IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Jeffrey T. Maehr, Plaintiff, v. John Koskinen, CIR, et al, Defendant(s).	)	Case# 1:16-cv-00512-GPG

AMENDED LEGAL BRIEF IN SUPPORT OF MOTION TO SHOW CAUSE

Plaintiff comes before this honorable Court with this amended legal Brief in Support of claims against all Defendants. Plaintiff would like the court to strongly consider the almost 103 year history of the main issue. The facts and truth of many aspects of this have been obfuscated behind a "word-smithing" convoluted maze of smoke and mirrors and rabbit trails, all part of a house of cards leading away from the simple original intent of law and of Congress, and of the Supreme Court.

Plaintiff would like this to be a simpler story to unwind and expose the real truth, but the depth of the fraud, hearsay and presumption, and yes, misunderstanding, defies such. Plaintiff herein details the evidence in fact and of record that has now been exposed over the last several decades due to the advent of the personal computer and Internet. What would have taken many months or even years to manually research, came down to months, and the evidence is readily available and now collected by experts and others across these 50 states.

Plaintiff prays that this may be the Federal Court for the District of Colorado's "Legacy" of restoring what was a normal part of freedom and liberty in these united States as originally intended for the People by our Founding Generation and Congress.

FACTS OF THE CASE

1. Plaintiff Jeffrey T. Maehr, Pro Se[1], almost 63 years of age and a disabled Navy Veteran for 44 years, not gainfully employed since 2005, has been injured[2], and had his rights trampled by unlawful taking (or assisting the taking, or disregarding lawful conflict challenges) of his entire living via void Notices of Levy, and absent due process[3], and absent proof of liability for alleged tax assessment.

2. This recent attacking includes the taking of ALL Plaintiff's Social Security

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[1] "As the Court unanimously held in *Haines v. Kerner*, 404 U.S. 519 (1972), a pro se complaint, 'however inartfully pleaded,' must be held to 'less stringent standards than formal pleadings drafted by lawyers' and can only be dismissed for failure to state a claim if it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.' Id., at 520 521, quoting *Conley v. Gibson*, 355 U.S. 41,45 46 (1957)." *Estelle, Corrections Director, et al. v. Gample* 29 U.S. 97, 97 S. Ct. 285, 50 L. Ed. 2d 251.

[2] The Court refers to injury in fact as "an invasion of a legally-protected interest," but in context...it is clear the reference is to any interest that the Court finds protectable under the Constitution, statutes, or regulations; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

> "...the Court...has now settled upon the rule that, "at an irreducible minimum," the constitutional requisites under Article III for the existence of standing are that the plaintiff must personally have suffered some actual or threatened injury that can fairly be traced to the challenged action of the defendant, and that the injury is likely to be redressed by a favorable decision. *Valley Forge Christian College v. Americans United*, 454 U.S. 464, 472 (1982); *Allen v. Wright*, 468 U.S. 737, 751 (1984); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).
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> The statutory right most relied on was the judicial review section of the Administrative Procedure Act, which provided that "[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof." 5 U.S.C. § 702. See also 47 USC § 202(b)(6) (FCC); 15 U.S.C. § 77i(a) (SEC); 16 U.S.C. § 825a(b) (FPC).

[3] *Fuentes v. Shevin, Attorney General of Florida, et al,* and *Ray Lien Construction, Inc. v. Jack M. Wainwrite* condemn involuntary administrative wage and bank account garnishments without a judgment from a court of competent jurisdiction. There are essentials to any case or controversy, whether administrative or judicial, arising under the Constitution and laws of the United States (Article III § 2, U.S. Constitution, "arising under" clause). See *Federal Maritime Commission v. South Carolina Ports Authority*, 535 U.S. (2002), decided March 28, 2002, and decisions cited therein. The following elements are indispensable:

When challenged, standing, venue and all elements of subject matter jurisdiction, including compliance with substantive and procedural due process requirements, must be established in record; **2.** Facts of the case must be established in record; **3.** Unless stipulated by agreement, facts must be verified by competent witnesses via testimony (affidavit, deposition or direct oral examination); **4.** The law of the case must affirmatively appear in record, which in the instance of a tax controversy necessarily includes taxing and liability statutes with attending regulations (See *United States of America v. Menk*, 260 F. Supp. 784 at 787 and *United States of America v. Community TV, Inc.*, 327 F.2d 79 (10th Cir., 1964)); 5. The advocate of a position must prove application of law to stipulated or otherwise provable facts; and 6. The trial court or decision-maker, whether administrative or judicial, **must render a written decision that includes findings of fact and conclusions of law**. The exception to this requirement is the decision of juries in common law courts. (Emphasis added).

Retirement funds, outside of law despite the filing of this complaint prior to this taking), and the twice attempted taking of ALL of his Veterans Disability Compensation (which is exempt from withholding or levy of any sort, with ongoing attempts expected), all apart from due process of law. In Sniadach v. Family Finance Corp., (1969), the U.S. Supreme Court overturned similar actions apart from due process of law and lawful judgement. Defendants have willfully and wantonly violated Plaintiff's due process rights, which shocks the conscience([4]), in this garnishment

3. Defendants Koskinen/Agents have consistently failed to provide proof of debt, or to respond to lawful Supreme Court cases (See footnote # 24 below) Plaintiff has provided and relied upon([5]), and multiple constitutional and IR Code conflicts, of its hearsay and presumptions which is no kind of evidence (See Exhibit H) about Plaintiff's liability for alleged tax debt without any evidence of record, and only fraudulent documents and testimony. These issues have never been properly adjudicated in any court in America.

4. Plaintiff wants to make it clear once again that he is NOT contesting the government's right to tax lawful "income", and that this is NOT a "tax protest" issue. However, that right to tax must be under the Constitution (direct and indirect as upheld by the U.S. Supreme and other courts- See Footnote 16 & 26 below), and under non-conflicting Statutory bounds as provided. This IS a constitutional, due process, and tax "honesty" issue, and needs to be addressed as such, and Plaintiff refutes the form, method and type of tax liability he is being assessed for, and the clear unlawful methods for taking his assets, creating a liability for such unlawful taking([6]). There must be proof that Plaintiff is both "subject to and liable for" alleged taxes, which is NOT of record.

5. Plaintiff moves the court to take judicial notice([7]) of all the following facts and cases in evidence proving that Plaintiff's life and constitutional liberties and

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[4] The U.S. Supreme Court established the "shock-the-conscience test" in *Rochin v. California*, 342 U.S. 165, 72 S. Ct. 205, 96 L. Ed. 183 (1952), based on the prohibitions against depriving any person of "life, liberty, or property without due process of law.

[5] No one should be punished unnecessarily for relying upon the decisions of the U.S. Supreme Court. *U.S. v. Mason*, 412 U.S. 391, 399-400 (1973)

[6] C.F.R. 26 (Code of Federal Regulations) 301.6332-1(c) which states in part: "... Any person who mistakenly surrenders to the United States property or rights to property **not properly subject to levy** is not relieved from liability to a third party who owns the property..." (Emphasis added).

[7] **JUDICIAL COGNIZANCE.** Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence. [Black's Law Dictionary, 5th Edition, page 760.]

freedoms are being invaded([8]), and herein provides the following facts of record.

6. Defendants Koskinen/agents are in NO way under any immediate or damaging threat, or loss of vital government interests, (other than continued unconstitutional and unlawful taking), but Plaintiff IS in immediate danger of complete loss of functionality, and irreparable damages to himself and family, since ALL his assets are being unlawfully attacked which is what it takes to pay monthly bills just to survive.

SUPPORTING FACTS FOR 1st, and 4th CLAIMS FOR RELIEF

7. Defendants agents Vencato and Murphy, under the authority of Koskinen, and in what appears to be a vindictive and malicious move against Plaintiff for his clear challenges of conflicts in said Defendant's presumptions of being "subject to and liable for" alleged taxes being assessed, and his defense against unconstitutional and illegal administrative and/or other actions by same, have filed multiple Notices of Levy([9]) several times, over several years, to all his private and business contacts, (See Exhibits G1-8, - others available), in complete disregard for their own IR Code laws (See Exhibits D 1-8) for the filing of any lawful Levy, as well as other laws.

8. Alleged lawful Notices of Levy have fraudulently not disclosed relevant sections of IRC 6331 - Levy and distraint, Section A, which is the authority to Levy directly, but is NOT disclosed to banks and others, (See Exhibit D, P.4, #3 & D8). Levies have also shown a frivolous yet significant alteration in amounts allegedly owed with no validation or proof of debt to substantiate the actions.

9. The Defendants Koskinen/agents want this court to ignore the history of Levy and Lien actions. Certainly the IRS cannot be allowed to benefit from its own wrongdoing because its "administrative practice" has been to mislead courts and ignore the legislative history expressing intent to retain the existing distraint procedures which required warrants, not to mention valid proof of alleged debt. "A

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[8] **INVASION**. (Blacks 4th) An encroachment upon the rights of another; the incursion of an army for conquest or plunder. See *Etna Ins. Co. v. Boon*, 95 U.S. 129, 24 L.Ed. 395. "Invade" = aggress, arrogate, assail, assault, attack, break in, encroach, enter hostilely, impinge, infringe, intrude, obtrude, overrun, overtake, penetrate, raid, run over, trespass, usurp, violate.

[9] Plaintiff does NOT argue alleged "amount" of alleged Levies in any foundational argument, as the entire allege debt in toto is invalid and under dispute, and NO amount is accepted, and the entire action challenged, but includes such argument if the actual evidence is being ignored, to show the egregious unlawful actions of defendants under their own laws. The Notice of Levy document issues simply reveals more of the ongoing fraudulent, frivolous and erroneous actions themselves, as well as the frivolous figures which have been manufactured out of thin air to obviously try to intimidate Plaintiff and deceive the court, but which has no lawful bearing on any evidence of record for creating any such forms and figures against Plaintiff under IR Code or constitutional or case law.

recent (1997-JTM) GAO (Government Accountability Office) report([10]) indicated that the GAO was unable to determine whether the IRS was routinely using lawful enforcement practices or not." Now we know the IRS, and agents, are not.

10. We also cannot assume that Congress would eliminate its regard for the due process rights of individuals just because some would suggest it is easier or simpler for the IRS to collect taxes that way. Such construction presumes that the Congress had the authority to override the 5th Amendment without the Amendment process, allowing for Congress to grant authority to the IRS to violate the Constitutional Amendment. Congress had no such authority and made no such attempt. The requirements of the Internal Revenue Code does not and cannot exceed the restrictions placed on the government by the Constitution absent an amendment to that Constitution. To participate in that violation of the Constitution places the Defendants at odds with the mandate to obey the laws of this country.

11. Plaintiff has challenged clear conflicts in IR Code through standing U.S. Supreme Court cases and other evidence regarding his personal liability, and Defendants Koskinen/agents hearsay, presumptions and fiction of law([11]), about his alleged "income" tax liability([12]), through 12 courts([13]) to date, (now 13) with hundreds of pages of documents, but with no answers forthcoming regarding the specific point by point conflict challenges, and contrary to the IRS Mission

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[10] "...we (1) asked IRS to provide us with available basic statistics on its use, and misuse, of lien, Levy and seizure authority from 1993 to 1996;...while IRS has some limited data about its use, and misuse, of collection enforcement authorities, these data are not sufficient to show (1) the extent of the improper use of lien, Levy, or seizure authority; (2) the causes of the improper actions; or (3) the characteristics of taxpayers affected by improper actions." From GAOT97-155.html, September 23, 1997.

[11] **FICTION OF LAW**. An assumption or supposition of law that something which is or may be false is true, or that a state of facts exists which has never really taken place. An assumption, for purposes of justice, of a fact that does not or may not exist. A rule of law which assumes as true, and will not allow to be disproved, something which is false, but not impossible. *Ryan v. Motor Credit Co*., 30 N.J.Eq. 531, 23 A.2d 607, 621. Blacks Law Dictionary, 6th Edition.

[12] As compared to liability clearly defined in Section 5001 - Alcohol; Section 5703 - Tobacco; Section 5801, 5811 and 5821 - Firearms. "The taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability". *Boathe v. Terry*, 713 F.2d 1405, at 1414 (1983).

[13] All 12 court cases were in regard to third party summons Plaintiff was challenging under IRS standing and jurisdictional authority to be acting against Plaintiff in his personal, private capacity. All conflict challenges went unanswered and Defendants Koskinen/agents are in default. (All court case numbers available if needed).

Statement([14]) and Taxpayer Bill of Rights (See Exhibits E1-E3), and alleged standards for responding to such relevant questions and issues.

12. Plaintiff has simply wanted clear proof of the alleged tax debt and other answers to clear conflicts which counter Constitutional issues, Supreme Court case precedent, Congressional testimony, the IR Code itself and other laws, as to Plaintiff's personal liability as claimed, and he has only received mere hearsay, presumption and frivolous([15]) responses, and with a few cited court cases (which cannot rise to the level of the U.S. Supreme Court([16])), but which claimed other's similar conflict challenges were "frivolous". However, the cited courts did not have the actual subject matter and direct evidence in the record for any validity or support for such a finding, and said court findings are NOT relevant to this instant case. (See footnote 16, #3). These specific conflict challenges have been met with only silence([17]), and which silence can only be a form of fraud , including the deliberate

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[14] "Conclusions reached by examiners must reflect correct application of the law, regulations, court cases, revenue rulings, etc. Examiners must correctly determine the meaning of statutory provisions and not adopt strained interpretation." (IRS Mission Statement - Exhibits E 1-3).

[15] **Frivolous**; "An answer or plea is called 'frivolous' when it is clearly insufficient on its face, and does not controvert the material points of the opposite pleading, and is presumably interposed for mere purposes of delay or to embarrass the plaintiff. *Ervin v. Lowery*, 64 N. C. 321; *Strong v. Sproul*, 53 N. Y. 499; *Gray v. Gidiere*, 4 Strob. (S. C.) 442; *Peacock v. Williams*, 110 Fed. 910. *Liebowitz v. Aimexco Inc*., Colo.App., 701 P.2d 140, 142." Black's Law Dictionary, 6th Edition. A frivolous demurrer has been defined to lie in one which is so clearly untenable, or its insufficiency so manifest upon a bare inspection of the pleadings, that its character may be determined without argument or research." *Cottrill v. Cramer*, 40 Wis. 558.

The question that needs to be addressed is exactly who has the "frivolous" responses in these and past court proceedings, and who has the actual evidence in fact that is being ignore?

[16] *Internal Revenue Manual:*4.10.7.2.9.8 (01-01-2006) Importance of Court Decisions;

1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.
2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.
3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the (IR) Service **only for the particular taxpayer and the years litigated**... (Emphasis added).

[17] Something the IRS was previously chastised about by the U.S. Supreme Court but has completely ignored - "Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . . **We cannot condone this shocking behavior by the IRS**. Our revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the same from the government in its enforcement and collection activities. If that is the case we hope our message is clear... **This sort of deception will not be tolerated and if this is routine it should be corrected immediately**." *U.S. v. Twee*l, 550 F.2d 297, 299. See also *U.S. v. Prudden*, 424 F.2d 1021, 1032; *Carmine v. Bowen*, 64 A. 932. (Emphasis added). **It IS, obviously, "routine"**.

concealment of material information in a setting of fiduciary obligation([18]).

13. Defendants Koskinen/agents have only continued harassment, and evasion of duty to respond to valid questions in a collusive effort by known and unknown (John and Jane Does) agents, proving an ongoing pattern of criminal actions against Plaintiff despite repeated lawful and constructive NOTICE. (All documents, sent certified mail over the years, are available if necessary).

14. Defendants Koskinen/agents are forcing Plaintiff into a legal category titled "taxpayer" (in contrast to being a "nontaxpayer"([19])), with assessed liability where no mechanism of law or activity supports such against Plaintiff with any evidence in fact of record, and despite ample evidence from Plaintiff to the contrary.

15. Defendants Koskinen/agents have also made unlawful determinations of Plaintiff in disregard for his American National/nonresident alien status as described in the IR Code itself([20]), and NOT having "income" coming from sources "within" the United States for "income" tax purposes, nor being employed BY the United States government, among other defects in their presumptions.

16. Defendants Koskinen/agents are seemingly claiming that Plaintiff must pay something not established by any mechanism of law regarding his situation, forcing him into a form of Peonage([21]) without lawful authority, and a violation of the 13th Amendment against slavery.

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[18] "'Fraud in its elementary common law sense of deceit — and this is one of the meanings that fraud bears in the statute, see *United States v. Dial*, 757 F.2d 163, 168 (7th Cir.1985) — includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them, he is guilty of fraud. . . .' *McNally v. United States*, 483 U.S. 350, 371 (1987), quoting Judge Posner in *United States v. Holzer*, 816 F.2d 304 (1987).

[19] "The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws. . ."; *Long v. Rasmussen,* 281 F. 236 (1922). ". . . [P]ersons who are not taxpayers are not within the system and can not benefit by following the procedures prescribed for taxpayers . . ." *Economy Plumbing & Heating v. U.S.,* 470 F2d. 585 (1972).

[20] I.R. Code "nonresident" status is thoroughly substantiated in winning brief in *"Knox v U.S.,* Case No. SA-89-CA-1308 - United States District Court for the Western District of Texas" (Consolidated with SA-89-CA-0761) which Plaintiff customized to his personal status and NOTICED to Defendant Koskinen/agents, and which proves word smithing and other fraud, at its best, and over many decades, yet no response. (Document available).

[21] "A condition of enforced servitude by which a person is restrained of his or her liberty and compelled to labor in payment of some debt or obligation."

17. Plaintiff was never given his lawful right to a hearing with Koskinen/agents, despite repeated demands over the last 13 years. (See supporting facts in Third claim for relief below). The IRS even previously agreed to public hearings requested by third parties, at least twice([22]), on some of these issues only to renege and fail to answer where unknown IRS agents said they would and could, lending further prima facie evidence that Defendants Koskinen/agents CANNOT and WILL NOT provide lawful, constitutional answers to said conflict challenges in the record.

18. Defendants Koskinen/agents have NEVER brought criminal charges against Plaintiff despite claims of illegal actions regarding this alleged and assessed liability, which is prima facie evidence that there ARE no factual criminal violations by Plaintiff that Defendants Koskinen/agents could possibly prove against all evidence of record. The Defendants Koskinen/agents are ONLY acting under administrative rules and color of law([23]) in violation of Plaintiff's due process rights, and Plaintiff is in NO violation of any known laws. Defendants Koskinen/agents do NOT want this incriminating and lawful evidence against them before any Judge, let alone a Jury of his peers.

19. Defendants Koskinen/agents depend solely on hearsay and presumptive color of law beliefs by all banks and other institutions to act apart from lawful channels with no proof of validity or lawful authority to be an accomplice to such taking, such as what Defendants Wells Fargo Bank and Colvin/SSA have done. "Because we say so" is NOT any form of law or proof and is just tyranny.

20. Defendants Koskinen/agents have disregarded ample evidence regarding the confusion regarding alleged liability for "income" taxes, and for "creating" an "income" tax liability where none exists for Plaintiff, and have wantonly, willfully, maliciously and lawlessly misapplied the Constitution, Statutes, IR Administrative

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[22] Bob Schulz of "We the People" organization (http://givemeliberty.org) was active in these unanswered redress of grievance challenges to the IRS in 1995 and later, and which was later answered by the then IRS director with, "We are answering... with enforcement". (Documents and video exchanges available)

[23] Color of law: "The appearance or resemblance, without the substance, of legal right. Misuse of power... and made possible only because wrongdoers are clothed with the authority...is action taken under 'color of law.' *Atkins vs. Lanning*, D.C. Okl., 415 F.Supp. 186, 188." Black's Law Dictionary, 6th Edition;

> "...it's a federal crime for anyone acting under "color of law" to willfully deprive or conspire to deprive a person of a right protected by the Constitution or U.S. law. 'Color of law' simply means the person is using authority given to him or her by a local, state, or federal government agency. The FBI is the lead federal agency for investigating color of law violations, which include acts carried out by government officials operating both within and beyond the limits of their lawful authority."
> https://www.fbi.gov/about-us/investigate/civilrights/color_of_law

Code, and U.S. Supreme Court original case rulings([24]) on the nature of

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[24]These cases below are among many other un-cited cases which certainly call into question the Defendants Koskinen/agents actions and presumptions regarding liability on alleged "excisable income" of Plaintiff as being all his assets, wages or other compensation, (including all business assets) and which Defendants Koskinen/agents have consistently refused to clarify or acknowledge in Plaintiff's case, despite these clear cases in hand which raise legitimate constitutional and lawful questions;

✦ *Helvering v. Edison Bros. Stores,* 133 F2d 575. (1943); "The Treasury cannot by interpretive regulations, make income of that which is not income within the meaning of revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the 16th Amendment."

✦ *Doyle v. Mitchell Brother, Co.,* 247 US 179 (1918); "We must reject in this case . . . the broad contention submitted in behalf of the Government that all receipts—everything that comes in—are income within the proper definition of the term 'income'..."

✦ *Edwards v. Keith,* 231 F. 110 (2nd Cir. 1916); "The statute and the statute alone determines what is income to be taxed. It taxes only income 'derived' from many different sources; one does not 'derive income' by rendering services and charging for them." Webster's Dictionary defines "derived" as: "to obtain from a parent substance." The property or compensation would be the parent substance (principal) and the "gain or profit or income" would be a separate "derivative" obtained from the parent substance (wage or compensation). "From" means "to show removal or separation."

✦ *Southern Pacific v. Lowe,* U.S. 247 F. 330. (1918); "... [I]ncome; as used in the statute should be given a meaning so as not to include everything that comes in. The true function of the words 'gains' and 'profits' is to limit the meaning of the word 'income.' "

✦ *U.S. v. Balard,* 535, 575 F. 2D 400 (1976); (see also *Oliver v. Halstead,* 196 VA 992; 86 S.E. Rep. 2D 858); "The general term 'income' is not defined in the Internal Revenue Code . . . There is a clear distinction between 'profit' and 'wages' or 'compensation for labor.' Compensation for labor cannot be regarded as profit within the meaning of the law . . . The word profit is a different thing altogether from mere compensation for labor . . . The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who performed the services . . . is without support either in the language of the Act or in the decisions of the courts construing it and is directly opposed to provisions of the Act and to Regulations of the Treasury Department . . .";

✦ *Lucas v. Earl,* 281 U.S. 111 (1930); "The claim that salaries, wages, and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who has performed the services . . . is one that is without support, either in the language of the Act or in the decisions of the courts construing it. Not only this, but it is directly opposed to provisions of the Act and to regulations of the U.S. Treasury Department, which either prescribed or permits that compensations for personal services not be taxed as an entirety and not be returned by the individual performing the services... **It is to be noted that, by the language of the Act, it is not salaries, wages or compensation for personal services that are to be included in gross income. That which is to be included is gains, profits, and income derived from salaries, wages, or compensation for personal services**. Since it is not the salary, the wage or the compensation that is to be included, but only the gain, profit or income that may be derived therefrom, it would seem plain that salaries, wages or compensation for personal services are not to be taxed as an entirety... Since, also, it is gain, profit or income to the individual that is to be taxed, it would seem plain that it is only the amount of such salaries, wages or compensation as is **gain, profit or income** to the individual..." (Emphasis added).

Plaintiff's finances, and they appear to be in collusion to unlawfully seize Plaintiff's

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> ✦ "Treasury Department's Division of Tax Research publication, 'Collection at Source of the Individual Normal Income Tax,' 1941." For 1936, **taxable income** tax returns filed represented only 3.9% of the population... likewise, only a small proportion of the population of the United States is covered by the income tax."

(Are we to believe that there were so few Americans working for a living in 1939 and only 3.9% were involved with wages as part of their work? If wages were NOT defined as "income" (*U.S. v Ballard, supra*) THEN, how can Defendant's Koskinen/agents claim it is today?)

> ✦ 26 U.S.C.A.499 '54, Sec. 61(a). "Under the Internal Revenue Act of 1954 if there is no gain, there is no income."

> ✦ U.S.C.A. Const. Am 501 16. "There must be gain before there is 'income' within the 16th Amendment."

> ✦ "The true function of the words 'gains and profits' is to limit the meaning of the word 'income' and to show its use only in the sense of receipts which constituted an accretion to capital. So the function of the word 'income 'should be to limit the meaning of the words 'gains' and 'profits.'" *Southern Pacific v. Lowe*. Federal Reporter Vol. 238 pg. 850. See also, *Walsh v. Brewster. Conn*. 1921, 41 S.Ct. 392, 255 U.S. 536, 65 L.Ed. 762..

> ✦ "I assume that every lawyer will agree with me that we can not legislatively interpret meaning of the word "income." That is a purely judicial matter... The word "income" has a well defined meaning before the amendment of the Constitution was adopted. It has been defined in all of the courts of this country... [as gains and profits-JTM]. If we could call anything that we pleased income, we could obliterate all the distinction between income and principal. The Congress can not affect the meaning of the word 'income' by any legislation whatsoever... Obviously the people of this country did not intend to give to Congress the power to levy a direct tax upon all the property of this country without apportionment." 1913 Congressional Record, pg. 3843, 3844 Senator Albert B. Cummins.

> ✦ "Simply put, pay from a job is a 'wage,' and wages are not taxable. Congress has taxed INCOME, not compensation (wages and salaries)." - *Conner v. U.S.* 303 F Supp. 1187 (1969).

> ✦ "The poor man or the man in moderate circumstances does not regard his wages or salary as an income that would have to pay its proportionate tax under this new system." Gov. A.E. Wilson on the Income Tax (16th) Amendment, N.Y. Times, Part 5, Page 13, February 26, 1911.

> ✦ "Sec. 30 Judicial Definitions of income. By the rule of construction, noscitur a sociis, however, the words in this statute must be construed in connection with those to which it is joined, namely, gains and profits; and it is evidently the intention, as a general rule, to tax only the profit of the taxpayer, not his whole revenue." Roger Foster, A treatise on the Federal Income Tax Under the 556 Act of 1913, 142.

> ✦ More longstanding decided cases have also made the distinction between wages and income. See Peoples Life Ins. Co. v. United States, 179 Ct. Cl. 318, 332, 373 F.2d 924, 932 (1967); Humble Pipe Line Co. v. United States, 194 Ct. Cl. 944, 950, 442 F.2d 1353, 1356 (1971); Humble Oil & Refining Co. v. United States, 194 Ct. Cl. 920, 442 F.2d 1362 (1971); Stubbs, Overbeck & Associates v. United States, 445 F.2d 1142 (CA5 1971); Royster Co. v. United States, 479 F.2d, at 390; Acacia Mutual Life Ins. Co. v. United States, 272 F. Supp. 188 (Md. 1967).

property and are in violation of clear RICO([25]) laws. Complete Amicus and other briefs on this topic of lawful "income" with many more case cites and Congressional testimony on the original subject is available. Plaintiff has repeatedly requested clarification and lawful definition for the word "income" from Defendant's Koskinen /agents, but with no response. (See example, Exhibit J).

21. To further complicate matters, prior to the 16th Amendment, the Supreme Court found that direct taxation of wages was unconstitutional and that it was to be an excise tax([26]) on the conduct of business in a corporate capacity, and other Privilege([27]), and not on any right([28]) to work. The Defendant's Koskinen/agents

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[25] 18 U.S. Code Ch. 96 - Racketeer Influenced and Corrupt Organizations § 1961 - (1) § 1962.

[26] "The Sixteenth Amendment to the Constitution has not enlarged the taxing power of Congress or affected the prohibition against its burdening exports. (11) This is brought out clearly by this court in Brushaber v. Union Pacific Railroad Co., 240 U.S. 1, and Stanton v. Baltic Mining Co., 240 U.S. 103. In the former case it was pointed out that the all-embracing power of taxation conferred upon Congress by the Constitution included two great classes, one indirect taxes or excises, and the other direct taxes, and that of apportionment with regard to direct taxes. It was held that the income tax in its nature is an excise; that is, it is a tax upon a person measured by his income . . . It was further held that the effect of the Sixteenth Amendment was not to change the nature of this tax or to take it out of the class of excises to which it belonged, but merely to make it impossible by any sort of reasoning thereafter to treat it as a direct tax because of the sources from which the income was derived." ([14-15]; Peck & Co. v. Lowe, 247 U.S. 165 (1917). Brief for the Appellant at 11, 14-15; See also Stratton's Independence, LTD. v. Howbert, 231 US 399, 414 (1913)." "... It manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation." *Evans vs. Gore,* 253 US 245, 263 (1920).

[27] "The requirement to pay [excise] taxes involves the exercise of privilege." Flint v. Stone Tracey Company, 220 U.S. 107, 108 (1911). "The legislature has no power to declare as a privilege and tax for revenue purposes, occupations that are of common right" Sims vs. Ahrens, 167 Ark. 557; 271 S.W. 720, 730, 733 (1925).

[28] "It could hardly be denied that a tax laid specifically on the exercise of those freedoms would be unconstitutional... A state [or federal government] may not impose a charge for the enjoyment of a right granted by the federal Constitution." *Murdock v Pennsylvania*, 319 US 105, at 113; 480, 487; 63 S Ct at 875; 87 L Ed at 1298 (1943); *The Antelope*, 23 U.S. 66, 120. "The right to engage in an employment, to carry on a business, or pursue an occupation or profession not in itself hurtful or conducted in a manner injurious to the public, is a common right, which, under our Constitution, as construed by all our former decisions, can neither be prohibited nor hampered by laying a tax for State revenue on the occupation, employment, business or profession. ... Thousands of individuals in this State carry on their occupations as above defined who derive no income whatever therefrom." *Sims v. Ahrens*, 271 SW 720 (Ark. 1925).

"Among these unalienable rights, as proclaimed in the Declaration of Independence, is the right of men to pursue their happiness, by which is meant, the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment... It has been well said that, the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable ...to hinder his employing..,

claim the authority to directly tax Plaintiff's property in the way of "wages, salary or compensation for services" (or take ANY money in ANY account of his regardless of its nature) stems directly and only from the 16th Amendment, but this has been refuted by the U.S. Supreme Court. Plaintiff has repeatedly requested where, then, does the authority to directly tax Plaintiff's wages, etc., as "income" come from if not the 16th Amendment? This, too, has only been met with more silence. If the 16th Amendment conferred "no new power of taxation", what then authorizes the IRS to directly assess Plaintiff's wages or ANY of his assets that is NOT lawfully proven "income?"

22. "Gains, profit and income" (taxed as excise([29])) may be "derived from" capital, or other property like labor, but "wages, salary or compensation for services" are, of themselves, NOT lawful "income" "derived" from anything. This is an equal exchange, with NO "material difference" in the exchange triggering the "realization (gain or profit) requirement" of 1001(a). The concepts of "material difference" and "realization" are thoroughly discussed in *Cottage Savings Assn. v Commissioner*([30]).

23. What the Brushaber, infra court is saying is that any "income" tax, which has been structured as an excise tax, (which it is) but is enforced in such a way as to effectively convert the tax to a direct tax, (on wages) would cause the court to declare it unconstitutional (as it previously has) due to lack of apportionment. What type of enforcement might effectively convert an excise tax to a direct tax? Once the demand for the tax is unavoidable, and Plaintiff can no longer avoid or minimize the demand, (which is his lawful right,([31])) and/or the collection of the tax,

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in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most sacred property." *Butchers' Union Co. V. Crescent City*, CO., 111 U.S. 746, 757 (1883); power to dispose of that according to the will of the owner. Labor is property, and as such merits protection. The right to make it available is next in importance to the rights of life and liberty. It lives to a large extend the foundation of most other forms of property, and of all solid individual and national prosperity." *Slaughter - House Cases*, 83 U.S. 36, at 127 (1873).

[29] See *Brushaber v. Union Pacific RR Co*., 240 US 1 (1916); Also, "When a court refers to an income tax as being in the nature of an excise, it is merely stating that the tax is not on the property itself, but rather it is **a fee for the privilege of receiving gain from the property**. The tax is based upon the amount of the gain, not the value of the property." C.R.S. Report Congress 92, 303A (1992) by John R. Lackey, Legislative attorney with the library of Congress. (Emphasis added).

[30] Material difference - *See Cottage Savings Assn V. Commissioner of Internal Revenue, 499 U.S. 554 (1991)*. My labor or service is my personal property and is equal in value to the payment (or other compensation) received, thus no "gain or profit" has been realized by Plaintiff, or proven by Defendants Koskinen/agents.

[31] "The legal right of an individual to decrease the amount of what would otherwise be his taxes or altogether avoid them, by means which the law permits, cannot be doubted." *Gregory v. Helvering* 293 U.S. 465 (1935)See also *United States v. Isham*, 17 Wall. 496, 84 U. S. 506; *Superior Oil Co. v. Mississippi*, 280 U. S. 390, 280 U. S. 395-396; *Jones v. Helvering*, 63 App.D.C. 204, 71 F.2d 214, 217.

even when he has not engaged in any taxable excise activity producing any "income" (gain or profit), that is when the Executive Branch's enforcement of the tax has converted the tax, in substance, from an excise into a direct tax, which is unconstitutional.

24. If "gains, profit and income" are synonymous with "wages, salary or compensation for services"... i.e., "income" equals "wages", then how does Plaintiff "derive" any "income" FROM "wages"([32]) which is allegedly the same thing? The ONLY possible way "income" can be "derived" from Plaintiff's "wages" is if Plaintiff takes what may be left of his wages (principal minus all costs to produce labor), and invests it or in some other way creates a "gain or profit" FROM the wages, such as interest or other "gain/profit/increase." There can be no other reasonable way to "derive" "income" from wages, salary or compensation for service, otherwise, Defendant's Koskinen/agents are claiming that "all" wages of Plaintiff are pure "profit" and "gain", and there are ZERO costs related to the ability to provide labor to make a living. The costs to be able to work are clearly established for businesses, so to claim there are no "costs" related to providing labor (in a personal, private business agreement) is unreasonable and court cases cited, and other counter evidence clearly establishes this.([33])

25. Defendants Koskinen/agents also, at least twice, attacked his very limited part time business account finances,([34]) in their entirety([35]), (Evidence available in PayPal records not accessible to Plaintiff) which mostly includes all customer's payments for products not yet paid to vendors, or delivered by vendors, and other costs incurred, thereby damaging Plaintiff's business and reputation, raising the

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[32] "Gross income includes gains, profits, and income **derived from** salaries, wages, or compensation for personal service..." Section 22 GROSS INCOME: 79 (a); "Gross income and not 'gross receipts' is the foundation of income tax liability... 'gross income' means the total sales, less the cost of goods sold, plus any income (derived-JTM) from investments and from incidental or outside operations or sources." *U.S. v. BALLARD*, 535 F2d 400 (1976).

[33] "In principle, there can be no difference between the case of selling labor and the case of selling goods." *Adkins v. Children's Hospital*, 261 U.S. at 558; The sale of one's labor constitutes selling personal property. The IR Code specifically provides that only the amount received in EXCESS of the fair market value of personal property upon its sale constitutes "gain." 26 U.S.C. Sections 1001, et seq.

[34] Approximately 5 hours a week, with rarely any personal compensation after vendor product bills and expenses are paid. Plaintiff is a disabled Doctor merely trying to help others since he can no longer practice his profession since 1994 due to his Navy service injury.

[35] 26 U.S. Code § 6334 - Property exempt from levy; (9) Minimum exemption for wages, salary, and other income. Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).

issue of tortious interference and other crimes by Defendants Koskinen/agents.

26. Defendant's Koskinen/agents also seem to claim that ALL assets in "any" account are ALL "profit" as they sit, and is taxable "income" and can be confiscated or assessed, despite all business-related costs, and thus, have also assessed as "income" that which certainly is NOT "income" by anyone's definition. Even if "wages" were lawful income (which they are not), these funds in a business account cannot be lawfully made to be business "income" and made to be something that actually belongs to Plaintiff personally apart from his business, as is erroneously claimed. This is simply more proof of ongoing fraud in evidence against Plaintiff under other guises.

27. It has also been discovered that U.S. Treasury Order 150-02 and 150-06 (See Exhibits N 1-2) shows that the "Organization and Functions of the Internal Revenue Service" and "Designation of the Internal Revenue Service" have both been previously "cancelled". In addition, Defendant's IRS/Koskinen DENY the IRS is "an agency of the United States Government", (See "Diversified Metal Products v T-Bow Company Trust, Internal Revenue Service, and Steve Morgan" 93-405-E-EJL, Federal District Court, Idaho), AND, Congress denies that "an organization with the actual name Internal Revenue Service was established by law", so what entity([36]), exactly, is acting against Plaintiff, and under what lawful capacity or authority? (See also Attachment S).

28. No statutory or other laws can deprive Plaintiff of his 5th Amendment right to due process of law,([37]) but plaintiff has certainly been deprived repeatedly over 13 years, despite ongoing attempts to secure this right to be heard and to defend. All Defendants have deprived Plaintiff of this right, and Defendant IRS/agent's actions under alleged statutes and laws are nothing more than Bills of Attainder([38]) against

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[36] Chapter 3, Title 31 of the United States Code, one finds that IRS and the Bureau of Alcohol, Tobacco and Firearms are not listed as agencies of the United States Department of the Treasury. The fact that Congress never created a "*Bureau of Internal Revenue*" is confirmed by publication in the Federal Register at 36 F.R. 849-890 [C.B. 1971 - 1,698], 36 F.R. 11946 [C.B. 1971 - 2,577], and 37 F.R. 489-490.

[37] 5th Amendment; "No person shall be...deprived of life, liberty, or property, without due process of law.."

"The right of the people to be secure in their persons, houses, papers, and effects, against **unreasonable** searches and **seizures**, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. United States Constitution, Bill of Rights, Article IV. (Emphasis added.)

[38] Bills of attainder are expressly banned by Article I, section 9, of the United States Constitution (1787) as well as by the constitutions of all 50 US states. (See also *Cummings v. Missouri*, 4 Wall. 277, 323, where the Court said, "A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If the punishment be

Plaintiff, and are unconstitutional. Plaintiff cannot be subject to unconstitutional statutes([39]) or administrative rules or Codes which violate clear constitutional and court protections which the courts must uphold([40]), yet Plaintiff has been subject to

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less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties." (See also *Duncan v. Kahanamoku, Sheriff*, infra, footnote #39, 3rd Paragraph)

[39] When an act of the legislature is repugnant or contrary to the constitution, it is, ipso facto, void. 2 Pet. R. 522; 12 Wheat. 270; 3 Dall. 286; 4 Dall. 18. "The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose, since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to super cede any existing law. Indeed insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it." *Bonnett v. Vallier*, 116 N.W. 885, 136 Wis. 193 (1908); *Norton V. Shelby County*, 118 U.S. 425 (1886).

In *Miranda v. United States*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed. 2d 694 (1966), former Chief Justice Earle Warren penned the following: "As courts have been presented with the need to enforce constitutional rights, they have found means of doing so. … Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

The inventory of due process rights secured by the Fifth, Sixth and Seventh Amendments mandate judicial due process. The legislative and/or executive branches cannot unilaterally or jointly exclude the judicial in order to deprive the American people of life, liberty or property. However, another section of the Constitution rather than these amendments directly condemns the practice: Whenever a legislative enactment presupposes guilt and bypasses judicial process, the repugnant act is classified as a bill of attainder, which the Constitution forbids Congress and state legislatures from enacting. In *Duncan v. Kahanamoku, Sheriff*, (1946) 327 U.S. 304; 66 S. Ct. 606; 90 L. Ed. 688, the **Supreme Court of the United States condemned legislative summary judgment and unilateral administrative execution**: "Courts and their procedural safeguards are indispensable to our system of government. They were set up by our founders to protect the liberties they valued. *Ex parte Quirin, 317 U.S. 1, 19*. … Their philosophy has been the people's throughout our history. For that reason we have maintained legislatures chosen by citizens or their representatives and courts and juries to try those who violate legislative enactments. We have always been especially concerned about the potential evils of summary criminal trials and have guarded against them by provisions embodied in the Constitution itself. See *Ex parte Milligan, 4 Wall. 2; Chambers v. Florida, 309 U.S. 227.* Legislatures and courts are not merely cherished American institutions; they are indispensable to our Government. (Emphasis added). See also State ex rel *Ballard v Goodland*, 159 Wis 393, 395; 150 NW 488, 489 (1915); State ex rel *Kleist v Donald*, 164 Wis 545, 552-553; 160 NW 1067, 1070 (1917); State ex rel *Martin v Zimmerman*, 233 Wis 16, 21; 288 NW 454, 457 (1939); State ex rel *Commissioners of Public Lands v Anderson*, 56 Wis 2d 666, 672; 203 NW2d 84, 87 (1973); and *Butzlaffer v Van Der Geest & Sons, Inc*, Wis, 115 Wis 2d 539; 340 NW2d 742, 744-745 (1983).

[40] "It will be an evil day for American Liberty if the theory of a government outside supreme law finds lodgment in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles of the Constitution." *Downs v. Bidwell*, 182 U.S. 244 (1901). 'The lower courts are bound by Supreme Court precedent', *Adams v. Dept. of Juvenile Justice of New York City*, 143 F.3d 61, 65 (2nd Cir. 1998); 'The decisions of the United States Supreme Court, whether right or wrong, are supreme: they are binding on all courts of this land', *Hoover v. Holston Valley Community Hosp*., 545 F.Supp. 8, 13 (E.D. Tenn. 1981) (quoting *Jordan v. Gilligan*, 500 F.2d 701, 707 (6th Cir. 1974)).

such by Defendants Koskinen/agents, and now by Defendants Colvin/SSA and Wells Fargo Bank complying with color of law fraud. Either the 5th Amendment protection of right to due process, and right to valid and lawful proof of debt, exists for Plaintiff, (or any American), or it doesn't, and to date, it hasn't on this issue.

29. Defendants Koskinen/agents knew or should have known all the enclosed information on the laws and constitutional protections, and known of their own laws, but failed in their Oath of Office to defend the Constitution and rule of law, and have moved against Plaintiff, or supported move and willfully ignored conflict challenges, or failed to pass on lawful evidence to the proper department or personnel as Wells Fargo Bank and SSA/Colvin have (see below) have neglected, and are guilty of criminal and domestic terrorist acts([41]).

30. Defendant's Koskinen/agents/Colvin continue to act in their personal capacities([42]) against Plaintiff despite Plaintiff having challenged claimed jurisdiction([43]) of Defendant's Koskinen/agents over Plaintiff. If the Defendant Koskinen/agents actually have jurisdiction over Plaintiff or his assets, it is not of record and flies in the face of standing Constitutional boundaries and court([44]) evidence of record.

31. The bottom line is this... We know that businesses have costs to do business. These "costs" have value, because the IRS "allows" the business to deduct what it

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[41] Under current United States law, set forth in the USA PATRIOT Act, acts of domestic terrorism are those which: "(A) involve acts **dangerous to human life** that are a violation of the criminal laws of the United States or of any State; (B) appear to be intended— (i) **to intimidate or coerce a civilian population**; (Emphasis added).

[42] "...an...officer who acts in violation of the Constitution ceases to represent the government." *Brookfield Co. v Stuart*, (1964) 234 F. Supp 94, 99 (U.S.D.C., Wash.D.C.) "...an officer may be held liable in damages to any person injured in consequence of a breach of any of the duties connected with his office...The liability for nonfeasance, misfeasance, and for malfeasance in office is in his 'individual', not his official capacity..." 70 AmJur2nd Sec. 50, VII Civil Liability.

[43] "Jurisdiction can be challenged at any time." *Basso v. Utah Power & Light Co*., 495 F 2nd 906 at 910. "Where there is absence of proof of jurisdiction, **all administrative and judicial proceedings are a nullity,** and confer no right, offer no protection, and afford no justification, and may be rejected upon direct collateral attack." *Thompson v Tolmie*, 2 Pet. 157, 7 L. Ed. 381; and *Griffith v. Frazier*, 8 Cr. 9, 3 L. Ed. 471. "the burden of proving jurisdiction rests upon the party asserting it." *Bindell v. City of Harvey*, 212 Ill.App.3d 1042, 571 N.E.2d 1017 (1st Dist. 1991). (Emphasis added). In taxpayer suits, it is appropriate to look to the substantive issues to determine whether there is a logical nexus between the status asserted and the claim sought to be adjudicated. Id. at 102; *United States v. Richardson*, 418 U.S. 166, 174-175 (1974); *Duke Power Co. v. Carolina Envtl. Study Group*, 438 U.S. 59, 78-79 (1978).

[44] Standard v. Olsen, 74 S. Ct. 768; Title 5 U.S.C., Sec. 556 and 558 (b) "No sanctions can be imposed absent proof of jurisdiction." See also CAHA v. U.S., 152 U.S. 211, and Article 1, Section 8, Clause 17. Title 4 U.S.C. §72 Public offices at seat of Government.

must pay for it. If it had zero value, then the businesses could NOT DEDUCT THE WAGES AND SALARIES THEY PAY. But they "DO" allow them to deduct them because they do have VALUE. The exact amount of value Plaintiff received is the amount Plaintiff gave and the exact amount they deducted as "costs" for that wage. The government denies Plaintiff, and many other Americans, the right to the value of our own labor, while it grants such value to the businesses who get such benefit.

32. Serfs and peasants pay a tax on their wage because they are owned and bound to their master and do not own their own labor, contrary to Sup.Ct cites for all free Americans. Plaintiff is being assessed just like a serf, and his labor is treated as though it has zero value to his own life, and Plaintiff is being forced into slavery, plain and simple.

SUPPORTING FACTS FOR SECOND CLAIM FOR RELIEF

33. Defendant Murphy, under the auspices of Defendant Koskinen, manufactured levy documents and figures not based on any evidence of record, with no proof that Plaintiff was "subject to and liable for" alleged tax, and created a tax liability against him, claiming as "income", ALL assets identified which have been proven to NOT be lawful income.

34. Defendants Murphy and other unnamed agent also placed an invalid "Notice of Federal Tax Lien" on Plaintiff's name with both the Colorado Secretary of State, and the Archuleta County Colorado Recorder's Office based on these fraudulent "Notices of Levy", which are not lawfully valid and perfected levies according to law, and only based on the above stated frivolous presumptions, and have damaged his name, credit, ability to carry on business pursuits, created nuisance calls from tax advocates and attorney firms calling Plaintiff regarding the Notices of Lien, and interfering with his pursuit of liberty and happiness. (See Exhibits K 1-2).

SUPPORTING FACTS FOR THIRD CLAIM FOR RELIEF

35. On or about 2012, and to date, Revenue agents Jeremy Woods, under the authority of Koskinen, and supervisors Theresa Gates and Sharisse Tompkins, (and previous agents Ginger Wray, William Sothen and Gary Murphy, over the course of several years), colluded and supported the eventual taking of Plaintiff's entire living via ongoing complete disregard for due process of law guaranteed under Plaintiff's 5th Amendment rights, and standing laws Defendants are subject to.([45])

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[45] William Sothen, Ginger Wray, (debt validation dated 4-8-15 - cert mail #7014-2120-0004-6670-5364) with the last request being with Jeremy Woods, - debt validation and hearing request dated 6-10-15 - certified mail # 7014-2120-0004-6670-5418. Copies available showing request for hearing, validation of debt, lawful due process,

SUPPORTING FACTS FOR FIFTH CLAIM FOR RELIEF

36. On or about February 16, 2016, Defendant Colvin, head of the Social Security Administration, (via un-named John or Jane Doe agent) who knew or should have known standing laws, constitutional restrictions and rights and statutes([46]), complied with a fraudulent and void Notice of Levy sent directly to the IRS, (because Defendants Koskinen and Vencato couldn't coerce Plaintiff's bank into releasing said funds) and garnished every penny, not "up to 15%" (See Footnote #48), of Plaintiff's social security retirement, directly returning it to the IRS, totaling $1394 to date (4-21-16), leaving Plaintiff with severely restricted capacity to live or exist, which is already two months into lacking funds to survive, and is borrowing money to make it each month.

37. Plaintiff has an 83 year old disabled mother living with him and whom he cares for who will also be gravely affected by the unconscionable, illegal garnishments, potentially depriving us both of home, utilities, and living. Defendants Koskinen/agents also illegally and egregiously attempted to attack Plaintiff's mother's Social Security account (which Plaintiff is named on to help with her personal finances), but the Bank's worksheet (See Exhibit F-1 - Citizen's Bank official provided this exhibit for Plaintiff, and can validate document if necessary) clearly shows that the bank protected said funds according to law, obviously being exempt to some extent, and according to the worksheet provided to Citizen's bank by the IRS for Levy purposes.

38. In addition, Defendant's Koskinen/agents earlier attacked Plaintiff's Social Security with another bank, (See Exhibit F-2) and the alleged Levy was for $15.88

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proof of jurisdictional authority over Plaintiff, and lawful answers to basic conflicts. Several dozen other certified mailings to the IRS and other agents (names available) requesting the above have also gone unanswered, leaving the Defendants in default. (Document evidence available in disclosure and discovery, if necessary).

[46] **Taxpayer Relief Act (Public Law 105-34)** Section 1024, (h) Continuing Levy on Certain Payments.--(1) In general.--The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer." Title 42, Subchapter II - FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS, Title 42 U.S. Code, Subchapter II § 407 - Assignment of benefits; (a) In general - "The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law." Footnote 48 below also addresses what funds CAN be lawfully "continuously levied" but does NOT include Social Security retirement funds. **If these "laws" do NOT pertain to Social Security "Old-Age" retirement payments, then by what law can Koskinen/agents use to justify authority to garnish the entirety of Plaintiff's payments especially outside due process**, and by what laws can Colvin stand on to accomplice said taking of funds?

out of his entire $697.00 SS money, lending further evidence to subsequent inconsistent and irrational actions against Plaintiff. Plaintiff NOTICED the bank of the fraudulent levy and related laws, and demanded the return of the $15.88, which the bank promptly did, but closed Plaintiff's account, and returned ALL assets (See Exhibit F-3) thereby causing a problem with little notice to timely transfer SS account to another bank.

39. Of course, Plaintiff moved this account to the same Citizen's bank which protected his Mother's SS assets, so Defendant's Koskinen/agents avoided Plaintiff's Social Security account with Citizen's Bank, and directly attacked ALL of Plaintiff's money via the Social Security Administration/Colvin([47]), or an as yet unnamed SSA employee who has willingly complied with the fraudulent taking as standard policy. (See Exhibits A 1-2).

40. Colvin/SSA, or unnamed agent, knew or should have known the constitutional duty to her oath of office, and to due process of laws, and to educate all SSA employees on how to validate any alleged debt claims by the Defendants Koskinen/agents, and to assure that Defendants Koskinen/agents were acting within the laws and under due process adjudicated judgement.

SUPPORTING FACTS FOR SIXTH CLAIM FOR RELIEF

41. Defendant Wells Fargo, failed to demand due process proof and evidence of lawful claim by Koskinen/agents via the Notice of Levy, and at least twice acted on hearsay and presumption devoid of evidence, (See Exhibit B1-5) and deprived Plaintiff of funds from his disability account, apart from law.([48]) (See Exhibit M for

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[47] Social Security Administration/Colvin/unknown agent, in withholding all Plaintiff's funds, makes hearsay and presumptive statements of "because you owe money to them", and, "to pay your debt to the IRS", without any evidence to substantiate same FROM the IRS/agents. (See Exhibit A-1)

[48] The Veterans Disability Act of 2010 is a Federal law which exempts VA disability from withholding of any sort. Existing code, USC, Title 38, §5301, already protected VA disability from withholding, but this provision was re-iterated and included in the newer legislation of 2010. Also see 26 U.S. Code § 6334 - Property exempt from levy section (10) Certain service-connected disability payments. Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under— (A) subchapter II, III, IV, V,,[1] or VI of chapter 11 of such title 38, or (B) chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such title 38. Plaintiff certainly fits into this lawful category. See also Title 42 U.S. Code, Subchapter II, § 407.

-Seventy Fourth Congress Chapter 510; An Act- To safeguard the estates of veterans derived from payments of pension, compensation, emergency officers' retirement and insurance, and other purposes. Section 3.

> "Payments of benefits due or to become due shall not be assignable, and such payments made to, or on account of, a beneficiary under any of the laws relating to veterans shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or any legal or

Disability proof).

42. Would any financial institution simply hand over money to any citizen or business or other government agency walking into their establishment demanding (via some piece of "official looking" Notice of Levy paper), someone else's money without a proper court order and without valid proof of claim? NO! Then by what lawful mechanism can Wells Fargo Bank do this against Plaintiff against his rights, and other laws being violated, and what lawful authority does Wells Fargo Bank have to do the same without lawful proof? Defendant Wells Fargo Bank depend solely on hearsay and presumptive "color of law" beliefs to act apart from lawful channels with no proof of validity or lawful authority.

43. Defendant Wells Fargo Bank's possible claim that they cannot be held accountable for the imperfections or lawfulness of a government notice of levy, and that they are required to honour that notice of levy, regardless of its imperfections and outside of lawful due process and standing laws, is pure fantasy, and is claiming ignorance of the laws, and is a violation of their fiduciary duty to Plaintiff. (See Footnote # 18 above).

44. Wells Fargo Bank was three times NOTICED of these violations of laws over several months (See Exhibit P 1-2 example), and ignored these NOTICES, and continued to support the depravation of Plaintiff's due process rights, even to the extent of violating established laws regarding garnishment of service related VA disability compensation funds of Plaintiff.

CONCLUSION

Plaintiff is expected to know the law which he is subject to. The only way for this to occur is for research and study of the evidence of record to verify what his lawful duties are, despite what he is told. How many Americans have actually researched the facts regarding their own personal "income" tax liability? Very few. Such

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equitable process whatever, either before or after receipt by the beneficiary." Approved August 12, 1935.

-It should also be noted that under the Taxpayer Relief Act (Public Law 105-34), section 1024 regarding levy actions... (h) Continuing Levy on Certain Payments.--

``(1) In general.--The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such **continuous levy** shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) Specified payment.--For the purposes of paragraph (1), the term 'specified payment' means--

(B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a)...

(This section which specifically states what types of property that CAN be levied, up to 15%, also specifically EXCLUDES section (10) of 26 USC § 6334 as something that can be levied, which is Plaintiff's Veterans Disability Benefits).

examination of the historic records by Plaintiff has revealed major conflicts between Defendants Koskinen/agent's claims, and U.S. Supreme Court, Congressional testimony, X-IRS Special agent Joseph Banister([49]), and constitutional attorneys([50]), and other experts with relevant knowledge of original intent have previously testified to, and can again in court.

Over time, and with inattention to the historic records, with major "word smithing" occurring, the actual evidence of record has been distorted, perverted and obfuscated to such an degree that it is unrecognizable when compared to the original historical documents. Plaintiff is not saying these things flippantly, or making them up. The evidence of record has clearly stated them and raises significant questions.

This issue has become so convoluted, distorted and obfuscated by the Defendants Koskinen/agents that the "man behind the curtain" is actually behind multiple curtains, and until they are all exposed through discovery, for what they are, to see the simple but painful truth, this will remain a monumental fraud on Plaintiff and any similarly situated American.

Plaintiff was played by inattention to history and law in the past. He simply wants the genuine controversy to be discovered and lawfully and completely adjudicated by the facts in evidence. If Defendants Koskinen/agents have proper constitutional and lawful standing to be acting as they have against Plaintiff for 13 years, and there is truly criminal actions by Plaintiff, then let it be brought forth and let ALL the evidence of record and original intent speak for itself. The original records don't lie.

The egregious, tyrannical, unconstitutional and illegal actions taken by all Defendant's are beyond the pale. If this once great Republic of 50 united States under the Constitution and rule of law has descended to such unlawful and egregious actions by government actors, without accountability, we have become nothing more than a tin pot tyrannical and despotic nation under enslavement and

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[49] Joseph R. Banister was a Special agent for the IRS and was challenged on some of these same topics. He did some research over several years and created a report titled "Investigating the Federal Income Tax" which he presented to his superiors on the actual laws, for which he was asked to resign, which he did. He later was brought up on charges of conspiracy and fraud for blowing the whistle on IRS malfeasance. He was acquitted due to the truth presented. http://www.barneslawllp.com/joe-banister.

[50] Among whom was Tommy Cryer, *United States v. Tommy K. Cryer No. 06-50164-01.* Now deceased attorney who was acquitted on challenging similar issues. He created "The Memorandum" document on these issues, which is available. Other constitutional attorneys are available.

surely will not last any longer than any other nation in history.

Plaintiff could (and will in discovery) provide much more equally valid and powerful evidence in the way of Amicus Briefs and other documents on the elements of this controversy regarding Defendants Koskinen/agents alleged standing and jurisdiction over Plaintiff's finances. The court must require Defendants to actually defend their position for full and just adjudication of all elements raised herein, through lawful and complete discovery, or Defendants are in default.

All the evidence simply cannot be ignored by Plaintiff OR Defendant's Koskinen/agents, or by a free People, or the just Courts, in a free country with the rule of law and a great Constitution which made this Republic great. No one can defend against the clear lawful evidence of this "warring" without being complicit in treason([51]) against these united States, the American People, and our laws and original intent.

REQUEST FOR RELIEF

Plaintiff requests the following relief;

1. ORDER an immediate stop against Defendant's Koskinen/agents ongoing unlawful levy actions on all accounts UNLESS AND UNTIL Defendants Koskinen/agents can provide due process of law in this or other court, (with complete discovery, disclosures, and expert witnesses), and lawful and constitutional evidence in fact of Plaintiff's alleged liability, and for Defendants Koskinen/agents lawful standing and jurisdiction over Plaintiff on ALL conflicts were challenged in the past 12 courts, and herein, AND,

2. ORDER Defendant's Koskinen/agents to cease and desist any and ALL other possible activities to deprive Plaintiff of his life, liberty or property UNLESS AND UNTIL Defendants Koskinen/agents can provide due process of law in court, per number one above, AND,

3. ORDER Defendants Koskinen/agents to restore to ALL accounts all finances that have been taken under color of law, and/or restore all bank charges to Plaintiff for actions since 2003, with interest, AND,

4. ORDER Defendants Koskinen/agents to remove said unlawful Notice of

[51] 18 U.S. Code § 2381 - Treason; Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than $10,000; and shall be incapable of holding any office under the United States.

Federal Tax Liens filed against Plaintiff's name with the Colorado Secretary of State's office, and in Archuleta County, Colorado, AND,

5. Sanction Defendants and/or take judicial NOTICE([52]) under 18 U.S.C.([53]), 42 U.S.C.([54]), 26 U.S.C 7214, and FBI authority, for "color of law" crimes taking place and act under such authority([55]) to defend Plaintiff and all Americans similarly situated, and convene a Grand Jury([56]), (7th Amendment) to investigate Defendants Koskinen/agents per United States v. John H Williams, Jr. (See Exhibit I 1-4 for cases on standing for this avenue of investigation and relief), AND,

6. ORDER compensatory and punitive damages against Defendant's Koskinen/agents Bonds, (and other parties assets) which protect the Public from criminal or other actions, for Plaintiff's defending against illegal actions, for the considerable time in research and drafting of documents for 13 years, for costing him money he could ill afford, for loss of funds and living, and for

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[52] 26 U.S.C. §7214 - Offenses by officers and employees of the United States; (a) (1), (2), (3), (7), and (8); "...shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution."

[53] 18 U.S. Code § 4, "make known the same to some judge...", and § 2382... "conceals and does not... disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State..." (See also § 241 and § 242). (U.S. Supreme Court also Notified of same)

[54] 42 U.S.C. § 1981. Equal rights under the law; 42 U.S.C. § 1983 Civil action for deprivation of rights; 42 USC § 42 U.S. Code § 1985 - Conspiracy to interfere with civil rights; 1986 - Action for neglect to prevent; 42 U.S. Code § 1988 - Proceedings in vindication of civil rights; 42 U.S. Code § 1994 - Peonage abolished.

[55] It is a well settled principle of law that one must demonstrate the deprivation of a federally protected right, whether it be a constitutional or federal statutory right to establish a claim under 42 U.S.C. § 1983. The United States Congress enacted 42 U.S.C. § 1983, a federal civil rights statute, on April 20, 1871 to act as a guardian of people's federal rights, and thus protect people from unconstitutional action under color of state law, whether the action is executive, legislative, or judicial. Essentially, section 1983 creates a private right of action to seek redress for the deprivation of federal rights. See *Mitchum v. Foster*, 407 U.S. 225 (1972); Also see *Richardson v. McKnight*, 521 U.S. 399 (1997); *Dist. of Columbia v. Carter*, 409 U.S. 418 (1973).

[56] "The grand jury's functional independence from the judicial branch is evident both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. Unlike a court, whose jurisdiction is predicated upon a specific case or controversy, the grand July 'can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.'" *United States v. R. Enterprises,* 498 U.S. ----, ----, 111 S.Ct . 722, 726, 112 L.Ed.2d 795 (1991) (quoting *United States v. Morton Salt Co.,* 338 U.S. 632,642-643,70 S.Ct. 357, 364,94 L.Ed. 401 (1950." *UNITED STATES v. John H WILLIAMS, Jr.,* 504 U.S. 36 (112 S.Ct. 1735, 118 L.Ed.2d 352).

emotional stress, pain and suffering, and exacerbation of Plaintiff's disability, (and to pay all court costs and U.S. Marshall's service of process).

7. Damages to be based on Pacific Mutual Life Insurance Co. v Haslip, et al., (damages for fraud), for compensatory and punitive damage amounts, or other equivalent law, or what this honorable court deems right and just([57]) protections for Plaintiff and family's life and property, and punishment for such unlawful, egregious and unconscionable personal actions by Defendants.

8. There must be a mechanism to deter any such behavior in the future, especially since the Defendants have been previously (and some repeatedly) NOTICED of this type of fraud and yet continued acting unlawfully and unconstitutionally in their personal capacities despite significant evidence against such actions.

Respectfully submitted for justice,

Date:

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970-731-9724

[57] "Every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his Pleadings." U.S. v. White County Bridge Commission (1960), 2 Fr Serv 2d 107, 275 F2d 529, 535.