

SOVEREIGN STATE IMMUNITY

Do people have immunity from the government? If we have immunity, when and where does it apply? How do we access it? Let us see when government does not have, or loses immunity.

- “Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law.” *Owen v. Independence*, 100 S.Ct. 1398, 445 US 622.
- Qualified Immunity of a Public Official is NOT available, if they knew or reasonably should have known that the actions they took, or failed to take within their sphere of official responsibility would violate the constitutional rights of the (plaintiff(s)), or if they took the action with the malicious intention to cause a deprivation of constitutional rights or other injury... *Wood v. Strickland*, 420 U.S. 308, 322 95 S.Ct. 922, 1001, 43 L.Ed.2d 214.

There are limits, it is the action that determines when immunity can be used or is lost. In addition, knowledge of its existence must be known. You cannot claim what you do not know exists. Do people, sovereignty is the people in general, have immunity?

- Sovereign Immunity is supported by Justice Matthews and Douglas in the *Yick Wo v. Hopkins*, 318 US 356, 371 and *Terry v. Ohio*, 392 US 1, 40 respectively “The doctrine of Sovereign Immunity is one of the Common-Law immunities and defenses that are available to the Sovereign.”
- Individual Immunity, *Heath v. Alabama*, 474 U.S. 82; *Hale v. Henkel*, 240 U.S. 43, 74: “The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbor to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing there from, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the **immunity of himself and his property from arrest or seizure except under a warrant of the law**. He owes nothing to the public so long as he does not trespass upon their rights”
- Immediate appeals may be taken from orders denying claims of immunity on one of the following grounds: the sovereign immunity granted to states under the Eleventh Amendment, *Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy*, 113 S.Ct. 684, 688 (1993);
- Foreign sovereign immunity derived from the Foreign Sovereign Immunities Act, 28 U.S.C. sections 1602-1611, *Compania Mexicana de Aviacion, S.A. v. United States Dist. Ct.*, 859 F.2d 1354, 356 (9th Cir. ‘88).

A corporation owes its existence to the state and has no rights. Slaves have no rights. Trustees have duties. Therefore, Immunity must not be available to these Persons. We must be active in our claim of deprivation of immunity, and qualified to make such a claim. As you will read, the immunity does not extend to commercial activity. Since nearly all crimes are commercial and commerce is commerce, what would be classified as non-commercial? Commercial activity is generally a public activity, this immunity could therefore apply as private activity. Some people also believe private property, estates, are the reason behind this. When something is purchased by, for, or on behalf of the estate, while it maybe in the public arena, it is still a private activity. The executor may or may not be involved with commerce but it is not done so with the intention of making a profit, as corporations are so inclined and designed.

Each state is foreign to the United States. The United States can regulate commerce internationally, and between States but not within a State. The ability to regulate commerce includes all within their exclusive limited jurisdiction, which means, US Citizens. If you are a US Citizen, your affairs are not private as a US Citizen is a public servant, with duties and privileges, without rights and immunities. Know the hat you wear when you do things and the links that are associated with it. The use of credit cards, and bank checks, are usually based on being a US Citizen involved in commerce. The use of Gold or Silver is usually considered

private. The use of FRNs is for both public and private debts. Not only is each state foreign to the United States but also, each individual is foreign to everyone else, other than family and friends. As they have defined infants as being the decedent of an estate, that is to say, in the process of dying, of which all living things are in, and no corporation can ever be considered a decedent, every estate is foreign (1603)(b)(3). Title 28 § 1604 this includes both Federal and State Courts.

The current spelling arose in the 16th cent., by association with sovereign. Foreign is defined as:

1. of, from, in, or characteristic of a country or language other than one's own,
2. dealing with or relating to other countries,
3. of or belonging to another district or area,
4. coming or introduced from outside,
5. outside the local jurisdiction,
6. strange and unfamiliar, NOTE: Familiar has its roots in family, thus unfamiliar would be a non-family member or a stranger,
7. (foreign to) not belonging to or characteristic of,
8. out of doors, from Old French forain "strange; outer, external, outdoor; remote, out-of-the-way" ,
9. from Medieval Latin foranus "on the outside, exterior,"
10. from Latin foris "outside," literally "out of doors," from root *dhwer- "door, doorway", in many old cities they had a gate to the city, those on the other side of the gate were strangers; foreigners.
11. Sense of "not in one's own land" is first attested late 14c.

The United States uses legal words, often re-defining that which is found in a non-legal dictionary. Within families, they have their own language, style, customs, jargon, slang, idioms, and traditions. Furthermore, as Christ is our Lord, our devotion is to God alone. As God never wanted man to rule over other men; God was made flesh, for anyone claiming to have authority would be foreign to God's children, God's People. Thus, everyone is foreign to me. Every infant is a decedent and when the infant reaching the age of majority (21) becomes the executor of the estate. Fancy words for, doing his desires: for the executor carries out the will of the decedent. Do as you will, and harm no thing. In the Bible, Abraham was the father of a nation: all men are fathers of a nation or the sons and daughters of a nation. Almighty God is our Father, and we are his nation, his people, his children, and God is foreign to the rule of men and so are his people.

Title 28 § 1602: Findings and declaration of purpose

The Congress finds that the determination by United States courts of the **claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants** in United States courts. Under international law, **states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied** upon for the satisfaction of judgments rendered against them **in connection with their commercial activities**. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

§ 1603: Definitions

For purposes of this chapter -

- (a) A "foreign state", except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).
- (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.

[1332 (c) For the purposes of this section and section 1441 of this title—

(1) a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of—

(A) every State and foreign state of which the insured is a citizen;

(B) every State and foreign state by which the insurer has been incorporated; and

(C) the State or foreign state where the insurer has its principal place of business; and

(2) **the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.**

1332(e) The word “States”, as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.]

(c) The “United States” includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(d) A “commercial activity” means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

(e) A “**commercial activity carried on in the United States by a foreign state**” means commercial activity carried on by such state and having **substantial** contact with the United States.

While Title 28 § 1603 refers to Title 28 § 1332(c) (2) says “the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.” **NOTE** that it is not the United States. Of the same State, then you ask; what is the definition of State? State is a Country: Germany, France, Italy are all States. This is why we have a Head of State and not a Head of Country or Nation. A Kingdom is a Country, or State. You cannot be born in a fiction, a hospital is a location, a building, as such, is real. A government is a fiction. As such, being of the same state as the legal representative, I am in a foreign State. I am in my own body. Therefore, it is where you claim to be born or born again, *i.e.* Kingdom of Heaven, On the Land, D.C., or someplace else. I was born on my mother’s Estate. For those that had both mother and father and as the wife is the father’s estate, you were born on your father’s estate. If you are a minor, or incompetent, you have a legal representative to act for you. An incompetent could be insane or just know comprehending he or she is the executor or executrix of his or her estate. So, who would be the legal representative? You when you become of age, or learn about this, You; you parents, guardian or other family member, the government absent of any one acting on behalf of the estate. They gave you an exit door, learn how to crawl if not run through it.

§ 1604: Immunity of a foreign state from jurisdiction

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

§ 1605: General exceptions to the jurisdictional immunity of a foreign state

- (a) A **foreign state shall not be immune** from the jurisdiction of courts of the United States or of the States in any case -
- (1) in which the **foreign state has waived its immunity either explicitly or by implication**, notwithstanding any withdrawal of the waiver, which the foreign state may purport to effect except in accordance with the terms of the waiver;
 - (2) in which the **action is based upon a commercial activity** carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;
 - (3) in which rights in property taken in violation of international law are in issue and that property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;
 - (4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue;
 - (5) not otherwise encompassed in paragraph (2) above, **in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property**, occurring in the United States and caused by the tortious¹ act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; **except this paragraph shall not apply to -**
 - (A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or
 - (B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights; or
 - (6) in which the action is brought, **either to enforce an agreement** made by the foreign state with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, **whether contractual or not**, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if
 - (A) the arbitration takes place or is intended to take place in the United States,
 - (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards,

¹ constituting a tort; wrongful.

(C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or

(D) paragraph (1) of this subsection is otherwise applicable.

(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state: Provided, That -

(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and

(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in paragraph (1) of this subsection or, in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest.

(c) Whenever notice is delivered under subsection (b)(1), the suit to enforce a maritime lien shall thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of the suit and, if the decree is for a money judgment, interest as ordered by the court, except that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided in this section.

(d) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any action brought to foreclose a preferred mortgage, as defined in section 31301 of title 46. Such action shall be brought, heard, and determined in accordance with the provisions of chapter 313 of title 46 and in accordance with the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.

[(e), (f) Repealed. Pub. L. 110-181, div. A, title X, Sec. 1083(b)(1)(B), Jan. 28, 2008, 122 Stat. 341.]

(g) Limitation on Discovery. -

(1) In general. -

(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for section 1605A, the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney

General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

(2) Sunset. –

(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would -

(i) create a serious threat of death or serious bodily injury to any person;

(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

(3) Evaluation of evidence. - The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

(4) Bar on motions to dismiss. - A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

(5) Construction. - Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.

§ 1605A: Terrorism exception to the jurisdictional immunity of a foreign state

(a) In General. -

(1) No immunity. - A foreign state 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.

(2) Claim heard. - The court shall hear a claim under this section if -

(A)

(i)

(I) the foreign state was designated as a state sponsor of terrorism at the time the act described in paragraph (1) occurred, or was so designated as a result of such act, and, subject to subclause (II), either remains so designated when the claim is filed under this section or was so designated within the 6-month period before the claim is filed under this section; or

(II) in the case of an action that is refiled under this section by reason of section 1083(c)(2)(A) of the National Defense Authorization Act for Fiscal Year 2008 or is filed under this section by reason of section 1083(c)(3) of that Act, the foreign state was

designated as a state sponsor of terrorism when the original action or the related action under section 1605(a)(7) (as in effect before the enactment of this section) or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104- 208) was filed;

(ii) the claimant or the victim was, at the time the act described in paragraph (1) occurred -

(I) a national of the United States;

(II) a member of the armed forces; or (III) otherwise an employee of the Government of the United States, or of an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment; and (iii) in a case in which the act occurred in the foreign state against which the claim has been brought, the claimant has afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with the accepted international rules of arbitration; or (B) the act described in paragraph (1) is related to Case Number 1:00CV03110 (EGS) in the United States District Court for the District of Columbia.

(b) Limitations. - An action may be brought or maintained under this section if the action is commenced, or a related action was commenced under section 1605(a)(7) (before the date of the enactment of this section) or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104-208) not later than the latter of -

(1) 10 years after April 24, 1996; or

(2) 10 years after the date on which the cause of action arose.

(c) Private Right of Action. - A foreign state that is or was a state sponsor of terrorism as described in subsection (a)(2)(A)(i), and any official, employee, or agent of that foreign state while acting within the scope of his or her office, employment, or agency, shall be liable to -

(1) a national of the United States,

(2) a member of the armed forces,

(3) an employee of the Government of the United States, or of an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment, or (4) the legal representative of a person described in paragraph (1), (2), or (3), for personal injury or death caused by acts described in subsection (a)(1) of that foreign state, or of an official, employee, or agent of that foreign state, for which the courts of the United States may maintain jurisdiction under this section for money damages. In any such action, damages may include economic damages, solatium, pain and suffering, and punitive damages. In any such action, a foreign state shall be vicariously liable for the acts of its officials, employees, or agents.

(d) Additional Damages. - After an action has been brought under subsection (c), actions may also be brought for reasonably foreseeable property loss, whether insured or uninsured, third party liability, and loss claims under life and property insurance policies, by reason of the same acts on which the action under subsection (c) is based.

(e) Special Masters. - (1) In general. - The courts of the United States may appoint special masters to hear damage claims brought under this section. (2) Transfer of funds. - The Attorney General shall transfer, from funds available for the program under section 1404C of the Victims of Crime Act of 1984 (42 U.S.C. 10603c), to the Administrator of the United States district court in which any case is pending which has been brought or maintained under this section such funds as may be required to cover the costs of special masters appointed under paragraph (1). Any amount paid in compensation to any such special master shall constitute an item of court costs.

(f) Appeal. - In an action brought under this section, appeals from orders not conclusively ending the litigation may only be taken pursuant to section 1292(b) of this title.

(g) Property Disposition. -

(1) In general. - In every action filed in a United States district court in which jurisdiction is alleged under this section, the filing of a notice of pending action pursuant to this section, to which is attached a copy of the complaint filed in the action, shall have the effect of establishing a lien of lis pendens upon any real property or tangible personal property that is -

(A) subject to attachment in aid of execution, or execution, under section 1610;

(B) located within that judicial district; and

(C) titled in the name of any defendant, or titled in the name of any entity controlled by any defendant if such notice contains a statement listing such controlled entity.

(2) Notice. - A notice of pending action pursuant to this section shall be filed by the clerk of the district court in the same manner as any pending action and shall be indexed by listing as defendants all named defendants and all entities listed as controlled by any defendant.

(3) Enforceability. - Liens established by reason of this subsection shall be enforceable as provided in chapter 111 of this title.

(h) Definitions. - For purposes of this section -

(1) the term “aircraft sabotage” has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation;

(2) the term “hostage taking” has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages;

(3) the term “material support or resources” has the meaning given that term in section 2339A of title 18;

(4) the term “armed forces” has the meaning given that term in section 101 of title 10;

(5) the term “national of the United States” has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(22) The term “national of the United States” means

(A) a citizen of the United States, or

(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(6) the term “state sponsor of terrorism” means a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism; and

(7) the terms “torture” and “extrajudicial killing” have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (1350 note).

§ 1606: Extent of liability

As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages; if, however, in any case wherein death was caused, the law of the place

where the action or omission occurred provides, or has been construed to provide, for damages **only punitive** in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

§ 1607: Counterclaims

In any **action brought by a foreign state**, or in which a foreign state **intervenes**, in a court of the United States or of a State, **the foreign state shall not be accorded immunity** with respect to any counterclaim -

- (a) for which a foreign state would not be entitled to immunity under section 1605 or 1605A of this chapter had such claim been brought in a separate action against the foreign state; or
- (b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or
- (c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

§ 1608: Service; time to answer; default

(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

- (1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or
- (2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or
- (3) if service cannot be made under paragraphs (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or
- (4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services - and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted. As used in this subsection, a "notice of suit" shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.

(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

- (1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or
- (2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process in the United States; or in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraphs (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state -

(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

(C) as directed by order of the court consistent with the law of the place where service is to be made.

(c) Service shall be deemed to have been made -

(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section.

§ 1609: Immunity from attachment and execution of property of a foreign state

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property in the United States of [a foreign state shall be immune from attachment arrest and execution](#) except as provided in sections 1610 and 1611 of this chapter.

§ 1610: Exceptions to the immunity from attachment or execution

(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if -

(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

(2) the property is or was used for the commercial activity upon which the claim is based, or

(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

(4) the execution relates to a judgment establishing rights in property - (A) which is acquired by succession or gift, or (B) which is immovable and situated in the United States: Provided, That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment, or

(6) the judgment is based on an order confirming an arbitral award rendered against the foreign state, provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement, or

(7) the judgment relates to a claim for which the foreign state is not immune under section 1605A, regardless of whether the property is or was involved with the act upon which the claim is based.

(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if -

(1) the agency or instrumentality has waived its immunity from attachment in aid of execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a)(2), (3), or (5), 1605(b), or 1605A of this chapter, regardless of whether the property is or was involved in the act upon which the claim is based.

(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section, if -

(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

(e) The vessels of a foreign state shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).

(f)

(1)

(A) Notwithstanding any other provision of law, including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claiming such property is not immune under section 1605(a)(7) (as in effect before the enactment of section 1605A) or section 1605A.

(B) Subparagraph (A) shall not apply if, at the time the property is expropriated or seized by the foreign state, the property has been held in title by a natural person or, if held in trust, has been held for the benefit of a natural person or persons.

(2)

(A) At the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under section 1605(a)(7) (as in effect before the enactment of section 1605A) or section 1605A, the Secretary of the Treasury and the Secretary of State should make every effort to fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such state. (B) In providing such assistance, the Secretaries -

(i) may provide such information to the court under seal; and

(ii) should make every effort to provide the information in a manner sufficient to allow the court to direct the United States Marshall's office to promptly and effectively execute against that property.

(3) Waiver. - The President may waive any provision of paragraph (1) in the interest of national security.

(g) Property in Certain Actions. -

(1) In general. - Subject to paragraph (3), the property of a foreign state against which a judgment is entered under section 1605A, and the property of an agency or instrumentality of such a state, including property that is a separate juridical entity or is an interest held directly or indirectly in a separate juridical entity, is subject to attachment in aid of execution, and execution, upon that judgment as provided in this section, regardless of -

(A) the level of economic control over the property by the government of the foreign state;

(B) whether the profits of the property go to that government;

(C) the degree to which officials of that government manage the property or otherwise control its daily affairs;

(D) whether that government is the sole beneficiary in interest of the property; or

(E) whether establishing the property as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.

(2) United states sovereign immunity inapplicable. - Any property of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from attachment in aid of execution, or execution, upon a judgment entered under section 1605A because the property is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act.

(3) Third-party joint property holders. - Nothing in this subsection shall be construed to supersede the authority of a court to prevent appropriately the impairment of an interest held by a person who is not liable in the action giving rise to a judgment in property subject to attachment in aid of execution, or execution, upon such judgment.

§ 1611: Certain types of property immune from execution

(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process

impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution, if -

(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution, notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

(2) the property is, or is intended to be, used in connection with a military activity and

(A) is of a military character, or

(B) is under the control of a military authority or defense agency.

(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official purposes.

So where and when can one use this foreign immunity status? It would depend on the reason you have to consider it. Example: driving infractions? Were you in fact involved in commercial activity? Some people think that if you have FRNs or a credit card on you, you are involved in commerce, a commercial activity. Then the question becomes, how did they know what you have on you. Was it a presumption? Or was the presumption not that you have some form of monetary usability but that you were involved in commerce? A statement of I am not involved in commercial activity would destroy that presumption, I would assume. This is something you have to consider seriously if you are going to make this claim. Have you injured anyone, which would be a crime, a commercial activity: malum in se, or malum prohibitum; some kind of infraction. This malum prohibitum is based on statutes. Statutes are created for the working of the government, the government is subject to them. Some believe that the local citizens are also subject to them. However, if you were foreign to their government, then I would suspect that you could claim foreign immunity. It will be for the reader how to present it. This is just to explain the validity of doing so. Are there any protections?

- TITLE 18 Sec. 242. - Deprivation of rights under color of law: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the **deprivation** of any rights, privileges, or **immunities** secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an **alien**, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if **such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill**, shall be fined under this title, **or imprisoned for any term of years or for life, or both, or may be sentenced to death.**

- Title 42 § 1983 Civil action for **deprivation of rights**: Every person who, **under color of any statute**, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or **immunities** secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

While these have a mix of persons and jurisdiction, if they are acting against you, it is color of law. In U.S. law, the term "color of" denotes the "mere semblance of legal right", the "pretense or appearance of" right; hence, an action done under "color of law" colors (adjusts) the law to the circumstance, yet said apparently legal action contravenes the law. "Under color of authority" is a legal phrase used in the United States indicating a person is claiming or implying the acts he or she is committing are related to and legitimized by his or her role as an agent of governmental power, especially if the acts are unlawful. Learn how to present your claim.