

## LAW OFFICES

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August 28, 1945

Box 8  
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Item 3  
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ASW 014.311 WDC Exclu. Orders  
Wilcox

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Henry L. Stimpson, Esq.  
Secretary of War  
War Department  
Washington, D. C.

re Wilcox v. Emmons, Municiple Court, City of  
San Diego, No. 20495

re Wilcox v. Emmons, United States District Court,  
Southern District of California, No. 475

Dear Sir:

On September 5, 1944, as counsel for Homer G. Wilcox, I caused to be filed suits against Generals Emmons and DeWitt in both the Municipal Court of San Diego and the Federal Court at Los Angeles.

Courtesy copies of the complaint in each case have been furnished to the United States Attorney at Los Angeles, and to the Western Defense Command.

The complaints seek damages against the military officers because of an alleged removal of the plaintiff by the defendants under individual military exclusion orders which are claimed to have been in violation to the rights of the plaintiff, and in excess of the authority of the defendants.

In view of the policy of the War Department and of the Department of Justice to moot cases in the courts which would result in a judicial determination as to the authority of the War Department over civilians through the issuance of individual military exclusion orders, the only remaining method of securing a ruling by the courts is through a suit for damages. It is for that reason that the complaints in the above cases were filed; and for that reason I am instructed by Mr. Wilcox to proceed with the above cases.

Thus far the defendants have not been served, for the reason that the plaintiff does not know their whereabouts. Of course the War Department does. Now that hostilities have ended, may I respectfully request that the War Department either arrange that Generals Emmons, DeWitt, and M. R. Hilliard accept service of process in the above cases; or that the War Department be good enough to advise me the present whereabouts of these officers in the army in order that service may be made upon them.

May I state that I feel that this request is neither unusual nor unwarranted; since the defendants acted as army officers and under the claim that they were acting pursuant to their authority as officers of the United States Army.

Sincerely yours,  
/s/ A. L. WIRIN

28 Aug 45

CC

Edward J. Ennis, Director, Alien Enemy Control Unit  
U. S. Department of Justice

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