

Appendix 2

Noll v. United States, 3:93-CV-100-HLR (D. Idaho)



Certified to be a true and correct copy of original filed in my office.

Elizabeth A. Smith, Clerk
U.S. Courts, District of Idaho

By Sunny Trumbull
on Jul 23, 2015 3:58 pm

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

FILED
U.S. DISTRICT COURT

CLIFFORD L. NOLL and SUSAN J. NOLL)
husband and wife,)

Plaintiff,)

VS.)

INTERNAL REVENUE SERVICE,)
United States Dept. of the Treasury)
Defendant,)

CIV 93-0100-N-HLR

CIVIL NO. _____

COMPLAINT

1993 MAR 26 A 8 15
DISTRICT OF IDAHO
CAMERON S. BURKE
765-4562

COMES NOW the plaintiff, Clifford L. Noll and Susan J. Noll, who's address is 715 N. 13th St., Coeur d'Alene, Idaho, 83814, filing this action pro se.

This court has jurisdiction under Title 5 USC, sect. 552a(g)(1)(C) and /or Title 5 sect. 702.

THE COMPLAINT:

THE PLAINTIFF DOES STATE, that they have never been employed by any agency or instrumentality which the defendant has jurisdiction over within the years in question; that the defendant used threats of fines and imprisonment under the pretense of lawful authority to coerce the plaintiff into filling out agency forms and signing them. The defendant then disagreed with the coerced records and set about to create records so they would have a base to assess a tax of approximately two hundred thousand dollars (\$200,000.00). When the plaintiff pointed out that the tax assessed for certain years was in excess of the total income for that year, the defendant's agent claimed that his job was to assess and collect a tax; that the amount was not in proportion to actual income was irrelevant to the agent. The defendant then assessed a levy and lien upon the plaintiff's

property. The tax liens were recorded as public information in the counties where the plaintiff owns property. These public records have been used to deny credit to the plaintiff by both public and private sources. The defendant went to the plaintiff's real estate renters and threatened to attach their wages or sources of income if they did not pay the defendant money due to the plaintiff for rent. In some cases the pretense of authority and threats issued by the defendant caused the rent money to be sent to the defendant. In other instances the renter vacated the property because of the threats made by the defendant. Renting the property was then restricted because of public fear of the defendant's perceived power.

Immediately upon the plaintiff's awareness of the defendant's lack of jurisdiction, the plaintiff retracted their signatures on all documents which pertain to the defendant in any way. Since that time the plaintiff has sought a civil remedy to gain relief from this situation. Receiving relief through the court has been impeded because of lack of understanding the necessary legal rules by the plaintiff, lack of court filing fees, conflicting legal advice from lawyers, accountants, and other "professionals" (?). The defendant has also hindered the process using pretense of authority, half truths, information taken out of context, and other erroneous, irrelevant, or distorted data used to confuse the issue and delay relief.

At the time of the assessment the plaintiff was actively involved in taking advantage of a lucrative situation in the real estate market which provided a monthly cash flow and a phenomenal investment for profit. The \$200,000.00 tax lien and continued threat of intervention by the defendant, in effect, destroyed the plaintiff's ability to acquire massive amounts of real estate, positive monthly cash flow, and phenomenal profits that were available to the plaintiff over the period of time that the liens have existed. The refusal or failure by the defendant to produce proof of jurisdiction and other records continues to create financial havoc for the plaintiff and thus far has cost the plaintiff in excess of Five hundred thousand dollars (\$500,000.00) in actual damage through the destruction of credit and

reputation, etc. The actions of the defendant were instrumental in the interruption of the plaintiffs cash flow which was being used to service debt and ultimately caused the loss of real estate by U.S. marshal sale. The interruption of cash flow by the defendant was instrumental in the distruction of the plaintiffs good payment/credit record to other creditors. The actions of the defendant were also instrumental in causing some of the plaintiffs property to be sold below fair market because of the fear potential buyers have about the unbridled reputation of the agency. The actions of the defendant have caused and continues to cause irreparable injury to the plaintiff. Time is of the essence. The actions of the defendant have caused a situation that is spreading like a cancer out of control which has destroyed the plaintiff's business reputation and is now affecting the plaintiff's marriage and family relationships.

The plaintiff has sought records under the Freedom of Information Act which the defendant must maintain that would demonstrate their jurisdiction. Without jurisdiction all of the actions of the defendant are unlawful and therefore the government would not ultimately prevail on its merits thereby allowing the plaintiff to lawfully seek injunctive relief. The defendant continues to refuse to produce proof of jurisdictional authority and employment records which are relevent to the plaintiff. The action of the agency will continue to cause the plaintiff to suffer irreparable injury without injunctive relief. The plaintiff respectfully asks that in the event that a hearing is necessary that the earliest court date possible be scheduled and the location of said hearing to be held in Coeur d'Alene, Idaho.

THE RELIEF:

(A) for this court to enjoin the defendant to bring forth the documentation which the agent(s) used to determine that the agency has jurisdiction over the plaintiff. It is a principle of law that, once challenged, the person asserting jurisdiction must prove that jurisdiction to exist as a matter of law.

See GRIFFIN v. MATTHEWS 310 F. Supp. 341, 423 F. 2nd 272.

McNUTT v. G.M. 56 S. Ct 780, 80 L.Ed. 1135

BASSO v. U.P.L. 495 F. 2nd 906

THOMPSON v. GASKIEL 62 S. Ct. 673, 83 L. Ed. 111

The jurisdiction of the defendant over the plaintiff has been challenged and the defendant has failed to respond to the challenge and has notified the plaintiff that relief must be sought through the U.S. District Court. See exhibit

(B) to enjoin the defendant to produce the records upon which they assessed a levy and tax lien upon the plaintiff for the "Collection of Income Tax at the Source ", IRC Chapter 24, section 3401. To produce records which shows that the plaintiff was an "employee" under IRC Chapter 24, section 3401(c), the date employment began, the date employment ended, the agency or instrumentality (employer), and the total amount of wages not exempted under 3401(a) of this chapter that the agents used to determine that the tax assessed for each year was the correct amount. See Title 5 Sect. 552a(g)(1)(C).

NOTE: The definitions for IRC Chapter 24, sect. 3401 specifically state ;

(a) the term "wages" means "all remuneration (other than fees paid to a public official) for services performed by an employee for his employer"

(c) "employee" - includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

(C) for this court to determine that the agency acted in a manner that was intentional or willful and that the United States be liable to the plaintiff in an amount equal to the sum of-

(A) actual damages sustained by the plaintiff as a result of

the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of \$1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court. See Title 5 USC sect. 552a(g)(4).

Dated this 16 day of March, 1993

Clifford L. Noll
Clifford L. Noll

Susan J. Noll
Susan J. Noll

**Individual
Acknowledgement**

West One Bank, Idaho, N.A.
**WEST ONE
BANK**

STATE OF IDAHO,

COUNTY OF Kootenai } ss.

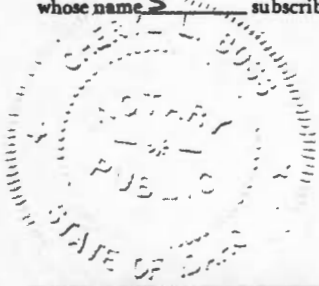
On this 16 day of March, in the year 1993, before me _____

_____ a notary public in and for said State of

Idaho, personally appeared Clifford L. Noll and Susan J. Noll

known or identified to me (or proved to me on the oath of _____) to be the person S

whose name S subscribed to the within instrument and acknowledged to me that they executed the same.



Clyde Bos
Notary Public for Idaho

Residing at Post Falls

My commission expires 4-98

Further, PLEASE TAKE NOTICE that we do hereby challenge your jurisdiction and/or authority in this matter, and do further rescind any and all signatures we have placed upon any and all document(s) which are in effect with your agency.

Respectfully,

Clifford Noll
Susan Noll

Memorandum of Points of Law

It is a principle of law that, once challenged, the person asserting jurisdiction-- MUST PROVE THAT JURISDICTION TO EXIST AS A MATTER OF LAW.

See:

GRIFFIN v. MATTHEWS, 310 F. Supp. 341, 423, F. 2nd 272

McNUTT v. G.M., 56 S.Ct. 789, 80 L. Ed. 1135

BASSO v. U.P.L., 495 F.2d 906

THOMSON v. GASKILL, 62 S.Ct. 673, 83 L.Ed. 111

PROOF OF SERVICE

I do hereby certify that I have served a true copy of this document on the Internal Revenue Service and/or its District Director by certified mail with Return Receipt Requested. Said service effected at Coeur d'Alene, Id. 83814.

Date _____

Signed _____

NOTICE OF REVOCATION OF POWER

The undersigned, Clifford L. Noll and Susan J. Noll, hereby
revoke the power of our signatures upon all documents submitted
to the Internal Revenue Service.

signed Clifford L. Noll date July 10, 1991

signed Susan J. Noll date July 10, 1991
By Power of Attorney

State of Idaho)
County of Kootenai)

On this 10th day of July, 1991, before me, the undersigned,
a Notary Public for the State of Idaho, personally appeared
Clifford L. Noll and Susan J. Noll (by Power of Attorney), known
or identified to me to be the person whose name is subscribed
to the foregoing instrument and he has executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the
day and year in this certificate first about written.

Phyllis Berger

to Sent copies
Kay Mosher
205 N. 4th St.
Room 116
Coeur d'Alene Id. 83804

District Manager
I R S.
550 W. Fort
Federal Bldg
Bozeman 81724

Appeal Rights

You may file an appeal with the Commissioner of Internal Revenue within 35 days after (1) the date of a determination to withhold records or, (2) if some records are released at a later date, the date the last records were released. The appeal must be in writing, signed by you, and contain the following information.

your name and address
description of the requested records
date of the request
date of the letter denying the request

Mail your appeal to:

Freedom of Information Appeal
Commissioner of Internal Revenue
Ben Franklin Station
Post Office Box 929
Washington, D.C. 20044

Judicial Review

If your request for records is denied on appeal, or if you receive no response within the legally permitted period, you may petition the U.S. District Court in the district in which you live, or where your principal place of business is located, or where the records are situated, or in the District Court for the District of Columbia.

Your petition will be treated according to the Federal Rules of Civil Procedure which apply to actions against any agency of the United States. Service of process upon the Internal Revenue Service should be directed to:

Commissioner of Internal Revenue
Attention: CC:GLS
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

In such a court case, the burden is on the Internal Revenue Service to justify withholding the requested records. The court may assess against the United States reasonable attorney fees and other litigation costs incurred by the person who takes the case to court and substantially prevails. See Internal Revenue Service Regulations 26 CFR 601.702 for further details.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

CC:D:7155-92
BrT:Johnson

26 MAR 1992

Mr. Clifford L. Noll
715 N. 13th St.
Coeur d'Alene, ID 83814

Dear Mr. Noll:

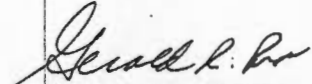
This is in response to your letter, dated November 29, 1991, in which you sought an administrative appeal under the Freedom of Information Act (FOIA) concerning your October 22, 1991, request to the IRS in Boise, ID and San Francisco, CA.

The FOIA does not require agencies to respond to interrogatories. It also does not require agencies to conduct research to determine which resolution, decision, or statute you are seeking. Neither does the Act require an agency to respond to statements which appear to be more appropriately addressed in a judicial proceeding.

One of the FOIA's requirements is that requesters sufficiently identify the records solicited in order to locate them. To the extent you are seeking records which establish the authority of the Internal Revenue Service to assess, enforce, and collect taxes, please be advised of the following. The Sixteenth Amendment to the Constitution authorized Congress to impose an income tax. Congress did so in the Internal Revenue Code, which may be found at Title 26 of the United States Code. The IRS administers the Internal Revenue Code. The Code contains information that may be responsive to your request. While the Code is available at many bookstores and public libraries throughout the country, it is also available to you upon written request to the district disclosure office that satisfies the procedural requirements set forth in 26 C.F.R. §601.702. The cost for duplicating the entire Code is approximately \$500. If you are not interested in obtaining the entire Code, you may submit a request that identifies the specific sections, by number, that you desire. Or you may submit a written request that seeks to inspect the Code at your local district office. After inspecting the Code, you may identify the sections you wish copied and, upon remittance of the appropriate copying fees, if any, receive them. Alternatively, copies of the Internal Revenue Code may be purchased in bookstores or read in public libraries.

Finally, income tax filing requirements are supported by statute, and implementing regulations, which may be challenged through the judicial system, but not the FOIA. There has been no denial of agency records to consider on appeal. Accordingly, we are closing our file in this matter.

Sincerely,



GERALD R. RYAN
Special Assistant
(Disclosure Litigation)

Internal Revenue Service

Director
Internal Revenue
Service Center

Southwest Region

Department of the Treasury

801-629-1754 NOT TOLL FREE
P. O. Box 9941, Ogden, Utah 84409
M/S 7000

December 20, 1991

Clifford L. Noll
715 N. 13th St.
Coeur d'Alene, ID 83814

Your request dated:
November 4, 1991
Control number:
W913121
Person to contact:
Jay Hammer
Contact telephone number:
801-629-1754

Dear Mr. Noll:

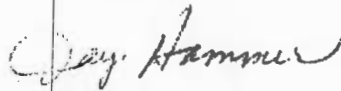
We are sorry, but we must ask for additional time to locate and consider releasing the Internal Revenue Service records to which you have requested access. We will make every effort to respond within 60 days from the date of this letter.

If you agree to this extension of time, no reply to this letter is necessary. You will still have the right to file an appeal if we subsequently deny your request.

We hope you will agree to a voluntary extension of time. If you do not agree, you have the right to consider this letter as a denial and, if you wish, immediately file an appeal. The information on the enclosure explains your appeal rights. If you have any questions or need information about the status of your request, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely,



Jay Hammer
Disclosure Officer

Enclosure

INTERNAL REVENUE SERVICE
FEDERAL TAX LIEN FACSIMILE DOCUMENT

Lien Recorded : 07/24/89 - 02:39am
Recording Number : 338226

NOTICE of FEDERAL TAX LIEN

District: Boise, ID

IRS Serial Number: 828902485

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :
CLIFFORD L NOLL

Residence :
PO BOX 198
PINEHURST, ID 83850

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/76	203-36-9997	11/10/88	12/10/94	18002.06
1040	12/31/77	203-36-9997	11/10/88	12/10/94	8974.83
1040	12/31/78	203-36-9997	11/10/88	12/10/94	16764.91
1040	12/31/79	203-36-9997	11/10/88	12/10/94	24417.59
1040	12/31/80	203-36-9997	11/10/88	12/10/94	5102.41
1040	12/31/81	203-36-9997	11/10/88	12/10/94	11588.14
1040	12/31/82	203-36-9997	11/10/88	12/10/94	11256.06
1040	12/31/83	203-36-9997	11/10/88	12/10/94	10833.68
1040	12/31/84	203-36-9997	11/10/88	12/10/94	18977.12

Filed at: COUNTY RECORDER
SHOSHONE
Wallace, ID 83873

Total \$ 125916.80

This notice was prepared and executed at Boise, ID
on this, the 17th day of July, 1989.

Authorizing Official:
BETTY YOUNG (208)334-1331

Title:
Revenue Officer

INTERNAL REVENUE SERVICE
FEDERAL TAX LIEN FACSIMILE DOCUMENT

Lien Recorded : 07/24/89 - 02:39am
Recording Number : 338227

NOTICE of FEDERAL TAX LIEN

District: Boise, ID

IRS Serial Number: 828902487

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :
SUSAN V NOLL

Residence :
PO BOX 198
PINEHURST, ID 83850

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/76	160-42-8660*	11/10/88	12/10/94	13295.36
1040	12/31/77	160-42-8660*	11/10/88	12/10/94	4307.63
1040	12/31/78	160-42-8660*	11/10/88	12/10/94	11514.12
1040	12/31/79	160-42-8660*	11/10/88	12/10/94	17915.77
1040	12/31/80	160-42-8660*	11/10/88	12/10/94	1513.75
1040	12/31/81	160-42-8660*	11/10/88	12/10/94	2427.13
1040	12/31/82	160-42-8660*	11/10/88	12/10/94	2722.81
1040	12/31/83	160-42-8660*	11/10/88	12/10/94	2740.44
1040	12/31/84	160-42-8660*	11/10/88	12/10/94	5144.80

Filed at: COUNTY RECORDER
SHOSHONE
Wallace, ID 83873

Total \$ 61581.81

This notice was prepared and executed at Boise, ID
on this, the 17th day of July, 1989.

Authorizing Official:
BETTY YOUNG (208)334-1331

Title:
Revenue Officer

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

CLIFFORD L. NOLL and SUSAN J. NOLL)
husband and wife,)
) plaintiff,)
))
) VS.) CIVIL NO. _____)
))
INTERNAL REVENUE SERVICE,) ORDER)
United States Dept. of the Treasury))
) defendant,)
_____))

IT IS HEREBY ORDERED, in the above captioned action, that the Internal Revenue Service must produce records to this court for judicial review, within 30 days, which;

(a) prove that they have jurisdiction over the plaintiff, stating specifically the Title, Chapter, section, and relevent statutes.

(b) produce records which they used to know that the plaintiff was an "employee" under IRC Chapter 24, sect. 3401, including the date employment began, the date employment ended, the agency or instrumentality (employer) under their jurisdiction, and the total amount of wages not exempted under 3401(a) of this chapter for the years 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, and 1988.

(c) produce records which shows the exact amounts of money collected by the agency, for each of the years aforesaid, from the plaintiff to show the accuracy, relevance, timeliness, and completeness as is necessary to assure fairness.

Dated this _____ day of _____, 1993

U.S. DISTRICT JUDGE



Certified to be a true and correct copy of original filed in my office.

Elizabeth A. Smith, Clerk
U.S. Courts, District of Idaho

By Sunny Trumbull
on Jul 23, 2015 3:59 pm

U.S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at 4:00 P M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

OCT 22 1994

CLERK, U.S. DISTRICT COURT
By BH Deputy

CLIFFORD L. NOLL, et ux.,)
)
 Plaintiffs,)
)
 v.)
)
 INTERNAL REVENUE SERVICE, United)
 States Department of the Treasury,)
)
 Defendant.)

CIVIL NO. 93-0100-N-HLR

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
AND DISMISSING ACTION

On September 14, 1994, United States Magistrate Judge Larry M. Boyle filed a Report and Recommendation in the above-entitled proceeding and recommended: (1) that plaintiffs' motion to proceed be denied; and (2) that the United States' Motion to Dismiss Plaintiffs' Complaint be granted.

Pursuant to 28 U.S.C. § 636(b)(1), the parties had ten days in which to file written objections to the magistrate's recommendation. To date, no objection has been filed. This court may, therefore, accept, reject or modify, in whole or in part, the findings and recommendations made by the magistrate. 28 U.S.C. § 636(b)(1).

Having fully reviewed the record herein, and finding the magistrate judge's recommendations to be sound, the court shall hereby incorporate by reference the Report and Recommendation filed on September 14, 1994, accept such in its entirety, and adopt as its own the findings made by Magistrate Judge Boyle.

Based upon the foregoing and the court being fully advised
in the premises,

IT IS HEREBY ORDERED that the Report and Recommendation
filed September 14, 1994, should be, and is hereby, incorporated
by reference and ADOPTED in its entirety.

IT IS FURTHER ORDERED that the United States' Motion to
Dismiss Plaintiffs' Complaint should be, and is hereby, GRANTED.

DATED this 12th day of October, 1994.



HAROLD L. RYAN
SENIOR UNITED STATES DISTRICT JUDGE