

NO. 97

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**In the
Supreme Court of the United States**

OCTOBER TERM, 1983

State of Louisiana,

Plaintiff,

vs.

**The Western Reserve Historical Society
(An Ohio Corporation)**

Defendant.

**MOTION FOR LEAVE TO FILE AN ORIGINAL
COMPLAINT, THE ORIGINAL COMPLAINT, and
MEMORANDUM IN SUPPORT OF MOTION TO
FILE AN ORIGINAL COMPLAINT**

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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

State of Louisiana,

Plaintiff,

vs.

The Western Reserve Historical Society
(An Ohio Corporation)

Defendant.

MOTION FOR LEAVE TO FILE AN
ORIGINAL COMPLAINT

Pursuant to Rule 9 of the Rules of the Supreme Court of the United States, the State of Louisiana respectfully moves this Honorable Court for leave to file the attached original complaint for return of historical documents belonging to the State of Louisiana and in the custody and control of The Western Reserve Historical Society, a citizen of the State of Ohio.

Respectfully submitted,

WILLIAM J. GUSTE, JR.
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By: _____
ATTORNEYS for Plaintiff

*Counsel of Record

IN THE
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OCTOBER TERM, 1983

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Defendant.

MEMORANDUM IN SUPPORT OF MOTION FOR
LEAVE TO FILE AN ORIGINAL COMPLAINT

The Western Reserve Historical Society, an Ohio non-profit corporation has in its custody land survey maps and related documents that clearly are part of the public domain of the State of Louisiana. These historical surveys are physically located in the State of Ohio. The State of Louisiana seeks an order requiring that the documents be returned to its custody. We urge this Court to grant the State of Louisiana leave to file the attached original complaint.

Louisiana has no federal forum save this Honorable Court. We seek relief as a sovereign state that has been denied possession of public documents that form a critical historic link in the title to state and private land within the State of Louisiana. We seek relief against a citizen of another state. No diversity of citizenship exists in this instance so as to give the federal district courts concurrent jurisdiction with this Court.

The issue at bar is one of grave public importance. It involves the possession by a private group of property of a Sovereign State. Public policy requires that a question concerning the possession of public documents of a Sovereign State should never be litigated in the state courts of the possessor. To so require would force a State to submit itself and the title of its property to a foreign jurisdiction. The Constitution of the United States granted this Court original jurisdiction over such matters, so as to insure the availability of a forum designed to minimize the danger of hostility toward another sovereign.

The plaintiff is mindful of this Court's sparing use of its original jurisdiction. Louisiana also is mindful of the burden the appellate jurisdiction of this Court places upon it. We would not invoke this Court's original jurisdiction were any other possible forum available. We are convinced, however, that much would be sacrificed by requiring a state to choose between abandoning documents that it clearly owns or submitting itself to the laws and courts of another state. For this reason, we urge the Court to grant Louisiana leave to file an original complaint here in the only jurisdiction that can protect the interests of the State in its property.

Inasmuch as this Court is structured to perform as an appellate tribunal and is ill equipped for the task of fact-finding, the plaintiff asks that the Court designate a special master to hear the evidence. In this way, the Court will have the benefit of a factfinding and will be relieved of the enormous time and energy required by an original complaint. The ends of justice still would be met because Louisiana would have an independent forum to enforce its rights against the citizen of another state.

CONCLUSION

The principle policies underlying the Article III jurisdictional grant to the Supreme Court will best be served by the grant of leave to file an original complaint with this Court. No State should be compelled to resort to the tribunals of other States for redress since parochial factors might often lead to the appearance, if not the reality, of partiality to one's own. This is especially true, here, where public property principles are at issue.

Appointment of a special master for fact-finding will aid the Court by reducing the time and energy required to litigate this matter. We urge this Court to grant Louisiana leave to file the attached complaint.

Respectfully submitted,

WILLIAM J. GUSTE, JR.
Attorney General

KENDALL VICK
Chief Counsel

LISA KEEGAN
Staff Attorney

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COMPLAINT

JURISDICTION

1. Jurisdiction of this action is conferred upon the Supreme Court of the United States by the United States Constitution, Article III, Section 2, and 28 U.S.C. § 1251(b)(3).

STATEMENT OF THE CASE

2. An actual justiciable controversy exists between the plaintiff, the State of Louisiana, and the defendant, The Western Reserve Historical Society, an Ohio non-profit corporation. The plaintiff requires relief in the nature of an order requiring the delivery to Louisiana of historical public documents belonging to the State of Louisiana which are currently in the custody of the defendant.

3. This is a complaint for the return of public documents to the State of Louisiana, the owner of the documents.

4. The documents in question are historical land survey materials that are an important link in the chain of title of both public and private land claims in the State of Louisiana.

THE PARTIES

5. The State of Louisiana is a sovereign state of the United States.

6. The defendant, The Western Reserve Historical Society, is an Ohio non-profit corporation.

FACTS

7. In 1817, the State of Louisiana purchased from the heirs of the late Spanish Surveyor General, Laveau Trudeau, land survey documents relating to land within the boundary of the State of Louisiana and the surrounding area.

8. State land surveys and related documents also were prepared by later Louisiana Surveyor Generals as a part of their official duties as State officers.

9. Both groups of documents are historical public documents belonging to the State of Louisiana.

10. They were housed in the office of the official custodian of state land records, the Louisiana State Land Office.

11. The documents disappeared from state custody late in the nineteenth century.

12. Some of the documents surfaced again in the hands of a New York City Auction House, Swann Galleries, Inc. in November, 1982.

13. The current possessor of the documents is The Western Reserve Historical Society, an Ohio non-profit corporation.

14. The State of Louisiana, through its Attorney General, demanded the return of the documents to the State of Louisiana.

15. The defendant has refused to deliver the items to the State.

RELIEF REQUESTED

WHEREFORE, the plaintiff respectfully prays that this Court:

A. Appoint a special master to hear evidence in this matter;

B. Order that the defendant deliver into the custody of the State of Louisiana, the land survey maps and related materials belonging to the State of Louisiana and now in the hands of the defendant; and, further,

C. Grant the plaintiff such other relief as this Court deems just and proper.

Respectfully submitted,

WILLIAM J. GUSTE, JR.
Attorney General

KENDALL VICK

Chief Counsel

LISA KEEGAN

Staff Attorney

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CERTIFICATE OF SERVICE

I. Eavelyn T. Brooks, counsel of record for the plaintiff and a member of the Bar of the Court, do hereby certify that, in accordance with Rule 28.3, three (3) copies of the Motion To File An Original Complaint, The Original Complaint, and Memorandum In Support Of Motion To File An Original Complaint were served on all parties required to be served on this date by depositing same in the United States mail, first-class postage prepaid, and addressed as follows:

1. Western Reserve Historical Society
10825 East Boulevard
Cleveland, Ohio 44106
2. Mr. Arthur P. Steinmetz
Walter, Haverfield, Buescher & Chockley
Attorneys At Law
1215 Terminal Tower
Cleveland, Ohio 44113

This 24 day of November, 1983.

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