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CLERK
U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

United States District Court
District of Minnesota

UNITED STATES OF AMERICA” aka “Jefferey	}	Civil docket #13-mc-87 (SRN/TNL)	
Wagner”			
petitioner,			Motion to reconsider and vacate order
vs.			
John Thornton,			
alleged respondent)		

Now Comes John Thornton, alleged defendant, by special appearance and under threat, duress and coercion, not submitting to the Tony N. Leung’s asserted jurisdiction over me, who hereby objects to judge Nelson's order and move to reconsider and vacate the order. Judge Nelson failed to address the evidence, entered opinions not in the pleadings and violated due process by ordering compliance prior to an answer to the petition and hearing. Grounds are further set forth below.

1. Decision on motion does not negate process for answer and adversary hearing. Nelson made a decision on the motion to dismiss, not the petition. Even if I’m not objecting to the denial of the motion, the process is to file an answer and have a hearing on the petition. The basis of due process is notice and opportunity to defend, we filed a motion to dismiss, not an answer with a defense.

While there were two hearings, both were on the motion to dismiss, not the petition. I have not had the opportunity to challenge the witness, Jefferey Wagner (not real name) in court. Any decision on the petition is premature. Neither hearing could have been on the petition (Lueng specifically

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stated they were on the motion, not the petition) as that is improper before a decision on the motion to dismiss.

While this may be a summary type proceeding, that does not mean there is no hearing on the petition and confrontation with the witness. This also includes at least limited discovery and that's not until after an answer is filed. We have not been able to present a defense against Wilhelm's complaint.

When appropriate we will file an answer and request an adversary hearing where we may confront Wagner. Proving harassment and bad faith is very easy here, requiring less than ten questions. We will also submit limited discovery requests as bad faith is easy enough to prove in that a question is not an argument.

We haven't presented a defense at this point. Based on my interactions with the IRS, this is harassment because I challenged them and called an agent's bluff. For years they have not been able to provide any evidence of jurisdiction, so they ramped up the attack and went after my wife.

2. Opinions outside pleadings without factual support. Judge Nelson, to cover Wilhelm's lack of evidence, claimed we were citizens of the United States and residents. This is Nelson's opinion and cannot be used as a substitute for facts.

It is also outside the pleadings and unsupported by facts. Even Leung did not accuse us of being citizens in his recommendations.

Wilhelm didn't raise the issue of citizenship with good reason: he has no evidence proving that kind of relationship exists. If Wilhelm thinks Wagner has evidence proving such a relationship, then he can do a direct examination of him under oath to prove it.

Basic principals of fairness, due process and rule 602 of the FRE require Wagner, the only witness against us have personal knowledge of facts proving the constitution and code apply to us.

That and if the allegation, outside the pleadings is to stand, then Wagner needs personal knowledge of facts proving such relationship exists.

3. Judge Nelson also assumes the laws apply. Nelson keeps citing more opinions and laws as support, but no actual facts. The argument Wagner/Wilhelm rely on is: if one is physically in Minnesota or the part of North America called the United States, then the constitution and laws apply. But, Wilhelm, Wagner and now the judges of this court, have been unable to provide a single fact to support this argument. All they do is label is provide more opinions and arguments. It's turtles all the way down.

Leung accused us of making a circular argument (we never did) because he deliberately misstated our position and ignored our statement of facts. He claimed all we had were conclusory statements. However, that is all Wilhelm provides, nothing but arguments/opinion about the code applying to us.

The only circular argument here is the one put forth by Wilhelm: the constitution and laws apply because they say so. When asked for proof all he (and now Leung and Nelson) can do is say: because some judges say so. Just more opinions from appellate judges, not evidence.

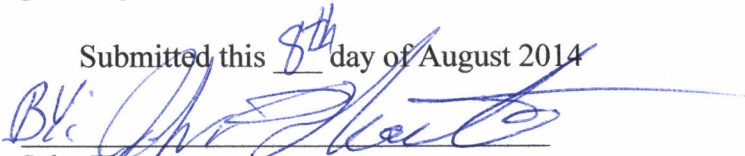
It's unfair for anyone to raise an argument and not provide any facts all they have to do is cite more opinions. Wilhelm just has to argue the code applies and it does because someone else said so. That is unfair and I would not expect anyone to accept that garbage from me.

4. Judge Nelson did not address the facts Leung got wrong. Nelson also misstated our position as well as not addressing Leung's deliberate misstating of facts.

The denial of the motion is arbitrary and non-responsive to the issues we raised. It is a violation of due process to not address substantive issues.

Conclusion. It's unfair and a breach of the rules to order enforcement prior to an answer, discovery and adversary hearing. It's also unfair to use unsupported arguments from outside the pleadings and recommendations.

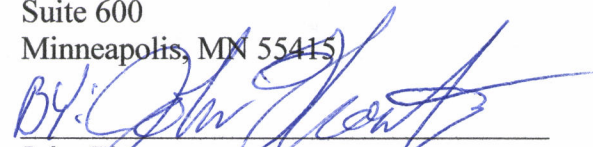
Submitted this 8th day of August 2014

BY: 
John Thornton

Certificate of service

This is to certify that a true and correct copy of the foregoing has been mailed this 8th day of August 2014, to the plaintiff at the following address:

Jerry Wilhelm
U.S. Courthouse
300 S 4th Street
Suite 600
Minneapolis, MN 55415

BY: 
John Thornton