**NOTES ON CASES TO LOOK UP:**
READ COOPERATIVE FEDERALISM
Lack of Subject Matter Jurisdiction
Fed. R. Civ. P. 12(b)(1), 8(b)
26 USC 6311 “commecially acceptable means”
the Anti-Injunction Act 26 USC 7421(a)
Bright v. Bechtel, 780 F 2d 766, 770 (9th Cir 1986)

Rule of Necessity UCC 1-103.6
and 1-308

State Citizen at common law domiciled on the land of the original State of New York, an dreserving all rights under common law and UCC 1-308 and 1-103.6

By this affidavit it is hereby void, revoked, and rescinded my signature and consent to any documents construed by any agency to have me domiciled in any jurisdiction other than on the land of New York [ask circa its original 1777 constitution), and NOT a resident but a native, am not domiciled in the district of columbia or any federal territory.

Competent Fact Witness to dispute this affidavit of sworn first hand knowledge of who I am

**AN EXAMPLE OF A RESPONSE TO BEING CHARGED:**

i; a man, John-Henry of the family Doe [John-Henry: Doe] (hereafter, “*the living man*”), one of the people of the nation of ohio (circa 17xx), restrained by duress without his consent and only by necessity submits this Motion to Dismiss the United States’ Indictment (Case No. XXXXX) for Lack of Subject Matter Jurisdiction, Lack of In Personum Jurisdiction, and Lack of In Rem Jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1), YYYYY, and ZZZZZ.

1. **Background.**

On XXXXX, 2015, the United States filed an “**I N D I C T M E N T**” in this matter, seeking an arraignment of the man John-Henry of the family Doe for bank fraud and wire fraud pursuant to 12 USC SS XXXX and 12 USC SS XXXX.

No where at any point during the detainment, arrest, booking, or arraignment did *the living man* consent, understand, or volunteer into such detainment. During every stage of the encounter with agent(s) or contract officers of the United States, the living man objected and asked for proof of authority that the United States has over him. At no point, to this day has anybody provided such proof of authority.

1. ***The United States has not proven jurisdiction on the record*.**

John-Henry of the family Doe has not claimed and oath or allegiance to the United States. John-Henry of the family Doe has expressly revoked, waived his oath and allegiance to the United States, has no social security number, receives no benefits from the United States, and has expatriated from the United States. See *EXHIBIT A: Blacks Law: “Jurisdiction”*

John-Henry of the family Doe has not waived any of his immunities or rights as a living man; nor has the Government alleged in it’s “**I N D I C T M E N T**” any waiver of his immunities or rights as a man.

**UNITED STATES’ RESPONSE TO BEING SUED**

 The United States, by and through undersigned counsel, hereby submits this Motion to Dismiss Defendant John Smith’s “Counterclaim” (Doc No. 22) for Lack of Subject Matter Jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1).

1. **Background.**

On XXXX, the United States filed a Complaint in this matter, seeking to reduce to judgment assessed but unpaid XXXXXXXX against Defendant John Smith, to/for/from YYYYYYYY and held by nominees, alter egos, and fraudulent transferees of Mr. Smith. See Dkt. No. 1. Facts in order. Summary – To be clear, Defendant and Counter Claimant has not paid the United States.

1. **Legal Standard**

In order ot establish subject matter jurisdiction in an action against the United States, there must be: (1) “statutory authority vesting a district court with subject matter jurisdiction”; and (2) “ a waiver of sovereign immunity.” *Alvarado v. Table Mountain Rancheria*, 509 F.3d 1008, 1016 (9th Cir. 2007). Even where statutory authority vests the district courts with subject matter jurisdiction, the United States cannot be sued unless it has expressly consented to be sued. *Dunn & Black P.S. v. United States,* 492 F.3d 1084, 1087-88 (9th Cir. 2007). Waviers of sovereign immunity cannot be implied, must be unequivocally expressed, and are to be strictly construed in favor of the sovereign. *Id. at 1088.* The burden is on the party bringing the action against the United States to establish both elements of subject matter jurisdiction; where it has failed to do so, “dismissal of the action is required.” *Id.*

 As sovereign, the United States is immune from suit except where it has expresly consented to suit. United States v. Dalm, 494 U.S. 596, 608 (1990); United States v. Mitchell, 445 U.S. 535, 538 (1980); United States v. Sherwood, 312 U.S. 584, 586 (1941). And the terms of its consent define the court’s jurisdiction to hear the suit. United States v. Testan, 424 U.S. 392, 299 (1976). This waiver of sovereign immunity must be unequivocally expressed and cannot be implied. Mitchell, 455 U.S. at 538. If sovereign immunity has not been waived, the suit must be dismissed. Hutchinson v. United States, 677 F.2d 1322, 1327 (9th Cir. 1982).

 Statutory waivers of sovereign immunity are to be strictly construed against such surrender. See San Juan County, Utah v. United States, 503 F.3d 1163, 1212 (19th Cic. 2007). Thus, any suit that is brought must be in strict compliance with the terms of the statute. See Sherwood, 312 U.S. at 590. Moreover, in an action instituted by the United States, a counterclaim pursuant to Fed. R. Civ. P. 13 can be interposed only when the Government has waived its immunity from suit on the claim. Fed. R. Civ. P. 13(d); United States v. Shaw, 309 U.S. 495, 500 (1940); United States v. Agnew, 423 F. 2d 513, 514 (9th Cir. 1970); United States v. Longo 464 F.2d 913, 916 (8th Cir. 1972). The counterclaimant bears the burden of establishing both jurisdiction and a wavier of sovereign immunity. Cato v. United States, 70 F.3d 1103, 1107 (9th Cir. 1995).

 Federal courts have firmly rejected the theory that the United States government has broadly waived sovereign immunity by initiating suit. United States v. $277,000 U.S. Currency and One 1986 Dodge Ram Charger, 69 F.3d 1491, 1493 (9th Circ. 1994); United States v. Finn, 239 F. 2d 679, 682-83 (9th Cir. 1956); United States v. Forma, 42 F.3d 759, 764 (2nd Cir. 1994). Rule 13 of the Fed. R. Civ. P. expressly preserves the doctrine of sovereign immunity by limiting the types of counterclaims that can be asserted against the federal government. Fed. R. Civ. P. 13(d) (“[t]hese rules do not expand the right to assert a counterclaim – or to claim a credit – against the United States or a United States officer or agency”).

1. **John Smith Has Not Alleged a Valid Waiver of Subject-Matter Jurisdiction.**

Defendant and Counter Claimant John Smith has not alleged any waiver of the United States’ sovereign immunity. Smith has utterly failed to allege any waiver, statutory or otherwise, which would allow the Court to entertain this counterclaim against the United States.

Lists what they are trying to do right here and any other arguments to that effect invalidating what they are trying to do.

Wherefore, the United States respectfully requests an Order from the Court dismissing, for lack of subject-matter jurisdiction, the Counterclaim filed by John Smith. See Counterclaim, Doc XXX.

Respectfully submitted this XX day of YYYYY, 2015.

XXXXXX YYYYYYYY
Assistant Attorney General

/x ZZZZ Z ZZZZZ
Trial Attorney
U.S. Department of Justice
Address

Attorneys for the United States of America

Certificate of Service