

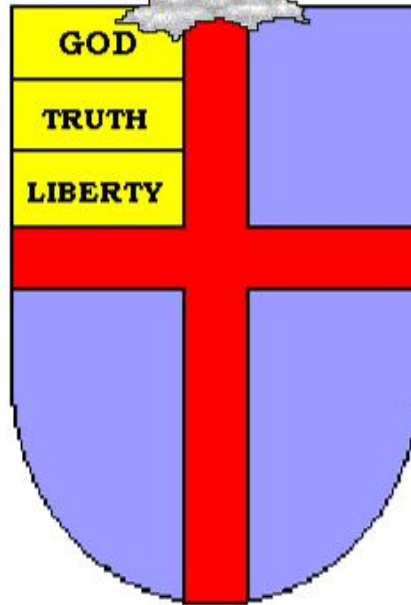
Challenging Federal Jurisdiction Form #12.010

by:
**Sovereignty Education
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<http://sedm.org>

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S E D M



Dedication

*“Those who forsake the law praise the wicked,
But such as keep [and learn] the law contend with them.
Evil men do not understand justice,
But **those who seek the LORD understand ALL.**”*

[Prov. 28:4-5, Bible, NKJV]

Course Outline

- 1. Introduction.**
- 2. Two Distinct Jurisdictions: State v. Federal.**
- 3. Which Jurisdiction?**
- 4. Important Elements to Challenging Jurisdiction.**
- 5. Three Sources of Federal Civil Jurisdiction.**
- 6. Burden of Proof.**
- 7. Government Falsely Claims that YOU have the burden of Proof.**
- 8. Turning the Tables on the Government.**
- 9. Why Turning the Tables Works.**
- 10. Removals from State to Federal Court.**
- 11. Mistakes People Frequently Make.**
- 12. Conclusions and Summary.**
- 13. Resources for Further Reading and Research.**

Introduction

- **Challenging jurisdiction is the most important skill you can learn in litigation involving the government.**
- **The subject of how to challenge jurisdiction properly is not taught in law schools nor discussed on most freedom websites. It is therefore difficult to become effective at the skill.**

Two Distinct Jurisdiction: State v. Federal

- The **Separation of Powers Doctrine** gives rise to two legislatively FOREIGN and SEPARATE jurisdictions:

Separation of powers Doctrine, Form #05.023

<http://sedm.org/Forms/FormIndex.htm>

- **Proof:**

"It is clear that Congress, as a legislative body, exercise two species of legislative power: the one, limited as to its objects, but extending all over the Union: the other, an absolute, exclusive legislative power over the District of Columbia. The preliminary inquiry in the case now before the Court, is, by virtue of which of these authorities was the law in question passed?"

[Cohens v. Virginia, 19 U.S. 264, 6 Wheat. 265, 5 L.Ed. 257 (1821)]

"NATIONAL GOVERNMENT. The government of a whole nation, as distinguished from that of a local or territorial division of the nation, and also as distinguished from that of a league or confederation.

"A national government is a government of the people of a single state or nation, united as a community by what is termed the "social compact," and possessing complete and perfect supremacy over persons and things, so far as they can be made the lawful objects of civil government. A federal government is distinguished from a national government by its being the government of a community of independent and sovereign states, united by compact." Piqua Branch Bank v. Knoup, 6 Ohio.St. 393."

[Black's Law Dictionary, Revised Fourth Edition, 1968, p. 1176]

"FEDERAL GOVERNMENT. The system of government administered in a state formed by the union or confederation of several independent or quasi independent states; also the composite state so formed.

In strict usage, there is a distinction between a confederation and a federal government. The former term denotes a league or permanent alliance between several states, each of which is fully sovereign and independent, and each of which retains its full dignity, organization, and sovereignty, though yielding to the central authority a controlling power for a few limited purposes, such as external and diplomatic relations. In this case, the component states are the units, with respect to the confederation, and the central government acts upon them, not upon the individual citizens. In a federal government, on the other hand, the allied states form a union,-not, indeed, to such an extent as to destroy their separate organization or deprive them of quasi sovereignty with respect to the administration of their purely local concerns, but so that the central power is erected into a true state or nation, possessing sovereignty both external and internal,-while the administration of national affairs is directed, and its effects felt, not by the separate states deliberating as units, but by the people of all, in their collective capacity, as citizens of the nation. The distinction is expressed, by the German writers, by the use of the two words "Staatenbund" and "Bundesstaat;" the former denoting a league or confederation of states, and the latter a federal government, or state formed by means of a league or confederation."

[Black's Law Dictionary, Revised Fourth Edition, 1968, p. 740]

Which Jurisdiction?

- The main determinant of which of the two jurisdictions applies from a civil perspective is **YOUR DOMICILE**.
 - You can only be **domiciled** in ONE place at a time.
 - You must be **domiciled** on federal territory for federal law to apply.
 - If you are **domiciled** on federal territory, STATE civil law does NOT apply.
 - You can only have a “**civil status**” under the STATUTES of a jurisdiction by having a **consensual civil domicile** there. This includes “person”, “individual”, “taxpayer”, etc.
 - If you aren’t **domiciled** in a place, the only other thing you can be in relation to that place is a STATUTORY “**resident**”:
 - » Even then ONLY **by your consent** to represent a public office called a **STATUTORY CIVIL “person” or “individual”**.
 - » The “resident” is an OFFICE **domiciled** in the foreign jurisdiction, while the OFFICER is **domiciled** elsewhere. The OFFICER is voluntary surety for the OFFICE he or she serves in.
 - » Without **your consent** to represent the office and become a statutory “resident”, you continue to be a “**non-resident non-person**”.
 - The only place there is overlap between the two jurisdictions is in Federal Enclaves. See:
 - Wikipedia: Federal Enclave**
 - https://en.wikipedia.org/wiki/Federal_enclave**

Which Jurisdiction?

- **The main determinant of which of the two jurisdictions applies from a COMMON LAW or CONSTITUTIONAL perspective is what land you were physically standing on at the time you received an injury.**
 - **If the land was protected by the constitution and the injury was inflicted by a government actor, then the court having general jurisdiction in that location may hear the case.**
 - **If the land was within a constitutional state and the injury was inflicted by a private party or even a government party acting OUTSIDE their delegation of authority, then a state court of record may hear the case.**

Government Identity Theft

- If a judge or government opponent does any of the following, they are engaging in **CRIMINAL IDENTITY THEFT**:
 1. Refuses to distinguish the two jurisdictions they are litigating under.
 2. Presumes that **CONSTITUTIONAL** and **STATUTORY** contexts for **GEOGRAPHICAL** or **CITIZENSHIP** terms are equivalent. They are not.
 3. Tries to confuse the two jurisdictions using **GEOGRAPHICAL** or **CITIZENSHIP** “words of art”.
 4. Refuses to identify the **CONTEXT** for **GEOGRAPHICAL** or **CITIZENSHIP** terms they use in pleadings. This results in “equivocation”.
 5. Presumes that a state citizen is domiciled on federal territory or is subject to the laws of the national government. In most cases they are not.
 6. Refuses to satisfy the burden of proving that they are **NOT** doing the above **CRIMINAL ACTS**.
- The burden of proof you impose on your government opponent should at all times seek to **PREVENT** the above confusion of jurisdictions or the **CRIMINAL GOVERNMENT IDENTITY THEFT they produce**.
- For further details on the above, see:

Government Identity Theft, Form #05.046
<http://sedm.org/Forms/FormIndex.htm>

Important Elements of Challenging Jurisdiction

The important elements that must be addressed in any challenge to jurisdiction are:

- 1. Are you in a CONSTITUTIONAL court or a FRANCHISE court? Stay out of FRANCHISE courts!**
- 2. What is your choice of domicile (Form #05.002)?**
- 3. What is your civil status (Form #13.008) and standing based on your choice of domicile?**
- 4. What law applies to you based on your civil status and standing? In other words, what limits does your civil status place on the choice of law?**
- 5. Who is the moving party asserting a civil obligation? The moving party always has the burden of proof (Form #05.025).**
- 6. What facts must the moving party prove? In other words, what are the “elements” they have to prove with evidence?**
- 7. Have they produced court admissible factual evidence that satisfies their burden of proof?**
- 8. If they haven’t produced evidence, then why hasn’t their case against you been dismissed?**

Three Sources of Federal Civil Jurisdiction

- 1. Prove that you have a contract or agreement with the government. This makes it a property issue under [Article 4, Section 3, Clause 2 of the Constitution](#).**
- 2. Prove that a [domicile](#) on federal territory not within the exclusive jurisdiction of a state is involved. This invokes national law per [Federal Rule of Civil Procedure 17](#) and switches the choice of law under [28 U.S.C. §1652](#):**
 - 2.1 You are [domiciled](#) on federal territory not within the exclusive jurisdiction of any state. This makes it a civil statutory issue under national law.
 - 2.2 You are representing an office that is [domiciled](#) on federal territory not within the exclusive jurisdiction of any state. This makes it a [FRANCHISE](#) issue (public office).
- 3. Prove that you are purposefully and consensually engaging in commerce with a protected party [domiciled](#) on federal territory not within the exclusive jurisdiction of any state. This limits jurisdiction to the SPECIFIC transaction involved and not ALL subject matter. It invokes:**
 - 3.1 The [Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97](#).
 - 3.2 The “purposeful availment” doctrine of the courts. See [International Shoe v. Washington, 326 U.S. 310 \(1945\)](#).

Burden of Proof

1. Your government opponent will try to keep the burden of proof on YOU.
2. 7491If you allow the government to put the burden of proof on you, then you will usually be put in the unfortunate position of PROVING A NEGATIVE, which is nearly impossible. This:
 - 2.1 Unfairly and unequally advantages the government at your expense.
 - 2.2 Gives the government the equivalent of an unconstitutional “Title of Nobility”.
 - 2.3 Makes litigation into an act of idolatry.
3. Keep the burden of proof on your government opponent at all stages!
4. The main burden of proof in all situations where jurisdiction is being challenged relates to the following facts:
 - 4.1 Whether you have government property in your possession or are receiving “benefits”. Thus you are SUBJECT to federal law under Article 4, Section 3, Clause 2 and 5 U.S.C. 553(a)(2).
 - 4.2 Your domicile.
 - 4.3 Your civil status.
 - 4.4 Your citizenship.
 - 4.5 The requirement for CONSENT to be demonstrated to lawfully occupy a public office.
 - 4.6 That all the “choice of law rules” are being scrupulously followed by your government opponent.
5. For further details on burden of proof, see:
Government Burden of Proof, Form #05.025
<http://sedm.org/Forms/FormIndex.htm>

Government FALSELY Claims YOU Have the Burden of Proof

- **Frequently in tax cases against the government, your corrupt opponent will claim that:**
 - The “taxpayer” has the burden of proving NON-LIABILITY. See [26 U.S.C. §7491](#).
 - YOU are a “taxpayer” until you prove you are NOT.
 - They have the right to **PRESUME** anything they want about you, **INCLUDING** that you are a STATUTORY “taxpayer”, and it is YOUR job to prove them wrong with evidence.
 - The government does not have the **burden of proof** to prove YOUR liability. They don’t have to prove ANYTHING.

Government **FALSELY** Claims YOU Have the Burden of Proof

- This is FALSE.
 - The burden of proof they cite ONLY applies to STATUTORY “taxpayers”.
 - Those without a domicile on federal territory and who have no voluntary federal contracts or agency under 5 U.S.C. §553(a)(2) are not STATUTORY “taxpayers”.
 - Under the criminal law, YOU are presumed INNOCENT until PROVEN guilty with evidence. That means you are a “nontaxpayer” until THEY prove you are a “taxpayer”. See Form #05.013.
 - All presumptions that prejudice constitutionally protected rights are UNCONSTITUTIONAL. See Form #05.017.
 - If you live on land protected by the Constitution, then you are protected by it and are not ALLOWED to surrender that protection, because the Declaration of Independence says those rights are “INALIENABLE”, meaning INCAPABLE of being bargained away. See:

Proof that I and my Property are Still Protected by the Constitution and Therefore am NOT subject to Civil Statutes Which Would Abrogate Such Protections, SEDM
<https://sedm.org/proof-that-i-am-still-protected-by-the-constitution-and-therefore-am-not-subject-to-civil-statutes-which-would-abrogate-such-protections/>

Government *FALSELY* Claims YOU Have the Burden of Proof

- Not even the JUDGE can declare you a “taxpayer”. Only YOU can do it. See [28 U.S.C. §2201\(a\)](#).

- **Proof:**

“Specifically, Rowen seeks a declaratory judgment against the United States of America with respect to “whether or not the plaintiff is a taxpayer pursuant to, and/or under 26 U.S.C. § 7701(a)(14).” (See Compl. at 2.) **This Court lacks jurisdiction to issue a declaratory judgment “with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986,” a code section that is not at issue in the instant action. See 28 U.S.C. § 2201; see also Hughes v. United States, 953 F.2d 531, 536-537 (9th Cir. 1991)** (affirming dismissal of claim for declaratory relief under §2201 where claim concerned question of tax liability). Accordingly, defendant’s motion to dismiss is hereby GRANTED, and the instant action is hereby DISMISSED.”
[\[Rowen v. U.S., 05-3766MMC. \(N.D.Cal. 11/02/2005\)\]](#)

Government **FALSELY** Claims YOU Have the Burden of Proof

- How to respond:
 - The GOVERNMENT has the [burden of proving](#) the following before they can enforce the OBLIGATIONS of a statutory “taxpayer” upon you, including any burden of proof obligations:
 - » You [CONSENTED](#) to become a “taxpayer” and officer of the government. Third parties cannot unilaterally “elect” you into public office, and certainly not with a [false information return](#). That would be a CRIME.
 - » You are serving in your office in a place EXPRESSLY authorized as required by [4 U.S.C. §72](#).
 - » You took an oath to serve in the office or appointment.
 - » You had the capacity to [consent](#), meaning that you were standing on federal territory or abroad at the time and therefore had no inalienable rights. You aren’t allowed by law to alienate an inalienable right. See [Form #12.038](#).
 - The government may NOT proceed entirely upon [presumption](#) of any of the following facts:
 - » That you ARE a statutory “taxpayer”.
 - » That you have a domicile on federal territory.
 - » You are in possession or “benefit” of any of the types of property listed in [5 U.S.C. §553\(a\)\(2\)](#) and thus are subject to the DIRECT legislative control of Congress under Article 4, Section 3, Clause 2 of the Constitution.
- All [conclusive presumptions](#) that prejudice constitutional rights are unconstitutional and violate due process of law. See:
[Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction](#), Form #05.017
<http://sedm.org/Forms/FormIndex.htm>

Turning the Tables: Shifting the Privilege

- The government tries to shift the burden of proof to YOU by claiming essentially that you are PRIVILEGED. “taxpayer” is a **privileged civil status**. See:
Your Rights as a “Nontaxpayer”, IRS Publication 1a
<http://sedm.org/LibertyU/NontaxpayerBOR.pdf>
- The foundation of the Constitution is equal protection and equal treatment. See:
Requirement for Equal Protection and Equal Treatment, Form #05.033
<http://sedm.org/Forms/FormIndex.htm>
- Therefore, under the concept of equal protection and equal treatment, if they can enforce the ability to use privileges to shift the **burden of proof**, SO CAN YOU!
- Our **Federal Pleading, Motion, Petition Attachment, Litigation Tool #01.002** makes those who are illegally enforcing outside their jurisdiction **PRIVILEGED**. The terms of the PRIVILEGE described in that document are documented in:
Injury Defense Franchise and Agreement, Form #06.027
<http://sedm.org/Forms/FormIndex.htm>

Turning the Tables: Shifting the Privilege

- **If they won't allow YOU to use the same tactic against THEM, then:**
 - They are enforcing an unconstitutional Title of Nobility.
 - The judge is showing partiality.
 - The judge has to recuse himself/herself, because he/she is demonstrating bias and criminal conflict of interest in violation of [18 U.S.C. § 208](#), [28 U.S.C. § §144](#) and [455](#).
 - The government is an anarchist. An anarchist is anyone who is not subject to the same rules as everyone else for acquiring or retaining personal or private rights.
- **This tactic:**
 - Uses the enemy's strength against them, consistent with the Sun Tzu approach.
https://en.wikipedia.org/wiki/Sun_Tzu
 - Requires them to defeat the [source of their own jurisdiction](#) in order to argue against you. Let them argue with themselves. They use this same tactic to pit freedom fighters against each other.

Turning the Tables: Using the FSIA and “purposeful availment”

- The national government is legislatively “foreign” in respect to a state.

"A foreign corporation is one that derives its existence solely from the laws of another state, government, or country, and the term is used indiscriminately, sometimes in statutes, to designate either a corporation created by or under the laws of another state or a corporation created by or under the laws of a foreign country."

"A federal corporation operating within a state is considered a domestic corporation rather than a foreign corporation. The United States government is a foreign corporation with respect to a state."

[19 Corpus Juris Secundum (C.J.S.), Corporations, §883 (2003)]

- Under the [Foreign Sovereign Immunities Act \(FSIA\), 28 U.S.C. Chapter 97:](#)
 - Those “purposefully availing themselves” of commerce in a legislatively foreign jurisdiction implicitly waive sovereign immunity.
 - ALL “sovereigns” are subject, INCLUDING both YOU and the national government in the context of a state of the Union.
 - If the national government

Turning the Tables: Using the FSIA and “purposeful availment”

- An attempt by the national government to impute or enforce a “domestic”, “taxpayer”, “citizen”, “resident”, “person” civil status under the exclusive jurisdiction of Congress is:
 - An act of “purposeful availment” into YOUR jurisdiction.
 - Represents a waiver of official, judicial, and sovereign immunity by all your government opponents.
- **THE ONLY way around the above is if they meet the burden of proof that you CONSENTED IN WRITING to their actions:**

“Voluntati non fit injuria. He who consents cannot receive an injury. 2 Bouv. Inst. n. 2279, 2327; 4 T. R. 657; Shelf. on mar. & Div. 449.

Consensus tollit errorem. Consent removes or obviates a mistake. Co. Litt. 126.

Melius est omnia mala pati quam malo consentire. It is better to suffer every wrong or ill, than to consent to it. 3 Co. Inst. 23.

Nemo videtur fraudare eos qui sciunt, et consentiunt. One cannot complain of having been deceived when he knew the fact and gave his consent. Dig. 50, 17, 145.”

[Bouvier’s Maxims of Law, 1856;

SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviereMaxims.htm>]
- **CONSENT of one sovereign to the jurisdiction of another is called “COMITY”.**
- **WITHOUT “COMITY” proven on the record, they are engaged in INTERNATIONAL COMMERCIAL TERRORISM.**

Turning the Tables: Using the FSIA and “purposeful availment”

- **Your Standing:**

U.S. Code › [Title 28](#) › [Part IV](#) › [Chapter 97](#) › § 1605A

(a) In General.—

(1) No immunity

- *A foreign state [such as “U.S. Inc” federal corporation] shall not be immune from the jurisdiction of courts of the United States or of the States in any case not otherwise covered by this chapter in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act if such act or provision of material support or resources is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency.*

- **APPLICABILITY:**

- They are “kidnapping” and “hostage taking” to associate you with a civil status you don’t have and don’t consent to have in a legislatively (but not CONSTITUTIONALLY) foreign state, and using that COERCED civil status to transport your legal identity to the what Mark Twain calls “THE DISTRICT OF CRIMINALS”.
- In legal jargon, that “hostage taking” is called “identity theft”.

Turning the Tables: Using the FSIA and “purposeful availment”

- The nature of that identity theft and the tactics to effect it are documented in:

Government Identity Theft, Form #05.046

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/GovernmentIdentityTheft.pdf>

FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>

- They are NOT “exempted” from this requirement because the “citizen” who DOES exempt them is NOT a “state citizen” or CONSTITUTIONAL citizen and therefore is NOT YOU:

[28 U.S. Code § 1603 - Definitions](#)

For purposes of this chapter—

(b) An “agency or instrumentality of a foreign state” means any entity—

(1) which is a separate legal person, corporate or otherwise, and

(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (e) of this title, nor created under the laws of any third country.

Turning the Tables: Using the FSIA and “purposeful availment”

- **PROOF** that the “citizen” who is exempted is a **TERRITORIAL** and **STATUTORY** citizen rather than a **STATE** citizen or **CONSTITUTIONAL** citizen:

[28 U.S. Code § 1332 - Diversity of citizenship; amount in controversy; costs](#)

(e) The word “States”, as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.

- **State/CONSTITUTIONAL** citizens are **SOVEREIGN** in respect to the national government:

“In United States, sovereignty resides in people... the Congress cannot invoke the sovereign power of the People to override their will as thus declared.”,

[\[Perry v. U.S., 294 U.S. 330 \(1935\)\]](#)

For more like quotes like the above, see:

<http://famguardian.org/TaxFreedom/CitesByTopic/sovereignty.htm>

- For details on the differences between **STATUTORY/TERRITORIAL** citizens and **CONSTITUTIONAL/STATE** citizens, see:

– [Citizenship Status v. Tax Status](#), Form #10.011

<http://sedm.org/Forms/10-Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm>

– [Why You are a “national”, “state national”, and Constitutional but not Statutory Citizen](#), Form #05.006, Sections 2 and 3

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/WhyANational.pdf>

FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>

Turning the Tables: Using the FSIA and “purposeful availment”

USE THESE CRITICAL FACTS AGAINST THE GOVERNMENT!

- 1. FORCE** your government opponent to **PROVE consent** (“**comity**”) IN WRITING!
- 2. Warn** them that they are proposing to do business with you that you don't consent to. In other words, they are making a “commercial offer” under the U.C.C. as a foreign sovereign under the Uniform Commercial Code (U.C.C.).
- 3. The property or rights they seek to acquire are PRIVATE and ABSOLUTELY OWNED BY YOU as the ABSOLUTE owner.**
- 4. FORCE** them to prove that you **EXPRESSLY CONSENTED (Form #05.002)** to convert the PRIVATE PROPERTY at issue to PUBLIC property using the following:
Separation Between Public and Private Course, Form #12.025
DIRECT LINK: <http://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>
- 5. INSIST** on placing **CONDITIONS** on the sale or loan of that property to THEM as a Merchant under the U.C.C.. That is the source of THEIR jurisdiction over YOU using THEIR **franchises**. Fight fire with fire.
- 6. You are the “MERCHANT”** granting, renting PRIVATE property to a foreign sovereign under **U.C.C. §2-104(1)**.
- 7. They are the “BUYER”** under **U.C.C. §2-103(1)(a)**.

Turning the Tables: Using the FSIA and “purposeful availment”

8. Emphasize that a failure to disagree with YOUR proposed conditions or a failure to provide the consideration demanded is THEFT on their part unless they PAY for the property they seek as a Buyer under the U.C.C..
9. Emphasize that if the property is in their custody already, then they are party to YOUR franchise. A “franchise”, after all is a “privilege in the hands of a subject” and they are the “subject” if they have custody of your property that you LOANED them. “property”=“PRIVILEGE”

“FRANCHISE. A special privilege conferred by government on individual or corporation, and which does not belong to citizens of country generally of common right. Elliott v. City of Eugene, 135 Or. 108, 294 P. 358, 360. In England it is defined to be a royal privilege in the hands of a subject. “

[Blacks Law Dictionary, Fourth Edition, pp. 786-787]

10. Provide the loan or rental agreement stipulating what they agree to if they proceed to use or take or borrow the property. See the following for an example:

Injury Defense Franchise and Agreement, Form #06.027

DIRECT LINK: <http://sedm.org/Forms/06-AvoidingFranch/InjuryDefenseFranchise.pdf>

FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>

11. Specify in [YOUR franchise agreement](#) (like the above) per [U.C.C. §1-202](#) that anything they do to use, acquire, control, or STEAL the property is an act of [constructive consent](#) to the terms of [YOUR franchise](#).
12. Insist that if THEY won't let you enforce YOUR [ANTI-franchise](#) against THEM, and we are all equal, and therefore THEY can't enforce THEIR “trade or business” [franchise](#) against YOU.
13. Emphasize that Congress CANNOT “license” a “[trade or business](#)”, meaning enact or enforce, a [FRANCHISE](#) within a constitutional state, in order to tax it or derive revenue from it. [License Tax Cases, 72 U.S. 462 \(1866\)](#).

Turning the Tables: Using the FSIA and “purposeful availment”

“Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for granting coasting licenses, licenses to pilots, licenses to trade with the Indians, and any other licenses necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.

But very different considerations apply to the internal commerce or domestic trade of the States. Over this commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. Congress cannot authorize a trade or business within a State in order to tax it.”

[License Tax Cases, [72 U.S. 462](#), 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

Turning the Tables: Why It Works

Why does TURNING THE TABLES work and give you an advantage? Because:

1. They can't attack YOUR approach without undermining THEIRS too, because you are emulating them.
2. It uses indisputable [geographical definitions in the statutes](#) and the Rules of Statutory Construction and Interpretation to PROVE state of the Union are legislatively (but not CONSTITUTIONALLY) foreign that cannot successfully be challenged. See [Form #11.215](#).
3. It forces the focus onto your FOREIGN, nonresident, and therefore "sovereign" status. See:
Non-Resident Non-Person Position, form #05.020
<http://sedm.org/Forms/FormIndex.htm>
4. It establishes a [foreign domicile](#) and removes federal law using the choice of law rules found in [Federal Rule of Civil Procedure 17](#) and [28 U.S.C. §1652](#):
5. It shifts the choice of law to make the COMMON LAW and the CONSTITUTION of the state you are physically in the RULES OF DECISION, and excludes TERRITORIAL or FEDERAL ZONE.
6. It shifts the burden of proof using the SAME tactic as the government uses on you: [franchises](#). If the government can do it, and it says it is one of delegated powers, then SO CAN YOU! You can't delegate what you don't have.

Turning the Tables: Why It Works

- 6.** It emphasizes your absolute equality to the government under the COMMON LAW. This puts you on an [equitable footing](#) with your opponent, instead of being a subservient serf, “subject, and government chattel called a [STATUTORY “citizen”](#).

- 7.** It prevents [government identity theft \(Form #05.046\)](#) and omission caused by the following:
 - Equivocation of legal definitions.
 - Abuse of “Includes”.
 - Presumption that prejudices rights and violates due process.
 - Abuse of “frivolous” to in effect make a declaratory judgment that cannot be made without a REAL trial and disinterested fact finder.

See [Legal Deception, Propaganda, and Fraud](#), Form #05.014;
<http://sedm.org/Forms/FormIndex.htm>

- 8.** It prevents the judge from making any declaratory judgment, and to thereby become a fact witness in violation of [28 U.S.C. §2201\(a\)](#).

Turning the Tables: Why It Works

9. It demands “[justice](#)”. Justice is legally defined as “the right to be left alone”. A “foreign” entity HAS to be “left alone” and if they AREN’T, its [INTERNATIONAL TERRORISM!](#)
10. It keeps the focus on the ONLY purpose of government, which is protecting PRIVATE property. The FIRST step in delivering that protection is to prevent PRIVATE from being converted to PUBLIC without the EXPRESS WRITTEN CONSENT of the owner and the fact that he ISN’T ALLOWED by the organic law to consent if he is in a CONSTITUTIONAL STATE. See:
[Separation Between Public and Private Form #12.025.](#)
11. It gives you a way to point out to the jury that the government are HYPOCRITES, ELITISTS, and ANARCHISTS because they insist on:
 - A special exemption for themselves from the FSIA.
 - NOT being subject to their own laws, which means THEY are the real “anarchists”, not you.
 - “Legislating from the bench” in violation of the [separation of powers doctrine](#) by ADDING to the definitions found in the code in violation of the rules of statutory construction and interpretation. See [Form #05.014.](#)

Removals from State to Federal Court

- **Cases against the federal government or actors within the federal government should be filed in STATE court first.**
- **When cases against government or government actors are filed, it is common for the defendant to demand removal to federal court.**
- **The removal is accomplished by simply filing a “notice of removal” in the docket of the case.**
- **Most freedom lovers falsely believe that because the case was transferred to federal court, then:**
 - **It is a “federal question” under federal statutory law.**
 - **The court has the right to treat all litigants in federal court as STATUTORY/TERRITORIAL citizens under the laws of Congress.**

Removals from State to Federal Court

- **In fact:**
 - There is no federal common law applicable to a state or a state citizen. That means federal court precedent is **IRRELEVANT** to a state citizen. See *Erie Railroad v. Tomkins*, 304 U.S. 64 (1938).
 - Federal statutory law does not apply to a state domiciled party. See [Form #05.037](#) for proof.
 - The only thing that can make the case into a “federal question” under federal statutory law are the **THREE SOURCES** of federal jurisdiction listed earlier. If those sources are not proven on the record **WITH EVIDENCE**, it is a **STATE** question rather than a **FEDERAL** question and the common law of the **STATE** applies to a **PRIVATE** human, **REGARDLESS OF WHERE THE CASE IS HEARD**.
- **Don’t allow government sleight of hand and “word of art” trickery to cause you to be the victim of [criminal government identity theft](#)! See: *Government Identity Theft*, Form #05.046 <http://sedm.org/Forms/FormIndex.htm>**
- **Fight the federal mafia!**

Mistakes People Frequently Make

Freedom fighters challenging jurisdiction frequently make the following types of mistakes when challenging jurisdiction:

1. Use words they didn't define that invite false government presumptions about their civil status, domicile, or residence.
2. Forget to define the words used in the government's response. The most important words are "frivolous" and all citizenship, civil status, and geographical terms. See Form #05.027.
3. Forget to make their civil status the main focus of challenging jurisdiction.
4. Fail to establish the specific evidence the government must provide in order to PROVE jurisdiction. Without specific evidence demanded BY YOU, the dispute becomes a POLITICAL rather than LEGAL dispute, politicizes the court, and GUARANTEES you will lose.
5. Fail to challenge the use of statutes that are NOT "positive law" in satisfying the burden of proof. The Internal Revenue Code is NOT "positive law" per 1 U.S.C. §204 legislative notes. See Form #05.003, Sections 9.8.2 and 10.6.

Mistakes People Frequently Make

- 6. Fail to COMPEL a response to their claims, and thus invite them to be disregarded. ALWAYS file a [criminal complaint](#) documenting the crimes that result from your government opponent NOT responding. This forces a response because if they don't, their silence not only becomes an estoppel, but a criminal MISPRISION of felony and accessory after the fact per [18 U.S.C. §4 and 3](#) respectively. See:**

Silence as a Weapon and a Defense in Legal Discovery, Form #05.021

<http://sedm.org/Forms/FormIndex.htm>

- 7. [Falsely presume](#) that because a case was transferred to federal court, then the only thing that can be cited is federal statutes. In fact, state law is the ONLY choice or source of law if you have the correct [civil status](#) per [Federal Rule of Civil Procedure 17](#) and [28 U.S.C. §1652](#). There is no federal law applicable to a [state domiciled CONSTITUTIONAL citizen](#) not contracting with the national government and not [domiciled](#) or present on federal territory.**

Conclusions and Summary

- **Challenging jurisdiction is not difficult if you understand the basic rules.**
- **The legal ignorance of most Americans manufactured in the public fool/school system causes those defending their rights pro se to frequently make mistakes in challenging government jurisdiction to enforce or prosecute.**
- **Review this document carefully several times before you file or case against a government actor or respond to one. This will prevent most of the mistakes.**

Resources for further reading and research

- **Common Law Practice Guide**, Litigation Tool #13.013
<http://sedm.org/Litigation/LitIndex.htm>
- **Sovereignty and Freedom Page, Section 10.4: Common Law**, Family Guardian Fellowship
http://famguardian.org/Subjects/Freedom/Freedom.htm#Common_Law
- **Authorities on Jurisdiction of Federal Courts**, Family Guardian Fellowship
<http://famguardian.org/Subjects/LawAndGovt/ChallJurisdiction/AuthoritiesArticle/AuthOnJurisdiction.htm>
- **Federal Jurisdiction**, Form #05.018-how federal jurisdiction is unlawfully extended
<http://sedm.org/Forms/FormIndex.htm>
- **Federal Enforcement Authority With States of the Union**, Form #05.032-limitations of federal enforcement authority and how to challenge it.
<http://sedm.org/Forms/FormIndex.htm>
- **Government Burden of Proof**, Form #05.025-burden of proof is on the government, not you.
<http://sedm.org/Forms/FormIndex.htm>

Resources for further reading and research

- ***Legal Deception, Propaganda, and Fraud***, Form #05.014-how government opponents twist language in court to effect CRIMINAL IDENTITY THEFT.
<http://sedm.org/Forms/FormIndex.htm>
- ***Government Identity Theft***, Form #05.046-how “words of art” are abused to illegally and unconstitutionally switch the choice of law in civil litigation against state citizens.
<http://sedm.org/Forms/FormIndex.htm>
- ***Jurisdiction Over Federal Areas Within the States***, Form #11.203
<http://sedm.org/Forms/FormIndex.htm>
- ***Taxation Page, Section 11: Challenging Jurisdiction***, Family Guardian Fellowship
<http://famguardian.org/Subjects/Taxes/taxes.htm#CHALLENGING JURISDICTION>
- ***Challenge to Income Tax Enforcement Authority Within Constitutional States of the Union***, Form #05.052
<http://sedm.org/Forms/FormIndex.htm>