also emphasize that every tax collected and every expenditure originating from the tax paid MUST fit into one of the two categories below:

Table : Two methods for taxation

| ***#*** | ***Characteristic*** | ***Public use/purpose*** | ***Private use/purpose*** |
| --- | --- | --- | --- |
| ***1*** | ***Authority for tax*** | U.S. Constitution | Legislative fiat, tyranny |
| ***2*** | ***Monies collected described by Supreme Court as*** | Legitimate taxation | “Robbery in the name of taxation” (see *Loan Assoc. v. Topeka*, above) |
| ***3*** | ***Money paid only to following parties*** | Federal “employees”, contractors, and agents | Private parties with no contractual relationship or agency with the government |
| ***4*** | ***Government that practices this form of taxation is*** | A righteous government | A THIEF |
| ***5*** | ***This type of expenditure of revenues collected is:*** | Constitutional | Unconstitutional |
| ***6*** | ***Lawful means of collection*** | Apportioned direct or indirect taxation | Voluntary donation (cannot be lawfully implemented as a “tax”) |
| ***7*** | ***Tax system based on this approach is*** | A lawful means of running a government | A charity and welfare state for private interests, thieves, and criminals |
| ***8*** | ***Government which identifies payment of such monies as mandatory and enforceable is*** | A righteous government | A lying, thieving government that is deceiving the people. |
| ***9*** | ***When enforced, this type of tax leads to*** | Limited government that sticks to its corporate charter, the Constitution | Socialism  Communism  Mafia protection racket  Organized extortion |
| ***10*** | ***Lawful subjects of Constitutional, federal taxation*** | Taxes on imports into states of the Union coming from foreign countries. See Constitution, Article 1, Section 8, Clause 3 (external) taxation. | No subjects of lawful taxation. Whatever unconstitutional judicial fiat and a deceived electorate will tolerate is what will be imposed and enforced at the point of a gun |
| ***11*** | ***Tax system based on this approach based on*** | Private property | All property being owned by the state through eminent domain. Tax becomes a means of “renting” what amounts to state property to private individuals for temporary use. |

If we give our government the benefit of the doubt by “assuming” or “presuming” that it is operating lawfully and consistent with the model on the left above, then we have not choice but to conclude that everyone who lawfully receives any kind of federal payment MUST be either a federal “employee” or “federal contractor” on official duty, and that the compensation received must be directly connected to the performance of a sovereign or Constitutionally authorized function of government. Any other conclusion or characterization of a lawful tax other than this is irrational, inconsistent with the rulings of the U.S. Supreme Court on this subject, and an attempt to deceive the public about the role of limited Constitutional government based on Republican principles. This means that you cannot participate in any of the following federal social insurance programs WITHOUT being a federal “employee”, and if you refuse to identify yourself as a federal employee, then you are admitting that your government is a thief and a robber that is abusing its taxing powers:

1. Subtitle A of the Internal Revenue Code. IRC sections 1, 32, and 162 all confer privileged financial benefits to the participant which constitute federal “employment” compensation.
2. Social Security.
3. Unemployment compensation.
4. Medicare.

An examination of the Privacy Act, [5 U.S.C. §552a(a)(13)](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sec_05_00000552---a000-.html), in fact, identifies all those who participate in the above programs as “federal personnel”, which means federal “employees”. To wit:

[TITLE 5](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5.html) > [PART I](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_I.html) > [CHAPTER 5](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_I_30_5.html) > [SUBCHAPTER II](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_I_30_5_40_II.html) > § 552a

[§ 552a. Records maintained on individuals](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sec_05_00000552---a000-.html)

(a) Definitions.— For purposes of this section—

**(13)** the term “Federal personnel” means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), **individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits)**.

The “individual” they are talkingbout above is further defined in 5 U.S.C. §552a(a)(2) as follows:

[TITLE 5](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5.html) > [PART I](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_I.html) > [CHAPTER 5](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_I_30_5.html) > [SUBCHAPTER II](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_I_30_5_40_II.html) > § 552a

[§ 552a. Records maintained on individuals](http://www4.law.cornell.edu/uscode/html/uscode05/usc_sec_05_00000552---a000-.html)

(a) Definitions.— For purposes of this section—

(2) the term “individual” means a citizen of the United States or an alien lawfully admitted for permanent residence;

The “citizen of the United States” they are talking above is based on the statutory rather than constitutional definition of the “United States”, which means it refers to the federal zone and excludes states of the Union. Also, note that both of the two preceding definitions are found within Title 5 of the U.S. Code, which is entitled “Government Organization and Employees”. Therefore, it refers ONLY to government employees and excludes private employees. There is no definition of the term “individual” anywhere in Title 26 (I.R.C.) of the U.S. Code or any other title that refers to private natural persons, because Congress cannot legislative for them. Notice the use of the phrase “private business” in the U.S. Supreme Court ruling below:

"The individual may stand upon his constitutional rights as a citizen. **He is entitled to carry on his private business in his own way [unregulated by the government]. His power to contract is unlimited. He owes no duty to the State or to his neighbor to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property.** His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. **He owes nothing to the public [including so-called “taxes” under Subtitle A of the I.R.C.] so long as he does not trespass upon their rights.**"

[Hale v. Henkel, [201 U.S. 43](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=201&page=43), 74 (1906)]

The purpose of the Constitution and the Bill of Rights instead is to REMOVE authority of the Congress to legislate for private persons and thereby protect their sovereignty and dignity. That is why the U.S. Supreme Court ruled the following:

"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. **They conferred, as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued by civilized men.**"

[Olmstead v. United States, [277 U.S. 438, 478](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=277&invol=438#478) (1928) (Brandeis, J., dissenting);  see also Washington v. Harper, [494 U.S. 210](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=277&invol=438#478) (1990)]

**QUESTIONS FOR DOUBTERS**: If you aren’t a federal “employee” as a person participating in Social Security and the Internal Revenue Code, then why are all of the Social Security Regulations located in Title 20 of the Code of Federal Regulations under parts 400-499, entitled “Employee Benefits”? See for yourself:

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=f073dcf7b1b49c3d353eaf290d735663&c=ecfr&tpl=/ecfrbrowse/Title20/20tab_02.tpl>

Another very important point to make here is that the purpose of nearly all federal law is to regulate “public conduct” rather than “private conduct”. Congress must write laws to regulate and control every aspect of the behavior of its employees so that they do not adversely affect the rights of private individuals like you, who they exist exclusively to serve and protect. Most federal statutes, in fact, are exclusively for use by those working in government and simply do not apply to private citizens in the conduct of their private lives. The U.S. Supreme Court confirmed this view, when it said:

“The power to "legislate generally upon" life, liberty, and property, as opposed to the "power to provide modes of redress" against offensive state action, was "repugnant" to the Constitution. Id., at 15. See also United States v. Reese, [92 U.S. 214, 218](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=92&invol=214#218) (1876); United States v. Harris, [106 U.S. 629, 639](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=106&invol=629#639) (1883); James v. Bowman, [190 U.S. 127, 139](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=190&invol=127#139) (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, [379 U.S. 241](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=379&invol=241) (1964); United States v. Guest, [383 U.S. 745](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=383&invol=745) (1966), their treatment of Congress' §5 power as corrective or preventive, not definitional, has not been questioned.”

[[City of Boerne v. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=521&page=507)]

What the U.S. Supreme Court is saying above is that the government has no authority to tell you how to run your *private life*. This is contrary to the whole idea of the Internal Revenue Code, whose main purpose is to monitor and control *every aspect* of those who are subject to it. In fact, it has become the chief means for Congress to implement what we call “social engineering”. Just by the deductions they offer, people are incentivized into all kinds of crazy behaviors in pursuit of reductions in a liability that they in fact do not even have. Therefore, the only reasonable thing to conclude is that Subtitle A of the Internal Revenue Code, which would “appear” to regulate the private conduct of *all* individuals in states of the Union, in fact only applies to “public employees” in the official conduct of their duties while present in the District of Columbia, which 4 U.S.C. §72 makes the “seat of government”. The I.R.C. therefore essentially amounts to a part of the job responsibility and the “employment contract” of “public employees”. This was also confirmed by the House of Representatives, who said that only those who take an oath of “public office” are subject to the requirements of the personal income tax. See:

<http://famguardian.org/Subjects/Taxes/Evidence/PublicOrPrivate-Tax-Return.pdf>

Within the Internal Revenue Code, those legal “persons” who work for the government are identified as engaging in a “public office”. A “public office” within the Internal Revenue Code is called a “trade or business”, which is defined below. We emphasize that engaging in a privileged “trade or business” is the main excise taxable activity that in fact and in deed is what REALLY makes a person a “taxpayer” subject to the Internal Revenue Code, Subtitle A:

[26 U.S.C. Sec. 7701](http://www4.law.cornell.edu/uscode/26/7701.html)(a)(26)

"The term 'trade or business' includes the performance of the functions of a [public office](http://famguardian.org/TaxFreedom/CitesByTopic/PublicOffice.htm)."

Below is the definition of “public office”:

Public office

“Essential characteristics of a ‘**public office**’ are:

(1) Authority conferred by law,

(2) Fixed tenure of office, and

(3) Power to exercise some of the sovereign functions **of government**.

(4) Key element of such test is that “officer is carrying out a sovereign function’.

(5) Essential elements to establish public position as ‘public office’ are:

    (a)    Position must be created by Constitution, legislature, or through authority   conferred by legislature.

    (b)    Portion of sovereign power of government must be delegated to position,

    (c)    Duties and powers must be defined, directly or implied, by legislature or through legislative authority.

    (d)    Duties must be performed independently without control of superior power other than law, and

    (e)    Position must have some permanency.”

[Black’s Law Dictionary, Sixth Edition]

Those who are fulfilling the “functions of a public office” are under a legal, fiduciary duty as “trustees” of the “public trust”, while working as “volunteers” for the “charitable trust” called the “United States Government Corporation”, which we affectionately call “U.S. Inc.”:

“As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. [[24]](#footnote-24) **Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts**. [[25]](#footnote-25) **That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. [[26]](#footnote-26) and owes a fiduciary duty to the public. [[27]](#footnote-27) It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. [[28]](#footnote-28)** Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.[[29]](#footnote-29)”

[63C Am.Jur.2d, Public Officers and Employees, §247]

“U.S. Inc.” is a federal corporation, as defined below:

"Corporations are also of all grades, and made for varied objects; **all governments are corporations, created by usage and common consent, or grants and charters which create a body politic for prescribed purposes; but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of power, they are all governed by the same rules of law, as to the construction and the obligation of the instrument by which the incorporation is made. One universal rule of law protects persons and property**. It is a fundamental principle of the common law of England, that the term freemen of the kingdom, includes 'all persons,' ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2 Inst. 4), and is incorporated into our institutions. The persons of the members of corporations are on the same footing of protection as other persons, and their corporate property secured by the same laws which protect that of individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' without due process of law, is a principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federal government, by the amendments to the constitution."

[Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, [36 U.S. 420](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=36&page=420) (1837)]

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TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE

[PART VI - PARTICULAR PROCEEDINGS](http://www4.law.cornell.edu/uscode/28/pVI.html)

[CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE](http://www4.law.cornell.edu/uscode/28/pVIch176.html)

[SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS](http://www4.law.cornell.edu/uscode/28/pVIch176schA.html)

[Sec. 3002](http://www4.law.cornell.edu/uscode/28/3002.html). Definitions

(15) **''United States'' means** -

(A) **a Federal corporation**;

(B) an agency, department, commission, board, or other entity of the United States; or

(C) an instrumentality of the United States.

Those who are acting as “public officials” for “U.S. Inc.” have essentially donated their formerly private property to a “public use”. In effect, they have joined the SOCIALIST collective and become partakers of money STOLEN from people, most of whom, do not wish to participate.

**“My son, if sinners [socialists, in this case] entice you,  
Do not consent [do not abuse your power of choice]  
If they say, “Come with us,  
Let us lie in wait to shed blood [of innocent "nontaxpayers"];  
Let us lurk secretly for the innocent without cause;**Let us swallow them alive like Sheol,  
And whole, like those who go down to the Pit:  
**We shall fill our houses with spoil [plunder];  
Cast in your lot among us,  
Let us all have one purse [share the stolen LOOT]"--**

**My son, do not walk in the way with them [do not ASSOCIATE with them and don't let the government FORCE you to associate with them either by forcing you to become a "**[**taxpayer**](http://famguardian.org/TaxFreedom/CitesByTopic/taxpayer.htm)**"/government whore or a "**[**U.S. citizen**](http://famguardian.org/TaxFreedom/CitesByTopic/USCitizen.htm)"],  
Keep your foot from their path;  
For their feet run to evil,  
And they make haste to shed blood.  
Surely, in vain the net is spread  
In the sight of any bird;  
**But they lie in wait for their own blood.  
They lurk secretly for their own lives.  
So are the ways of everyone who is greedy for gain [or unearned government benefits];  
It takes away the life of its owners.”**[[Proverbs 1:10-19](http://biblegateway.com/cgi-bin/bible?language=english&passage=prov.+1:10-19&version=NKJV), Bible, NKJV]

Below is what the U.S. Supreme Court says about those who have donated their private property to a “public use”. The ability to volunteer your private property for “public use”, by the way, also implies the ability to UNVOLUNTEER at any time, which is the part no government employee we have ever found is willing to talk about. I wonder why….DUHHHH!:

“Men are endowed by their Creator with certain unalienable rights,-'life, liberty, and the pursuit of happiness;' and to 'secure,' not grant or create, these rights, governments are instituted. **That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.**

[Budd v. People of State of New York, 143 U.S. 517 (1892)]

Any legal person, whether it be a natural person, a corporation, or a trust, may become a “public office” if it volunteers to do so. A subset of those engaging in such a “public office” are federal “employees”, but the term “public office” or “trade or business” encompass much more than just government “employees”. In law, when a legal “person” volunteers to accept the legal duties of a “public office”, it therefore becomes a “trustee”, an agent, and fiduciary (as defined in [26 U.S.C. §6903](http://www4.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00006903----000-.html)) acting on behalf of the federal government by the operation of private contract law. It becomes essentially a “franchisee” of the federal government carrying out the provisions of the franchise agreement, which is found in:

1. Internal Revenue Code, Subtitle A, in the case of the federal income tax.
2. The Social Security Act, which is found in Title 42 of the U.S. Code.

If you would like to learn more about how this “trade or business” scam works, consult the authoritative article below:

|  |
| --- |
| *The “Trade or Business” Scam*  <http://sedm.org/Forms/MemLaw/TradeOrBusScam.pdf> |

The IRS form 1042-S Instructions confirm that all those who use Social Security Numbers are engaged in a “trade or business”:

**Box 14, Recipient’s U.S. Taxpayer Identification Number (TIN)**

You must obtain and enter a U.S. taxpayer identification number (TIN) for:

* Any recipient whose income is effectively connected with the conduct of a [trade or business](http://famguardian.org/TaxFreedom/CitesByTopic/TradeOrBusiness.htm) in the United States.

[[IRS Form 1042-S Instructions](http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm1042s-Inst.pdf), p. 14]

Engaging in a “trade or business” therefore implies a “public office”, which makes the person using the number into a “public official” who has donated his formerly private time and services to a “public use” and agreed to give the public the right to control and regulate that use through the operation of the franchise agreement, which is the Internal Revenue Code Subtitle A and the Social Security Act found in Title 42 of the U.S. Code. The Social Security Number is therefore the equivalent of a “license number” to act as a “public official” for the federal government, who is a fiduciary or trustee subject to the plenary legislative jurisdiction of the federal government pursuant to [26 U.S.C. §7701](http://www4.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00007701----000-.html)(a)(39), [26 U.S.C. §7408](http://www4.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00007408----000-.html)(c ), and [Federal Rule of Civil Procedure Rule 17](http://www.law.cornell.edu/rules/frcp/Rule17.htm)(b), regardless of where he might be found geographically, including within a state of the Union. The franchise agreement governs “choice of law” and where it’s terms may be litigated, which is the District of Columbia, based on the agreement itself.

Now let’s apply what we have learned to your employment situation. God said you cannot work for two companies at once. You can only serve *one* company, and that company is the federal government if you are receiving federal benefits:

“No one can serve two masters [two employers, for instance]; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. You cannot serve God and mammon [government].”

[Luke 16:13, Bible, NKJV. Written by a tax collector]

Everything you make while working for your slave master, the federal government, is *their* property over which you are a fiduciary and “public officer”.

“THE” + “IRS” =”THEIRS”

A federal “public official” has no rights in relation to their master, the federal government:

“The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, [425 U.S. 238, 247](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=425&invol=238#247) (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O'Connor v. Ortega, [480 U.S. 709, 723](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=480&invol=709#723) (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95]   [392 U.S. 273, 277](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=392&invol=273#277) -278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, [461 U.S. 138, 147](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=461&invol=138#147) (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, [330 U.S. 75, 101](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=330&invol=75#101) (1947); Civil Service Comm'n v. Letter Carriers, [413 U.S. 548, 556](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=413&invol=548#556) (1973); Broadrick v. Oklahoma, [413 U.S. 601, 616](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=413&invol=601#616) -617 (1973).” [Rutan v. Republican Party of Illinois, [497 U.S. 62](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=497&invol=62) (1990)]

Your existence and your earnings as a federal “public official” and “trustee” and “fiduciary” are entirely subject to the whim and pleasure of corrupted lawyers and politicians, and you must beg and grovel if you expect to retain anything:

“In the general course of human nature, A POWER OVER A MAN’s SUBSISTENCE AMOUNTS TO A POWER OVER HIS WILL.” [Alexander Hamilton, Federalist paper No. 79]

You will need an “exemption” from your new slave master specifically spelled out in law to justify *anything* you want to keep while working on the federal plantation. The 1040 return is a profit and loss statement for a federal business corporation called the “United States”. You are in partnership with your slave master and they decide what scraps they want to throw to you in your legal “cage” AFTER they figure out whatever is left in financing their favorite pork barrel project and paying off interest on an ever-expanding and endless national debt. Do you really want to reward this type of irresponsibility and surety?

The W-4 therefore essentially amounts to a federal employment application. It is your badge of dishonor and a tacit admission that you can’t or won’t trust God and yourself to provide for yourself. Instead, you need a corrupted “protector” to steal money from your neighbor or counterfeit (print) it to help you pay your bills and run your life. Furthermore, if your private employer forced you to fill out the W-4 against your will or instituted any duress to get you to fill it out, such as threatening to fire or not hire you unless you fill it out, then he/she is:

1. Acting as an employment recruiter for the federal government.
2. Recruiting you into federal slavery in violation of the Thirteenth Amendment, and 42 U.S.C. §1994.
3. Involved in a conspiracy to commit grand theft by stealing money from you to pay for services and protection you don’t want and don’t need.
4. Involved in racketeering and extortion in violation of 18 U.S.C. §1951.
5. Involved in money laundering for the federal government, by sending in money stolen from you to them, in violation of 18 U.S.C. §1956.

The higher ups at the IRS probably know the above, and they certainly aren’t going to tell private employers or their underlings the truth, because they aren’t going to look a gift horse in the mouth and don’t want to surrender their defense of “plausible deniability”. They will NEVER tell a thief who is stealing for them that they are stealing, especially if they don’t have to assume liability for the consequences of the theft. No one who practices this kind of slavery, deceit, and evil can rightly claim that they are loving their neighbor and once they know they are involved in such deceit, they have a duty to correct it or become an “accessory after the fact” in violation of 18 U.S.C. §3. This form of deceit is also the sin most hated by God in the Bible. Below is a famous Bible commentary on Prov. 11:1:

"As religion towards God is a branch of universal righteousness (he is not an honest man that is not devout), so **righteousness towards men is a branch of true religion, for he is not a godly man that is not honest**, nor can he expect that his devotion should be accepted; for, **1. Nothing is more offensive to God than deceit in commerce. A false balance is here put for all manner of unjust and fraudulent practices [of our public dis-servants] in dealing with any person [within the public], which are all an abomination to the Lord, and render those abominable [hated] to him that allow themselves in the use of such accursed arts of thriving. It is an affront to justice, which God is the patron of, as well as a wrong to our neighbour, whom God is the protector of.** **Men [in the IRS and the Congress] make light of such frauds, and think there is no sin in that which there is money to be got by, and, while it passes undiscovered, they cannot blame themselves for it; a blot is no blot till it is hit, Hos. 12:7, 8. But they are not the less an abomination to God, who will be the avenger of those that are defrauded by their brethren.** **2. Nothing is more pleasing to God than fair and honest dealing, nor more necessary to make us and our devotions acceptable to him: A just weight is his delight.** He himself goes by a just weight, and holds the scale of judgment with an even hand, and therefore is pleased with those that are herein followers of him. A balance cheats, under pretence of doing right most exactly, and therefore is the greater abomination to God."   
[Matthew Henry’s Commentary on the Whole Bible; Henry, M., 1996, c1991, under Prov. 11:1

The Bible also says that those who participate in this kind of “commerce” with the government are practicing harlotry and idolatry. The Bible book of Revelations describes a woman called “Babylon the Great Harlot”.

“And I saw a woman sitting on a scarlet beast which was full of names of blasphemy, having seven heads and ten horns. The woman was arrayed in purple and scarlet, and adorned with gold and precious stones and pearls, having in her hand a golden cup full of abominations and the filthiness of her fornication. And on her forehead a name was written:

MYSTERY, BABYLON THE GREAT, THE MOTHER OF HARLOTS AND OF THE ABOMINATIONS OF THE EARTH.

I saw the woman, drunk with the blood of the saints and with the blood of the martyrs of Jesus. And when I saw her, I marveled with great amazement.”

[[Rev. 17:3-6](http://biblegateway.com/passage/?search=Revelation%2017:3-6;&version=50;), Bible, NKJV]

This despicable harlot is described below as the “woman who sits on many waters”.

“Come, I will show you the judgment of the great harlot [Babylon the Great Harlot] who sits on many waters, with whom the kings of the earth [politicians and rulers] committed fornication, and the inhabitants of the earth were made drunk [indulged] with the wine of her fornication.”

[[Rev. 17:1-2](http://biblegateway.com/passage/?search=Revelation%2017:1-2;&version=50;), Bible, NKJV]

These waters are simply symbolic of a democracy controlled by mobs of atheistic people who are fornicating with the Beast and who have made it their false, man-made god and idol:

“The waters which you saw, where the harlot sits, are peoples, multitudes, nations, and tongues.”

[[Rev. 17:15](http://biblegateway.com/passage/?search=Revelation%2017:15;&version=50;), Bible, NKJV]

The Beast is then defined in Rev. 19:19 as “the kings of the earth”, which today would be our political rulers:

“And I saw **the beast, the kings of the earth**, and their armies, gathered together to make war against Him who sat on the horse and against His army.”

[[Rev. 19:19](http://biblegateway.com/passage/?search=Revelation%2019:19;&version=50;), Bible, NKJV]

Babylon the Great Harlot is “fornicating” with the government by engaging in commerce with it. Black’s Law Dictionary defines “commerce” as “intercourse”:

“**Commerce**.  …**Intercourse** by way of trade and traffic between different peoples or states and the citizens or inhabitants thereof, including not only the purchase, sale, and exchange of commodities, but also the instrumentalities [governments] and agencies by which it is promoted and the means and appliances by which it is carried on…”

[Black’s Law Dictionary, Sixth Edition, p. 269]

If you want your rights back people, you can’t pursue government employment in the context of your private job. If you do, the Bible, not us, says you are a harlot and that you are CONDEMNED to hell!

And I heard another voice from heaven saying, “Come out of her, my people, lest you share in her sins, and lest you receive of her plagues. For her sins have reached to heaven, and God has remembered her iniquities. Render to her just as she rendered to you, and repay her double according to her works; in the cup which she has mixed, mix double for her. In the measure that she glorified herself and lived luxuriously, in the same measure give her torment and sorrow; for she says in her heart, ‘I sit as queen, and am no widow, and will not see sorrow.’ Therefore her plagues will come in one day—death and mourning and famine. And she will be utterly burned with fire, for strong is the Lord God who judges her.

[[Rev. 18:4-8](http://biblegateway.com/passage/?search=Revelation%2018:4-8;&version=50;), Bible, NKJV]

If you would like to know more about why Subtitle A of the Internal Revenue Code only applies to “public” employees, we refer you to the free memorandum of law entitled “Why Your Government is Either a Thief or You are a Federal Employee for Federal Income Tax Purposes” found at:

<http://sedm.org/Forms/MemLaw/WhyThiefOrEmployee.pdf>

1. See also Proprieter’s of Charles River Bridge v. Proprieters of Warren River Bridge, 36 U.S. 420 (1837), in which the court said: “"Corporations are also of all grades, and made for varied objects; **all governments are corporations, created by usage and common consent, or grants and charters which create a body politic for prescribed purposes; but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of power, they are all governed by the same rules of law, as to the construction and the obligation of the instrument by which the incorporation is made. One universal rule of law protects persons and property**.” [↑](#footnote-ref-1)
2. IRS Document 7130 says the IRS form 1040 is only for use by “citizens and residents of the United States”. [↑](#footnote-ref-2)
3. Blankenship v Michalski, 155 Cal App 2d 672, 318 P2d 727; O'Donnell v Board of Appeals, 349 Mass 324, 207 NE2d 877; Sullivan v Fall River Housing Authority, 348 Mass 738, 205 NE2d 701. [↑](#footnote-ref-3)
4. Ahern v Baker, 148 Colo 408, 366 P2d 366. [↑](#footnote-ref-4)
5. Blankenship v Michalski, 155 Cal App 2d 672, 318 P2d 727. [↑](#footnote-ref-5)
6. Sullivan v Fall River Housing Authority, 348 Mass 738, 205 NE2d 701. [↑](#footnote-ref-6)
7. Antuono v Tampa, 87 Fla 82, 99 So 324. [↑](#footnote-ref-7)
8. State v Higgs, 126 NC 1014, 35 SE 473, ovrld on other grounds Small v Edenton, 146 NC 527, 60 SE 413. [↑](#footnote-ref-8)
9. “any government action which chills constitutionally protected speech or expression contravenes the First Amendment.” Am.Jur.2d, Constitutional Law, §450. See also Wolford v. Lasater, 78 F.3d 484 (10th Cir. 1996). [↑](#footnote-ref-9)
10. State ex rel. Nagle v Sullivan, 98 Mont 425, 40 P2d 995, 99 ALR 321; Jersey City v Hague, 18 NJ 584, 115 A2d 8. [↑](#footnote-ref-10)
11. Georgia Dep't of Human Resources v Sistrunk, 249 Ga 543, 291 SE2d 524. A public official is held in public trust. Madlener v Finley (1st Dist) 161 Ill App 3d 796, 113 Ill Dec 712, 515 NE2d 697, app gr 117 Ill Dec 226, 520 NE2d 387 and revd on other grounds 128 Ill 2d 147, 131 Ill Dec 145, 538 NE2d 520. [↑](#footnote-ref-11)
12. Chicago Park Dist. v Kenroy, Inc., 78 Ill 2d 555, 37 Ill Dec 291, 402 NE2d 181, appeal after remand (1st Dist) 107 Ill App 3d 222, 63 Ill Dec 134, 437 NE2d 783. [↑](#footnote-ref-12)
13. United States v Holzer (CA7 Ill) 816 F2d 304 and vacated, remanded on other grounds 484 US 807, 98 L Ed 2d 18, 108 S Ct 53, on remand (CA7 Ill) 840 F2d 1343, cert den 486 US 1035, 100 L Ed 2d 608, 108 S Ct 2022 and (criticized on other grounds by United States v Osser (CA3 Pa) 864 F2d 1056) and (superseded by statute on other grounds as stated in United States v Little (CA5 Miss) 889 F2d 1367) and (among conflicting authorities on other grounds noted in United States v Boylan (CA1 Mass) 898 F2d 230, 29 Fed Rules Evid Serv 1223). [↑](#footnote-ref-13)
14. Chicago ex rel. Cohen v Keane, 64 Ill 2d 559, 2 Ill Dec 285, 357 NE2d 452, later proceeding (1st Dist) 105 Ill App 3d 298, 61 Ill Dec 172, 434 NE2d 325. [↑](#footnote-ref-14)
15. Indiana State Ethics Comm'n v Nelson (Ind App) 656 NE2d 1172, reh gr (Ind App) 659 NE2d 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996). [↑](#footnote-ref-15)
16. Levasseur v Field (Me) 332 A2d 765; Hinds v John Hancock Mut. Life Ins. Co., 155 Me 349, 155 A2d 721, 85 ALR2d 703 (superseded by statute on other grounds as stated in Poitras v R. E. Glidden Body Shop, Inc. (Me) 430 A2d 1113); Connizzo v General American Life Ins. Co. (Mo App) 520 SW2d 661. [↑](#footnote-ref-16)
17. Inferences and presumptions are a staple of our adversary system of factfinding, since it is often necessary for the trier of fact to determine the existence of an element of a crime–that is an ultimate or elemental fact–from the existence of one or more evidentiary or basic facts. County Court of Ulster County v Allen, 442 US 140, 60 L Ed 2d 777, 99 S Ct 2213. [↑](#footnote-ref-17)
18. Legille v Dann, 178 US App DC 78, 544 F2d 1, 191 USPQ 529; Murray v Montgomery Ward Life Ins. Co., 196 Colo 225, 584 P2d 78; Re Estate of Borom (Ind App) 562 NE2d 772; Manchester v Dugan (Me) 247 A2d 827; Ferdinand v Agricultural Ins. Co., 22 NJ 482, 126 A2d 323, 62 ALR2d 1179; Smith v Bohlen, 95 NC App 347, 382 SE2d 812, affd 328 NC 564, 402 SE2d 380; Larmay v Van Etten, 129 Vt 368, 278 A2d 736; Martin v Phillips, 235 Va 523, 369 SE2d 397. [↑](#footnote-ref-18)
19. In support of that contention the following cases were cited: Ohio Valley Water Co. v. Ben Avon Borough, [253 U.S. 287, 289](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=253&invol=287#289) , 40 S.Ct. 527, 528; Bluefield Water Works Co. v. Public Service Commission, [262 U.S. 679, 683](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=262&invol=679#683) , 43 S.Ct. 675; Phillips v. Commissioner, [283 U.S. 589, 600](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=283&invol=589#600) , 51 S.Ct. 608, 612; Crowell v. Benson, [285 U.S. 22, 60](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=285&invol=22#60) , 64 S., 52 S.Ct. 285, 296, 297; State Corporation Commission v. Wichita Gas Co., [290 U.S. 561, 569](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=290&invol=561#569) , 54 S.Ct. 321, 324; St. Joseph Stock Yards Co. v. United States, [298 U.S. 38, 51](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=298&invol=38#51) , 52 S., 56 S.Ct. 720, 725, 726. [↑](#footnote-ref-19)
20. The rule has been most frequently applied in equity where relief by injunction was sought. Pittsburgh &c. Ry. v. Board of Public Works, [172 U.S. 32, 44](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=172&invol=32#44) , 45 S., 19 S.Ct. 90; Prentis v. Atlantic Coast Line Co., [211 U.S. 210, 230](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=211&invol=210#230) , 29 S.Ct. 67; Dalton adding Machine Co. v. State Corporation Commission, [236 U.S. 699, 701](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=236&invol=699#701) , 35 S.Ct. 480; Gorham Mfg. Co. v. State Tax Commission, [266 U.S. 265, 269](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=266&invol=265#269) , 270 S., 45 S.Ct. 80, 81; Federal Trade Commission v. Claire Furnace Co., [274 U.S. 160, 174](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=274&invol=160#174) , 47 S.Ct. 553, 556; Lawrence v. St. Louis-San Francisco Ry. Co., [274 U.S. 588, 592](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=274&invol=588#592) , 593 S., 47 S.Ct. 720, 722; Chicago, M., St. P. & P.R.R. Co. v. Risty, [276 U.S. 567, 575](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=276&invol=567#575) , 48 S.Ct. 396, 399; St. Louis-San Francisco Ry. Co. v. Alabama Public Service Commission, [279 U.S. 560, 563](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=279&invol=560#563) , 49 S.Ct. 383, 384; Porter v. Investors' Syndicate, [286 U.S. 461, 468](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=286&invol=461#468) , 471 S., 52 S. Ct. 617, 619, 620; United States v. Illinois Central Ry. Co ., [291 U.S. 457, 463](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=291&invol=457#463) , 464 S., 54 S.Ct. 471, 473, 474; Hegeman Farms Corp. v. Baldwin, [293 U.S. 163, 172](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=293&invol=163#172) , 55 S.Ct. 7, 10; compare Red 'C' Oil Mfg. Co. v. North Carolina, [222 U.S. 380, 394](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=222&invol=380#394) , 32 S.Ct. 152; Farncomb v. Denver, [252 U.S. 7, 12](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=252&invol=7#12) , 40 S.Ct. 271, 273; Milheim v. Moffat Tunnel District, [262 U.S. 710, 723](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=262&invol=710#723) , 43 S. Ct. 694, 698; McGregor v. Hogan, [263 U.S. 234, 238](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=263&invol=234#238) , 44 S.Ct. 50, 51; White v. Johnson, [282 U.S. 367, 374](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=282&invol=367#374) , 51 S.Ct. 115, 118; Petersen Baking Co. v. Bryan, [290 U.S. 570, 575](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=290&invol=570#575) , 54 S. Ct. 277, 278; Pacific Tel. & Tel. Co. v. Seattle, [291 U.S. 300, 304](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=291&invol=300#304) , 54 S.Ct. 383, 384. But because the rule is one of judicial administration-not merely a rule governing the exercise of discretion-it is applicable to proceedings at law as well as suits in equity. Compare First National Bank of Fargo v. Board of County Commissioners, [264 U.S. 450, 455](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=264&invol=450#455) , 44 S.Ct. 385, 387; Anniston Mfg. Co. v. Davis, [301 U.S. 337, 343](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=301&invol=337#343) , 57 S.Ct. 816, 819. [↑](#footnote-ref-20)
21. Dalton Adding Machine Co. v. State Corporation Commission, [236 U.S. 699](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=236&invol=699) , 35 S.Ct. 480; Federal Trade Commission v. Claire Furnace Co., [274 U.S. 160](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=274&invol=160) , 47 S.Ct. 553; Lawrence v. St. Louis-San Francisco Ry. Co., [274 U.S. 588](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=274&invol=588) , 47 S.Ct. 720; St. Louis-San Francisco Ry. Co. v. Alabama Public Service Commission, [279 U.S. 560](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=279&invol=560) , 49 S.Ct. 383. Compare Western & Atlantic R.R. v. Georgia Public Service Commission, [267 U.S. 493, 496](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=267&invol=493#496) , 45 S.Ct. 409, 410, and case sited in note 1, supra. [↑](#footnote-ref-21)
22. Such contentions were specifically rejected in Bradley Lumber Co. v. National Labor Relations Board, 5 Cir., 84 F.2d 97; Clark v. Lindemann & Hoverson Co., 7 Cir., 88 F.2d 59; Chamber of Commerce v. Federal Trade Commission, 8 Cir., 280 F. 45; Heller Bros. Co. v. Lind, 66 App.D.C. 306, 86 F.2d 862; and Pittsburgh & W. Va. Ry. Co. v. Interstate Commerce Commission, 52 App.D.C. 40, 280 F. 1014. Compare United States v. Los Angeles & S.L.R.R. Co., [273 U.S. 299, 314](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=273&invol=299#314) , 47 S.Ct. 413, 416; Lawrence v. St. Louis-San Francisco Ry. Co., [274 U.S. 588](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=274&invol=588) , 47 S.Ct. 720; Dalton Adding Machine Co. v. State Corporation Commission, [236 U.S. 699](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=236&invol=699) , 35 S.Ct. 480; McChord v. Louisville & Nashville Ry. Co., [183 U.S. 483](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=183&invol=483) , 22 S.Ct. 165; Richmond Hosiery Mills v. Camp, 5 Cir., 74 F.2d 200, 201. [↑](#footnote-ref-22)
23. For the Family Guardian and SEDM Disclaimers, see Docket #72, Exhibits 1 and 2. [↑](#footnote-ref-23)
24. State ex rel. Nagle v Sullivan, 98 Mont 425, 40 P2d 995, 99 ALR 321; Jersey City v Hague, 18 NJ 584, 115 A2d 8. [↑](#footnote-ref-24)
25. Georgia Dep't of Human Resources v Sistrunk, 249 Ga 543, 291 SE2d 524. A public official is held in public trust. Madlener v Finley (1st Dist) 161 Ill App 3d 796, 113 Ill Dec 712, 515 NE2d 697, app gr 117 Ill Dec 226, 520 NE2d 387 and revd on other grounds 128 Ill 2d 147, 131 Ill Dec 145, 538 NE2d 520. [↑](#footnote-ref-25)
26. Chicago Park Dist. v Kenroy, Inc., 78 Ill 2d 555, 37 Ill Dec 291, 402 NE2d 181, appeal after remand (1st Dist) 107 Ill App 3d 222, 63 Ill Dec 134, 437 NE2d 783. [↑](#footnote-ref-26)
27. United States v Holzer (CA7 Ill) 816 F2d 304 and vacated, remanded on other grounds 484 US 807, 98 L Ed 2d 18, 108 S Ct 53, on remand (CA7 Ill) 840 F2d 1343, cert den 486 US 1035, 100 L Ed 2d 608, 108 S Ct 2022 and (criticized on other grounds by United States v Osser (CA3 Pa) 864 F2d 1056) and (superseded by statute on other grounds as stated in United States v Little (CA5 Miss) 889 F2d 1367) and (among conflicting authorities on other grounds noted in United States v Boylan (CA1 Mass) 898 F2d 230, 29 Fed Rules Evid Serv 1223). [↑](#footnote-ref-27)
28. Chicago ex rel. Cohen v Keane, 64 Ill 2d 559, 2 Ill Dec 285, 357 NE2d 452, later proceeding (1st Dist) 105 Ill App 3d 298, 61 Ill Dec 172, 434 NE2d 325. [↑](#footnote-ref-28)
29. Indiana State Ethics Comm'n v Nelson (Ind App) 656 NE2d 1172, reh gr (Ind App) 659 NE2d 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996). [↑](#footnote-ref-29)