

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:04-cv-07403
)	
Plaintiff,)	Judge Samuel Der-Yeghiayan
)	
v.)	
)	
WILLIAM J. BENSON,)	
)	
Defendant.)	
_____)	

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR ORDER TO SHOW CAUSE RE CONTEMPT**

Comes now Defendant, William J. Benson (hereinafter “Benson”), by and through his undersigned attorney of record, who submits the following memorandum of points and authorities in support of his motion for an order requiring Internal Revenue Service Revenue Agent Joseph Conroy, his Group Manager, Sam Anderson, and anyone else acting in concert or privity with them, to show cause why they should not be held in contempt for resistance to, and deliberate defiance of, the Court’s order dated December 17, 2007 (Docs. 105 and 106).

18 U.S.C. § 401(3) provides in pertinent part:

A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as--

(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

18 U.S.C. § 401(3).

Internal Revenue Service Revenue Agent Joseph Conroy, and his Group Manager, Sam Anderson, having full knowledge of the contents of the Court’s order, willfully and deliberately violated the order by issuing legal process in the form of an administrative summons for the sole

purpose of circumventing the Court's order and obtaining that which the Court held they were not entitled to have.

It is entirely consonant with reason and necessary to maintain the dignity, usefulness, and respect of a court, that any person, whether a party to a suit or not, having knowledge that a court of competent jurisdiction had ordered certain persons to do or to abstain from doing certain acts, cannot intentionally interfere to thwart the purposes of the court in making such order, and such an act, independent of its effect upon the rights of the suitors in the case, is a flagrant disrespect to the court which issues the order, and an unwarrantable interference with and obstruction to the orderly and effective administration of justice, and as such is, and ought to be, treated as a contempt of the court which issued the order.

In re Reese, 107 F. 942 (8th Cir. 1901).

In deciding whether an injunction has been violated, it is proper to observe objects for which relief was granted and to find a breach of decree in a violation of spirit of injunction, even though its strict letter may not have been disregarded.

Philippe v. Window Glass Cutters League of America, 99 F.Supp. 369 (W.D.Ark.1951).

Dated: February 21, 2008.

/s/ Jeffrey A. Dickstein

Jeffrey A. Dickstein
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CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2008, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney for the Plaintiff, Robert D. Metcalfe.

/s/ Jeffrey A. Dickstein