

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA Ocala Division

UNITED STATES OF AMERICA, Plaintiff vs. EDDIE RAY KAHN, a/k/a EDDIE RAY, a/k/a EDDIE RAY: HOUSE OF KAHN; MILTON HARGARVES BAXLEY, II; BRYAN MALATESTA; KATHLEEN KAHN, a/k/a KOOKIE KAHN; DAVID STEPHEN LOKIETZ, a/k/a DAVID-STEPHEN: HOUSE OF LOKIETZ; AMERICAN RIGHTS LITIGATORS, a purported trust; GUIDING LIGHT OF GOD MINISTRIES, a purported corporation sole; and EDDIE KAHN AND ASSOCIATES, a purported limited liability corporation, Alleged Defendants. Civil No. 5:03-CV-436-OC-10 GRJ NOTICE OF SPECIAL VISITATION MOTION TO DISMISS FOR LACK OF JURISDICTION

NOTICE OF SPECIAL VISITATION

Please take notice that Eddie Ray of the Kahn Family hereby makes a special visitation demanding all rights at all time and waiving no rights at any time, especially his right to challenge jurisdiction in the first instance and to preserve his right to due process of law.

MOTION TO DISMISS FOR LACK OF JURISDICTION

Eddie Ray of the Kahn Family, in special visitation / appearance only, moves this Court to

dismiss for lack of federal territorial jurisdiction and shows as follows:

1. ***Presumption of jurisdiction challenged.*** I hereby factually challenge the presumption that the United States (plaintiff) has exclusive territorial jurisdiction over the State of Florida (“Florida”) generally, and over the political subdivision and land area within Florida known as Lake County specifically, and that this federal court has judicial authority over me in the instant matter;

2. ***Presumption is against federal jurisdiction.*** This federal court is of limited jurisdiction, and of such courts the U.S. 11th Circuit Court of Appeals has recently held that FEDERAL JURISDICTION IS NOT TO BE PRESUMED OR IMPLIED AND THAT A CAUSE IS WITHOUT JURISDICTION UNTIL THE CONTRARY APPEARS. (See Bellsouth Telecommunications v. MCI, 317 F.3d 1270, 1301 (11th Cir. 2003) ; see also Jackson Transit Auth. v. Local Div. 1285, Amalgamated Transit Union, 457 U.S. 15, 30, 102 S.Ct. 2202, 2211, 72 L.Ed.2d 639 (1982));

“The exercise of federal supremacy is not lightly to be presumed” (see Schwartz v. Texas, 344 U.S. 199, 202-203 (1952));

3. ***No evidence of territorial jurisdiction.*** Notice is given that the plaintiff has placed no evidence in the record proving it has exclusive territorial jurisdiction over Lake County, Florida where I live and work. Therefore, per *Bellsouth* above, the presumption is that this federal court has no jurisdiction.

4. ***Limited federal territorial jurisdiction.*** There is an abundance of judicial opinion that the jurisdiction of the United States (plaintiff) is carefully circumscribed and defined as a very precise portion of America, that portion being the District of Columbia and the federal possessions, territories and enclaves purchased and possessed by the Federal United States;

5. ***Limited exclusive legislative jurisdiction.*** The laws of Congress have limited exclusive authority with respect to the States of the Union;

“The laws of Congress do not extend into the territorial limits of the states, but have force ONLY in the District of Columbia, and other places that are WITHIN the EXCLUSIVE jurisdiction of the national government.” [Emphasis added.]

Caha v. U.S., 152 U.S. 211, 215, 14 S.Ct. 513 (1894)

6. *Landmark publication on Federal Jurisdiction in the States.* In June 1957, the federal government of the United States (plaintiff) published a work entitled “Jurisdiction Over Federal Areas Within the States: Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States.” Part II of the Study entitled, “A Text of Law of Legislative Jurisdiction” (Exhibit A), was completed by the 48 Attorneys General of the particular states, to wit:

“The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State. Article I, section 8, clause 17 of the Constitution, provides that legislative jurisdiction may be transferred pursuant to its terms ONLY with the consent of the legislature of the State in which is located the area subject to the jurisdictional transfer. As was indicated in Chapter II, **the consent requirement of article I, section 8, clause 17, was intended by the framers of the Constitution to preserve the States’ jurisdictional integrity against Federal encroachment.**” [Emphasis added.] Id., at 46.

“The Constitution gives express recognition to but one means of Federal acquisition of legislative jurisdiction – by State consent under Article I, section 8, clause 7. . . Justice McLean suggested that the Constitution provided the sole mode for transfer of jurisdiction, and that if this mode is not pursued, no transfer of jurisdiction can take place.” [Emphasis added.] Id., at 41.

“It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, **the Federal Government possesses NO legislative jurisdiction over any area within a state, such jurisdiction being for exercise by the State.**” [Emphasis added.] Id., at 45.

Jurisdiction Over Federal Areas Within the States: Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States.” Part II, A Text of Law of Legislative Jurisdiction. Washington, United States Government Printing Office, June 1957, Library of Congress, Item 1067-E, Y3.IN/10:1/957/pt.2, Standard No. LCCN: 56-61259, Class Descriptor: GovDoc: Y3.IN3/10:1/956/LC:KF550

7. *Determining factor of jurisdiction.* That the soul of federal courts’ territorial jurisdiction is the geographical location where an offense or offensive activity actually takes place, and is the factor that determines the courts’ jurisdiction, not the offense or offensive activity committed *per se*

as set out below;

8. ***“Place” of offense determines jurisdiction.*** The U.S. Supreme Court has long held that in order for the federal government to enforce the laws of the United States (plaintiff) within the boundaries of the States of the Union, the offense or offensive activities must be committed where the federal government has exclusive or concurrent jurisdiction;

“Chief Justice Marshall observed that to bring the offense within the jurisdiction of the courts of the union [district courts of the United States], it must have been committed out of the jurisdiction of any state; **it is not [he says] the offense committed, but the PLACE in which it is committed, which must be out of the jurisdiction of state.**”

[Emphasis added.] People v. Godfrey, 17 Johns.225 (N.Y. 1819); (*see also United States v. Bevans*, 16 U.S. 336 (1818) for the same principle that “place of offense” determines jurisdiction)

9. ***Allegation of offensive activity.*** The plaintiff’s civil complaint alleges that I am engaging in federally offensive activities at certain locations within the geographical area known as Lake County in the state of Florida, one of the member States of the Union, and presumes the Court’s jurisdiction without proof thereof;

10. ***Only two ways to obtain jurisdiction in Florida.*** In order for this federal court, which is foreign to the state of Florida, to presently have exclusive or concurrent jurisdiction within the political boundaries of Florida and thus have authority to prosecute me, the United States (plaintiff) must either have (a) complied with the requirements of Art. I, § 8, cl.17 of the Constitution of the United States, or (b) obtain a cession of legislative authority from Florida in which the land is located whereupon I am alleged to be engaging in federally offensive activities per the complaint (*see* paragraph “6” above; *also see* U.S. v. Gliatta, C.A.Fla.1978, 580 F.2d 156 (5th Cir. 1978), certiorari denied 89 S.Ct. 726, 439 U.S. 1048, 58 L.Ed2d 708);

11. ***Additional federal requirement – “notice of acceptance of jurisdiction.”*** Regardless of whichever of the above two methods the plaintiff would have had to use in acquiring exclusive or

concurrent jurisdiction over land areas within Lake County, Florida, there is an additional requirement which was imposed by Congress at the request of the Department of Justice in 1940 that mandates the United States (plaintiff) give its affirmative assent to the transfer of exclusive or concurrent jurisdiction before such jurisdiction becomes effective so that all persons (that includes me) could know whether the government had obtained no jurisdiction at all or partial jurisdiction or exclusive jurisdiction (*see* 54 Stat. 19; Oct. 9, 1940, c. 793; and **40 U.S.C. § 3111, 3112**);

12. ***Filing of “notice” mandatory to acquiring jurisdiction.*** The aforementioned federal statute requires that the above “affirmative assent” is to be filed by the United States (plaintiff) in the form of a notice with the Governor of the State from which the land property is being acquired; and furthermore, the U.S. Supreme Court has determined that without such notice of acceptance being filed, it shall be “conclusively presumed” that no exclusive or concurrent jurisdiction has been accepted (*see Adams v. U.S.*, 319 U.S. 312 (1943); (**Exhibit B.**)

13. ***No notices of acceptance of jurisdiction found in public records.*** To date I have not been able to find in either the State of Florida or Lake County public records any evidence of the existence of any notices of acceptance of authority filed by the United States (plaintiff) pursuant to 40 U.S.C. § 3111, 3112 pertaining to any land areas in Lake County, Florida which, according to the U.S. Supreme Court in *Adams*, leads to the “presumptive conclusion” that no jurisdiction has been accepted and the federal government has neither exclusive or partial jurisdiction over the county in general where I live and work; (**Exhibit C.**)

14. ***Criteria for determining federal territorial jurisdiction.*** The U.S. Supreme Court’s decision in *Adams* makes clear that it is neither the laws of the United States nor the act of violating those laws by a person subject to those laws that gives rise to a federal court’s jurisdiction, but rather, jurisdiction is determined by (a) the place of the offense, i.e., the geographical location, (b) the process or method the United States (plaintiff) used in acquiring the land within a State where the offense occurred, and (c) the mandatory filing of notice of acceptance of jurisdiction by the United States (plaintiff) with the Governor of the State from which the land was acquired;

15. *No lawful federal territorial jurisdiction exists.* When the above jurisdictional determination criteria is applied to the facts and circumstances of this instant cause, and in the absence of verified evidence to the contrary, it can be “conclusively presumed” as a matter of law that the United States (plaintiff) and this federal court have no exclusive or concurrent territorial jurisdiction over the state political subdivision of Lake County, Florida, nor over me and my alleged activities conducted therein, and **any decision, ruling or order issued by this Court in this cause is usurpation of authority and *ipso facto* void;**

“The government, then, of the United States, can claim no powers which are not granted to it by the constitution, and the powers actually granted, must be such as are expressly given, or given by necessary implication. . . . **It is an acknowledged principle of, I believe, every court in the world, that not only the decisions, but every thing done under the judicial process of courts, not having jurisdiction, are, *ipso facto*, void.**” [Emphasis added.]
Martin v Hunter’s Lessee, 14 U.S. 304 (1816)

16. *Incorporation by reference.* Exhibits A, B and C and their attachments are incorporated by reference herein.

THEREFORE, for reasons stated above, and especially in view of the fact that no mandatory filings of notices of acceptance of authority per 40 U.S.C. § 3111, 3112 by an official of the United States have been found in the public record which are necessary in proving federal territorial jurisdiction over Lake County, Florida where the alleged offensive activities occurred, the presumption is conclusive as a matter of law that no federal jurisdiction exists whatsoever in said county. Consequently, this federal court has no jurisdiction to adjudicate this cause, and I hereby move this Court to act in its non-discretionary ministerial capacity and dismiss (vacate) this civil lawsuit immediately without delay.

Signed with reservation of all rights,

By: Eddie Ray: Kahn

Eddie Ray of the Kahn Family
32504 Wekiva Pines Blvd.
Sorrento, Florida

SIGNATURE VERIFICATION

State of Florida }
 } SS:
County of Lake }

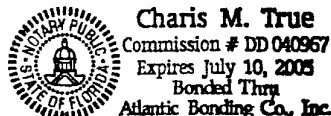
Before me, the undersigned Notary Public, personally appeared a man, Eddie Ray: Kahn, known or identified to me, and did acknowledge that he executed the above NOTICE OF SPECIAL VISITATION and MOTION TO DISMISS FOR LACK OF JURISDICTION as his free act and deed.

Subscribed and Acknowledged before me on this 18th day of December, 2003.

Witness my hand and official seal:

Charis M. True (Seal)
Notary Public

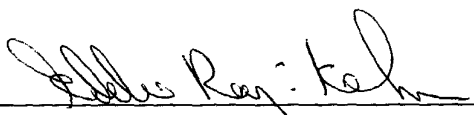
My commission expires 7.10.05



CERTIFICATE OF SERVICE

I certify that on the _____ day of December, 2003, I delivered by _____
_____ a copy of the foregoing NOTICE OF SPECIAL VISITATION and
MOTION TO DISMISS FOR LACK OF JURISDICTION and attachments thereto to the plaintiff's
counsel as follows:

PAUL I. PEREZ, United States Attorney
ANNE NORRIS GRAHAM,
EVAN J. DAVIS
Trial Attorneys, Tax Division
U.S. Department of Justice
P.O. Box 7238
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Washington, D.C. 20044



Eddie Ray of the Kahn Family

7/27/99 FTM

**ADDITIONAL
ATTACHMENTS
NOT
SCANNED**

****PLEASE REFER TO COURT FILE****