

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY



MARTIN LUTHER KING JR. FEDERAL BLDG. & U.S. COURTHOUSE  
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WILLIAM J. MARTINI  
JUDGE

LETTER OPINION

January 20, 2010

Stephen Robert Lehr  
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*(Attorney for Plaintiff)*

Ann Elizabeth Nash  
U.S. Department of Justice  
P.O. Box 227  
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Washington, DC 20044  
*(Attorney for Defendant)*

**RE: Joseph G. Kilraine v. United States of America**  
**Civ. No. 07-4778 (WJM)**

Dear Counsel:

Plaintiff Joseph Kilraine brings the instant action to recover funds paid to the Government, pursuant to a “trust fund penalty assessment” levied against him by the Internal Revenue Service (“IRS”). Currently before the Court are the parties’ cross-motions for summary judgment. After review of the papers and the relevant law, and for the reasons set forth below, Plaintiff Kilraine's motion for summary judgment is **GRANTED** and the Government's motion is **DENIED**. In addition, Plaintiff Kilraine’s request for attorney's fees is **DENIED** without prejudice.