

IN THE CIRCUIT COURT  
OF THE ELEVENTH JUDICIAL CIRCUIT, IN  
AND FOR DADE COUNTY, FLORIDA

WILLIAM ARMELLINI,

Plaintiff,

v.

Case No. 06-19391-CA-06

DEPARTMENT OF REVENUE,  
STATE OF FLORIDA,

Defendant.

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**MOTION TO DISMISS**

Defendant, Department of Revenue, a State of Florida agency, by and through the undersigned counsel, pursuant to the applicable rules of procedure, including Rule 1.140, Florida Rules of Civil Procedure, hereby moves this Honorable Court for an order dismissing the Plaintiff's Action for Declaratory Judgment and Injunctive Relief based upon the lack of personal jurisdiction of this Court over Defendant because the Defendant is not responsible for alimony issues and is not otherwise a proper party in alimony actions; because sovereign immunity has not been waived; and because venue would not lie with this Honorable Court because the Defendant is headquartered in Tallahassee, Florida. As grounds for the Defendant's Motion, the Defendant respectfully asserts:

1. This Honorable Court lacks personal jurisdiction over the Defendant regarding the matters asserted in the Complaint. The Plaintiff erroneously implies in Paragraphs 4 and 5 of the Complaint that the Florida Department

DEPARTMENT OF REVENUE is the proper Defendant in Plaintiff's alimony matter because it is the "State's enforcing agent" for alimony provisions. The Department has some responsibilities relating to child support payments; but no authority or responsibilities regarding alimony payments.

2. The Florida Department of Revenue does not have enforcement powers regarding alimony issues pursuant to Chapter 61, Florida Statutes, or any other related authority regarding alimony.
3. There has been no applicable waiver of sovereign immunity; either by statute or action of the Defendant.
4. A state agency can not be compelled to exercise jurisdiction that has not been conferred upon it by specific legislation.
5. Even if Defendant were a proper Plaintiff, this Honorable Court does not have jurisdiction based on the common law principle that venue properly


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lies in the county where the State Agency Defendant maintains its principal headquarters. Florida Department of Children and Families v. Sun-Sentinel, Inc., 865 So.2d 1278, 29 Fla. L. Weekly S 55 (FLA 2004).

6. The Defendant denies all of the Plaintiff's allegations, and demands strict proof thereof.
7. The Defendant reserves the right to assert any applicable defenses to the Complaint.

WHEREFORE, Defendant, Department of Revenue, respectfully requests that this Honorable Court grant the foregoing Motion to Dismiss and issue an Order dismissing the Plaintiff's Action for Declaratory Judgment and Injunctive Relief.

Respectfully submitted,

  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of this motion has been sent by U.S. Mail to William A. Armellini, Plaintiff, at 474 Falcon Avenue, Miami Springs, Florida 33166, this 4th day of October, 2006.

  
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Jill D. Ghini