No. _____

_____

IN THE

Supreme Court of the United States

✦

Jeffrey T. Maehr,

Petitioner

v.

John Koskinen, Commissioner of Internal Revenue; et al

Respondents

✦

On Petition for a Writ of Certiorari
The United States Court of Appeals
For the Tenth Circuit

✦

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✦

Questions Presented

1. Can the IRS/government Defendants and lower courts consistently call U.S. Supreme Court standing case precedent (Stare Decisis) on the definition of "income" as "legally frivolous" and lacking legal merit, despite clear conflicts between this court, and the lower courts rulings, and in IRS administrative actions in taxing, assessments and levies on millions of Americans, and not be bound by such standing precedent in these actions, especially without findings of fact and conclusions of law?

2. Can the IRS/government Defendants, despite clear conflicts between this court's past rulings and the lower courts, consistently call anything it wants going into any business or other account any American owns as all "lawful income" when assessing countless numbers of Americans for alleged tax liability, and take ALL assets and living... i.e., can the IRS/government Defendants assess "all that comes in", as "income" or wages, and levy the same, creating a hyper-inflated tax assessment to justify complete taking of all assets to live on, especially without findings of fact and conclusions of law?

3. Can the IRS/government Defendants merely presume without clear, unambiguous evidence and definitions, that the 1913, 16th Amendment authorized a "new" tax on millions of American's wages, salary or compensation for service, despite this court's case precedent on the 16th Amendment, and historically understood definition of "income", countering this presumption, with IRS/government Defendants and lower courts labeling said precedent as "legally frivolous," without findings of fact and conclusions of law?... i.e. if this court clearly stated "no new tax" was created by the 16th Amendment, creating clear conflicts between this court and the lower courts and IRS/ government Defendant's actions, especially with over 300 pre-1913 income tax Derivation Codes as evidence that the "income" tax pre-existed the 16th Amendment, by what mechanism of law can IRS/government create a new tax on Americans?

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. John Koskinen, Commissioner of Internal revenue;

2. John Vencato, Revenue Agent;

3. Ginger L. Wray, Revenue Officer:

4. Jeremy Woods, IRS Disclosure Specialist;

5. Sharisse Tompkins, IRS Disclosure Manager;

6. Theresa Gates, IRS Program Manager;

7. Gary Murphy, Revenue agent;

8. William Sothen, Revenue agent;

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5 U.S.C. § 702. See also 47 U.S.C. § 202(b)(6) (FCC); 15 U.S.C. § 77i(a) (SEC); 16 U.S.C. § 825a(b) (FPC) ..... P. 8, 20

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."

16th Amendment..... P. 8, 14

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

1913 Congressional Record, P. 3843, 3844; Senator Albert B. Cummins ..... P. 8

"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 . . . 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 . . ."

26 U.S. Code § 61 - Gross income defined ..... P. 9

(a) General definition - Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

45 Congressional Record, 4420 (1909) ..... P. 6

"Mr. Heflin. 'An income tax seeks to reach the unearned wealth of the country and to make it pay its share.' 4423 Mr. Heflin. 'But sir, when you tax a man on his income, it is because his property is productive. He pays out of his abundance because he has got the abundance.' "

A.C. Aukerman Co. v. R.L. Chaides Const. Co., 960 F.2d 1020, 1037 (Fed. Cir. 1992) ..... P. 4

"This court has never treated a presumption as any form of evidence."

Adarand Constructors, Inc. v Pena 515 U.S. 200 (1995), Citing Justice O'Connor. . . . . P. 7

> "Remaining true to an 'intrinsically sounder' doctrine established in prior cases better serves the values of Stare Decisis than would following a more recently decided case inconsistent with the decisions that came before it; the latter course would simply compound the recent error, and would likely make the unjustified break from previously established doctrine complete. In such a situation, 'special justification' exists to depart from the recently decided case."

Adkins v. Children's Hospital, 261 U.S. at 558 . . . . . P. 11

> "In principle, there can be no difference between the case of selling labor and the case of selling goods."

American Communications Assn. v. Douds 339 U.S. 382 (1950) . . . . . P. 4

> "Speech may be fought with speech. Falsehoods and fallacies must be exposed, not suppressed... The power to tax is not the power to destroy while this Court sits.

Atkins vs. Lanning, D.C. Okl., 415 F.Supp. 186, 188. Black's Law Dictionary, 6th Edition. . . . . P. 7

> 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.'

Black's Law Dictionary, 6th Edition, page 500 . . . . . P. 3

> "Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, this is not due process of law."

Black's Law Dictionary, 2nd Edition, "Income Tax" . . . . . P. 9

> "A tax on the yearly profits arising from property, professions, trades and offices." See also *2 Steph.* Comm 573. *Levi v. Louisville,* 97 Ky. 394, 30 S.W.

973. 28 L.R.A. 480; *Parker Insurance Co.,* 42 La. Ann 428, 7 South. 599."

Boathe v. Terry, 713 F.2d 1405, at 1414 (1983). . . . . .P. 7

"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".

Bowers v. Kerbaugh-Empire Co., 271 U.S. 170; 46 S.Ct. 449 (1926). . . . . P. 16

"It was not the purpose or effect of that amendment to bring any new subject within the taxing power."

Brushaber v. Union Pac. R.R. Co., 240 U.S. 1, 11, 12, 18 (1916) . . . . . P. 8

"We are of opinion, however, that the confusion is not inherent, but rather arises from the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulations of apportionment applicable to all other direct taxes. And the far reaching effect of this erroneous assumption will be made clear by generalizing the many contentions advanced in argument to support it . . . "But it clearly results that the proposition and the contentions under it, if acceded to, would cause one provision of the Constitution to destroy another; that is, they would result in bringing the provisions of the Amendment exempting a direct tax from apportionment into irreconcilable conflict with the general requirement that all direct taxes be apportioned. Moreover, the tax authorized by the Amendment, being direct, would not come under the rule of uniformity applicable under the Constitution to other than direct taxes, and thus it would come to pass that the result of the Amendment would be to authorize a particular direct tax not subject either to apportionment or to the rule of geographical uniformity, thus giving power to impose a different tax in one state or states than was levied in another state or states. This result, instead of simplifying the situation and making clear the limitations on the taxing power, which obviously the Amendment must have been intended to accomplish, would create radical and destructive changes in our constitutional system and multiply confusion. "Indeed, from another point of view, the Amendment demonstrates that no such purpose was intended, and on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation. We say this because it is to be observed that although from the date of the Hylton Case, because of statements made in the opinions in that case, it had come to be accepted that direct taxes in the constitutional sense were confined to taxes

levied directly on real estate because of its ownership, the Amendment contains nothing repudiation or challenging the ruling in the Pollock Case that the word 'direct' had a broader significance, since it embraced also taxes levied directly on personal property because of its ownership, and therefore the Amendment at least impliedly makes such wider significance a part of the Constitution . . . "[The Pollock court] recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct tax was adapted to prevent, in which case the duty would arise to disregard the form and consider the substance alone and hence subject the tax to the regulation of apportionment which otherwise as an excise would not apply."

Butchers' Union Co. v. Crescent City, Colorado, 111 U.S. 746, 757 (1883). . . . . .P. 11

"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 . . ."

C.F.R. 26 (Code of Federal Regulations) 301.6332-1(c). . . . . .P. 11, 12

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).

Chas. C. Steward Mach. Co. v. Davis, (1937) No. 837 Argued: Decided: May 24, 1937 . . . . . .P. 8

"...historically an excise is a tax upon the enjoyment of commodities."

Cheek v U.S., 498 U.S. 197 (1991) . . . . . P. 12

"The court described Cheek's beliefs about the income tax system[5] and instructed the jury that if it found that Cheek 'honestly and reasonably believed that he was not required to pay income taxes or to file tax returns,' App. 81, a not guilty verdict should be returned."

Conner v. United States, 303 F. Supp. 1187 (1969) P. 1191: 47 C.J.S. Internal Revenue 98, P. 226. . . . . .P. 9

"[2] Whatever may constitute income, therefore, must have the essential feature of gain to the recipient. This was true when the 16th amendment became effective, it was true at the time of the decision in *Eisner v.*

Macomber, it was true under section 22(a) of the Internal Revenue Code of 1939, and it is true under section 61(a) of the Internal Revenue Code of 1954. If there is no gain, there is no income." "[1] . . . It [income] is not synonymous with receipts. Simply put, pay from a job is a 'wage,' and wages are not taxable. Congress has taxed income, not compensation."

Coppage v. Kansas, 236 U.S. 1, at 14, 23, 24 (1915) . . . . . P. 11

"Included in the right of personal liberty and the right of private property are taking of the nature of each is the right to make contracts for the acquisition of property. The chief among such contracts instead of personal employment, by which in labor and other services are exchanged for money or other forms of property. If this right be struck down or arbitrarily interfered with, there is a substantial impairment of liberty in the long established constitutional sense. The right is as essential to the laborer as to the capitalist, to the poor as to the rich; for the vast majority of persons have no other artists away to begin to acquire property, save by working for money... The right to follow any lawful vocation and to make contracts is as completely within the protection of the Constitution as the right to hold property free from unwarranted seizure, or the liberty to go when and where one will. One of the ways of obtaining property is by contract. The right, therefore, to contract cannot be infringed by the legislature without violating the letter and spirit of the Constitution. Every citizen is protected in his right to work where and for whom he will. He may select not only his employer, but also his associates."

Crandall v. Nevada., 6 Wall 35, p. 46, 18 L Ed 745, p. 748 . . . . . P. 12

"That the power to tax involves the power to destroy...; that the power to destroy may defeat and render useless the power to create;

Del Vecchio v. Bowers, 296 U.S. 280, 286, 56 S.Ct. 190, 193, 80 L.Ed. 229, (1935) . . . . . P. 4

"[A] presumption is not evidence."

Doyle v. Mitchell Brother, Co., 247 US 179 (1918) . . . . . P. 8

"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) . . . . . P. 10

"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."

Eisner v Macomber, 252 US 189, 205–206 (1920) . . . . . P. 16

"The 16th Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted."

Evans vs. Gore, 253 US 245, 263 (1920) . . . . . P. 16

". . . 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."

Federal Crop Insurance Corporation v. Merrill, 332 U.S. 380 (1947) . . . . . .P. 5

"The United States Supreme Court requires proof of authority in assertions of power by anyone dealing with a person claiming government authority."

Federal Maritime Commission v. South Carolina State Ports Authority, et al.. . .P. 3

"The parties are entitled to know the findings and conclusions on all of the issues of fact, law, or discretion presented on the record." citing *Butz v. Economou* 438 U.S. 478, 98 S. Ct. 2894, 57 L. Ed. 2d 895, (1978).

Fiction of Law. . . . . P. 4

"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."

Findings of Fact and Conclusions of Law P.4

"The parties are entitled to know the findings and conclusions on all of the issues of fact, law, or discretion presented on the record." citing *Butz v.*

Economou 438 U.S. 478, 98 S. Ct. 2894, 57 L. Ed. 2d 895, (1978). *Federal Maritime Commission v. South Carolina State Ports Authority, et al.*

Flint v. Stone Tracy Co., 220 U.S. 107, 31 S.Ct. 342, 349 (1911) . . . . . .P. 8

"Excises are taxes laid upon:
"(1.) the manufacture, sale or consumption of commodities within the country,
"(2.) upon licenses to pursue certain occupations, and
"(3.) upon corporate privileges."

Flint, Supra at 151–152 . . . . . P. 11

". . . [T]he requirement to pay such taxes involves the exercise of the privilege and if business is not done in the manner described no tax is payable . . . [I]t is the privilege which is the subject of the tax and not the mere buying, selling or handling of goods."

Fortney v. U.S., C.A.9 (Nev.) 1995, 59 F.3d 117 . . . . . P. 6

"The United States Supreme Court, in *Haines v. Kerner* 404 U.S. 519 (1972) stated that all litigants defending themselves must be afforded the opportunity to present their evidence and that the Court should look to the substance of the complaint rather than the form, and that a minimal amount of evidence is necessary to support contention of lack of good faith."

Gov. A.E. Wilson on the Income Tax (16) Amendment, *New York Times,* Part 5, P. 13, February 26, 1911 . . . . . P. 9

"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."

Gould v. Gould, 245 U.S. 151 . . . . . .P. 6, 8

"In the interpretation of statutes levying taxes it is the established rule not to extend their provisions by implication beyond the clear import of the language used, or to enlarge their operation so as to embrace matters not specifically pointed out. In case of doubt, they are construed most strongly against the government and in favor of the citizen." (See also *Eidman* v. *Martinez*, 184 U.S. 578, 583; *United States* v. *Wigglesworth*, 2 Story, 369, 374; *Mutual Benefit Life Ins. Co.* v. *Herold*, 198 F. 199, 201, aff'd 201 F. 918;

Parkview Bldg. Assn. v. *Herold*, 203 F. 876, 880; *Mutual Trust Co.* v. *Miller*, 177 N.Y. 51, 57." (Id at p. 265,).

Government Accountability Office, 1997 Report: P.18

"...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.

Graves v. People of State of New York, (1939) No. 478 . . . . . P. 10, 16

"The theory, which once won a qualified approval, that a tax on income is legally or economically a tax on its source, is no longer tenable, New York ex rel. *Cohn v. Graves*, 300 U.S. 308, 313 , 314 S., 57 S.Ct. 466, 467, 108 A.L.R. 721; *Hale v. State Board*, 302 U.S. 95, 108 , 58 S.Ct. 102, 106; *Helver-* [306 U.S. 466, 481] *ing v. Gerhardt*, supra; cf. *Metcalf & Eddy v. Mitchell*, 269 U.S. 514 , 46 S. Ct. 172; *Fox Film Corp. v. Doyal*, 286 U.S. 123 , 52 S.Ct. 546; *James v. Dravo Contracting Co.*, page 149, 58 S.Ct. page 216; *Helvering v. Mountain Producers Corp.*, 303 U.S. 376 , 58 S.Ct. 623..."

Hagans v. Lavine, 415 US 528, 533 . . . . . .P. 5

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings . . . When jurisdiction is not squarely challenged it is presumed to exist. In the courts there is no meaningful opportunity to challenge jurisdiction, as the court merely proceeds summarily. However once jurisdiction has been challenged in the courts, it becomes the responsibility of the plaintiff to assert and prove said jurisdiction . . ."

Hassett v. Welch., 303 US 303, pp. 314–315, 82 L Ed 858. (1938) . . . . . P. 6

"[I]f doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer . . ."

Heiner v. Donnan, 285, US 312 (1932) and *New York Times v. Sullivan,* 376 US 254 (1964) . . . . . .P. 4

"The power to create [false] presumptions is not a means of escape from constitutional restrictions."

Helvering v. Edison Bros. Stores, 133 F2d 575.(1943) ..... P. 8

"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."

Internal Revenue Manual: 4.10.7.2.9.8 (01-01-2006)..... P. 7

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.

Jack Cole Company v. Alfred T, MacFarland, Commissioner, 206 Tenn. 694, 337 S.W.2d 453 Sup. Court of Tennessee (1960) ..... P. 11

"Since the right to receive income or earnings is a right belonging to every persons, this right cannot be taxed as privilege." (See also *Jerome H. Sheip Co. v. Amos,* 100 Fla. 863, 130 So. 699, 705 [1930]; *Redfield v. Fisher,* 135 Or. 180, 292 P. 813, 819 [Ore. 1930]; *Sims v. Ahrens,* 167 Ark. 557, 271 S.W. 720, 733 [1925]; *O'Keefe v. City of Somerville,* 190 Mass. 110, 76 N.E. 457, 458 [1906]).

Jerome H. Sheip Co. v. Amos, 130 So. 699, 705 ..... P. 11

"A man is free to lay hand upon his own property. To acquire and possess property is a right, not a privilege. See section 1, Declaration of Rights, Const. The right to acquire and possess property cannot alone by made the subject of an excise (4 Cooley, Taxation [4th Ed.] p. 3382); nor, generally

speaking, can an excise be laid upon the mere right to possess the fruits thereof, as that right is the chief attribute of ownership. See Washington v. State, 13 Ark. 753; Thompson v. Kreutzer, 112 Miss. 165, 72 So. 891; 26 R.C.L. 236; Thompson v. McLeod, 112 Miss. 383, 73 So. 193, L.R.A. 1918C, 893, Ann.Cas. 1918A, 674."

Joseph Nash v. John Lathrop, 142 Mass. 29, March 10, 1886–May 11, 1886 at 35. . . . . P. 7

"Every citizen is presumed to know the law thus declared . . ."

Kazubowski v. Kazubowski, 45 DJ.2d 405, 259 N.E.2d 282. 290 . . . . . P. 5

"An orderly proceeding wherein a person . . . has an opportunity to be heard and to enforce and protect his rights before a court having power to hear and determine the case."

Laureldale Cemetery Assn. v. Matthews, 47 Atlantic 2d. 277 (1946) . . . . . P. 9

". . . Reasonable compensation for labor or services rendered is not profit . . ."

Liteky v. U.S., 114 S.Ct. 1147, 1162 (1994) . . . . . P. 17

In 1994, the U.S. Supreme Court held that "Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality. If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified."

Lucas v. Earl, 281 U.S. 111 (1930) . . . . . .P. 9

"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 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 a entirety and not be returned by the individual performing the services. It has 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."

Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 (1992) . . . . . .P. 19

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;

Main v. Thiboutot, 100 S. Ct. 2502 (1980). Cf. (See also *Bialac v. Harsh,* U.S., 34 L.Ed.2d 512, 463 F.2d 1185 (9th Cir. 1972) . . . . . P. 5

"The law provides that once State and Federal jurisdiction has been challenged, it must be proven."

Mattox v. U.S. 156 U.S. 237, 243 (1895) . . . . . P. 17

"We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted."

McNally v. U.S., 483 U.S. 350, 371–372, (1987), *quoting U.S. v. Holzer,* 816 F.2d. 304, 307 (1987). . . . . P. 15

"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." "

Merchants Loan & Trust Co. v. Smietanka, 225 U.S. 509, 518, 519. (1923) . . . .P. 9

"Income, as defined by the Supreme Court means, 'gains and profits' as a result of corporate activity and 'profit gained through the sale or conversion of capital assets.' " (Also see 399. *Doyle v. Mitchell Bros. Co.* 247 U.S. 179, *Eisner v. Macomber* 252 U.S. 189, *Evans v. Gore* 253 U.S. 245, *Summers v. Earth Island Institute,* No. 07-463 [U.S., March 3, 2009] [citing *Bender v. Williamsport Area School Dist.,* 475 U. S. 534, 541 {1986}].

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.

"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." (Emphasis added).

New York Life Ins. Co. v. Gamer, 303 U.S. 161, 171, 58 S.Ct. 500, 503, 82 L.Ed. 726 (1938) . . . . . P. 4

"[A presumption] cannot acquire the attribute of evidence . . .")

Peck & Co. v. Lowe, 247 U.S. 165 (1917), Brief for the Appellant at 11, 14-15 . . . . . P. 8, 9, 16

"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." (Not in the ruling itself).

Pollock v. Farmers' Loan & Trust co., 158 U.S. 601, 635-637 (1895) . . . . .P. 8, 9, 15

"We have considered the act only in respect of the tax on income derived from real estate, and from invested personal property, and have not commented on so much of it as bears on gains or profits from business, privileges, or employments, in view of the instances in which taxation on business, privileges, or employments has assumed the guise of an excise tax and been sustained as such. It is evident that the income from realty formed a vital part of the scheme for taxation embodied therein. If that be stricken out, and also the income from all investments of all kinds, it is obvious that by far the largest part of the anticipated revenue would be eliminated, and this would leave the burden of the tax to be borne by professionals, trades, employments, or vocations; **and in that way what was intended as a tax on capital would remain in substance as a tax on occupations and labor. We cannot believe that such was the intention of Congress**. We do not mean to

say that an act laying by apportionment a direct tax on all real estate and personal property, or the income thereof, might not lay excise taxes on business, privileges, employments and vocations. But this is not such an act; and the scheme must be considered as a whole." (Emphasis added).

Porter v. Aetna Cas. & Sur. Co., 370 U.S. 159 (1962). . . . . P. 1

"Certiorari was granted in view of the importance of the question in the administration of the Act. 368 U.S. 937, 82 S.Ct. 384, 7 L.Ed.2d 337"

Schulz v. IRS and Anthony Roundtree, U.S. Court of Appeals, Docket No. 04-0196-cv, P. 10, lines 10-17 . . . . . P. 5

"Any legislative scheme that denies subjects an opportunity to seek judicial review of administrative orders except by refusing to comply, and so put themselves in immediate jeopardy of possible penalties "so heavy as to prohibit resort to that remedy" (*Oklahoma Operating Co. v. Love,* 252 U.S. 331, 333 [1920]), runs afoul of the due process requirements of the Fifth and Fourteenth Amendments."

Shirley Peterson, former IRS Commissioner, Southern Methodist University's Tax Policy Lecture, Published by Freeman Education Association8141 E. 31st St., Suite F, Tulsa, OK 74145 . . . . . P. 18

"Eight decades of amendments and accretions to the Code have produced a virtually impenetrable maze. The rules are unintelligible to most citizens - including those holding advanced degrees and including many who specialize in tax law. The rules are equally mysterious to many government employees who are charged with administering and enforcing the law. **The need for simplification is apparent** from sheer weight of the Internal Revenue Code and its regulations, which now comprise eight volumes of fine print." (Emphasis added).

Sims vs. Ahrens, 167 Ark. 557; 271 S.W. 720, 730, 733 (1925). . . . . .P. 11

"The legislature has no power to declare as a privilege and tax for revenue purposes, occupations that are of common right... "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."

Slaughter House, 83 U.S. 36, at 127 (1873) . . . . . .P. 11

"Property is everything which has an exchangeable value, in the right of property includes the 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."

Sniadach v. Family Finance Corp., (1969) . . . . . .P. 7

Held: Wisconsin's prejudgment garnishment of wages procedure, with its obvious taking of property without notice and prior hearing, violates the fundamental principles of procedural due process. Pp. 339-342.

Southern Pacific v. Lowe, U.S. 247 F. 330. (1918) . . . . . P. 8, 9

". . . [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.' "

Standard v. Olsen, 74 S. Ct. 768; Title 5 U.S.C., Sec. 556 and 558 (b) . . . . . P. 5

"No sanctions can be imposed absent proof of jurisdiction."

Staples v. U.S., 21 F Supp 737 U.S. Dist. Ct. ED PA, 1937] . . . . . P. 9
"Income within the meaning of the Sixteenth Amendment and Revenue Act, means 'gains' . . . and in such connection 'gain' means profit . . . proceeding from property, severed from capital, however invested or employed and coming in, received or drawn by the taxpayer, for his separate use, benefit and disposal . . . Income is not a wage or compensation for any type of labor."

Stare Decisis . . . . . .P. 1

'To stand by that which is decided.' The principal that the precedent decisions are to be followed by the courts. To abide or adhere to decided cases. It is a general maxim that when a point has been settled by decision, it forms a precedent which is not afterwards to be departed from. An appeal court's panel is "bound by decisions of prior panels. *United States v. Washington*, 872 F.2d 874, 880 (9th Cir. 1989). (*Moradi-Shalal v. Fireman's Fund Ins.*

Companies (1988) 46 Cal.3d 287, 296.) "According to the Supreme Court, stare decisis "promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process." In practice, the Supreme Court will usually defer to its previous decisions even if the soundness of the decision is in doubt. A benefit of this rigidity is that a court need not continuously reevaluate the legal underpinnings of past decisions and accepted doctrines. Moreover, proponents argue that the predictability afforded by the doctrine helps clarify constitutional rights for the public." Cornell University Law School.

Stratton's Independence, Ltd. v. Howbert, 231 US 399, 414 (1913) . . . . . .P. 8, 13

"As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. This court had decided in the *Pollock* case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax [direct], but an excise tax [indirect] upon the conduct of business in a corporate capacity, measuring however, the amount of tax by the income of the corporation . . . [Additional cites omitted.]"

Summers v. Earth Island Institute, No. 07-463 (U. S., March 3, 2009) (citing *Bender v. Williamsport Area School Dist.,* 475 U. S. 534, 541 [1986]). . . . . P. 5

"It is well established that the court has an independent obligation to assure that standing exists, regardless of whether it is challenged by any of the parties."

Taft v. Bowers, N.Y. 1929, 49 S.Ct. 199, 278 U.S. 470, 73 L.Ed. 460 . . . . . .P. 9, 10

"The meaning of 'income' in this amendment is the gain derived from or through the sale or conversion of capital assets: from labor or from both combined; not a gain accruing to capital or growth or increment of value in the investment, but a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital however employed and coming in or being 'derived,' that is, received or drawn by the recipient for his separate use, benefit, and disposal."

Treasury Department's Division of Tax Research publication, "Collection at Source of the Individual Normal Income Tax," 1941 . . . . . P. 9

"For 1936, taxable income tax returns filed represented only 3.9% of the population . . . [O]nly a small proportion of the population of the United States is covered by the income tax."

Treasury Inspector General for Tax Administration—TIGTA. (Audit Report No. 2012-30-066) . . . . . P. 6

"The use of any such terminology is barred under a provision of the IRS Restructuring and Reform Act of '98, the audit said. Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)1 Section 3707 prohibits the IRS from using Illegal Tax Protester or any similar designations."

U.S. v. Balard, 535, 575 F. 2D 400 (1976); (see also *Oliver v. Halstead,* 196 VA 992; 86 S.E. Rep. 2D 858) . . . . . .P. 8, 9, 14

"Gross income and not 'gross receipts' is the foundation of income tax liability . . . The general term 'income' is not defined in the Internal Revenue Code . . . 'gross income' means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources. 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 . . ."

U.S.C.A. Const. Am 16 . . . . . P. 9

"There must be gain before there is 'income' within the 16th Amendment."

U.S. v. La Salle N.B., 437 U.S. 298 (1978) . . . . . P. 17

"The IRS at all times must use the enforcement authority in good-faith pursuit of the authorized purposes of Code."

U.S. v. Mason, 412 U.S. 391, 399-400 (1973) . . . . . P. 7

"No one should be punished unnecessarily for relying upon the decisions of the U.S. Supreme Court."

U.S. v. Morton Salt Co., 338 U.S. 632, 654 . . . . . P. 2, 17

"The Court is free to act in a judicial capacity, free to disagree with the administrative enforcement actions if a substantial question is raised or the minimum standard is not met. The District Court reserves the right to prevent the 'arbitrary' exercise of administrative power, by nipping it in the bud."

U.S. v. Tweel, 550 F. 2d. 297, 299, 300 (1977). (See also U.S. v. Prudden, 424 F.2d 1021, 1032; *Carmine v. Bowen,* 64 A. 932.) . . . . . P. 15

"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."

Valley Forge Christian College v. Americans United, 454 U.S. 464, 472 (1982). . . . . P. 19

"...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. (See also *Allen v. Wright*, 468 U.S. 737, 751 (1984); *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 225-226 (1974)).

Vaughn v. State, 3 Tenn.Crim.App. 54, 456 S.W.2d 879, 883 . . . . . P. 5

"Aside from all else, 'due process' means fundamental fairness and substantial justice."

William V. Dorsaneo III, Texas Litigation Guide, Vol. 4, Ch. 55 (Matthew Bender & Company, Inc.: New York, 2016), p. 55-5. . . . . P. 15

Constructive fraud occurs when there is a breach of a legal or equitable duty that, irrespective of guilt, the law declares fraudulent because of its tendency to deceive others, to violate confidence, or to injure public interests . . . An

example of constructive, as opposed to actual, fraud involves the failure to disclose facts when there is a duty to make a disclosure. . .

Winters v. New York, 333 U.S. 507, 515-16 (1948) . . . . . P. 13

"The vagueness may be from uncertainty in regard to persons within the scope of the act . . ."

Wyoming v. Oklahoma, 502 U.S. 437, 451 (1982) . . . . . P. 1

"But where claims are of sufficient seriousness and dignity, in which resolution by the judiciary is of substantial concern, the Court will hear them." (See also *Texas v. New Mexico,* 462 U.S. 554 [1983]; *California v. West Virginia,* 454 U.S. 1027 [1981]; *Arizona v. New Mexico,* 425 U.S. 794 [1976]).

PETITION FOR WRIT OF CERTIORARI

Petitioner, Jeffrey T. Maehr, respectfully prays that a Writ of Certiorari issue to review long-standing but discarded case law and challenges directly affecting the lower court opinion below, and IRS standard operating procedures affecting up to millions of Americans, and can *only* be done so herein.

OPINIONS BELOW

[X] For cases from federal Courts: this case . . .
The opinion of the United States Court of Appeals appears at Appendix A to the Petition and
[X] The Denial of the United States Court of appeals En Banc Rehearing appears at Appendix B to the Petition, and both are
[ ] reported at; or,
[ ] has been designated for publication but is not yet reported; or,
[X] unpublished.

JURISDICTION

-The date on which the United States Court of Appeals decided Petitioner's case was October 20, 2016, and a copy of the order appears at Appendix A.

-A timely petition for rehearing was denied by the United States Court of Appeals on November 10, 2016, a copy of the order denying rehearing appears at Appendix B.

-An extension of time through March 1, 2017 was GRANTED by Justice Sotomayor on January 26, 2017. This Petition is timely filed.

-Lower District and Appellate court rulings and IRS administrative actions on these issues run counter to the U.S. Supreme Court case precedent (*Staire Decisis, P. xix*) provided herein.

-Due Process on constitutional and legal questions has been, and is being, denied Petitioner, and all similarly situated Americans are equally damaged and misled on the relevant issues.

-This court stated when this rises to the level of genuine "seriousness and dignity", and is vitally important to the American public, that "the court will hear them". (*Wyoming v. Oklahoma,* 502 U.S. 437, 451 (1982), P. xxii).

-"Certiorari was granted in view of the importance of the question in the administration of the Act." *Porter v. Aetna Cas. & Sur. Co.*, (P. xvii).

- Title 18, Section 4; Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

-This court is "free to act in a judicial capacity, free to disagree with the administrative enforcement actions if a substantial question is raised or the minimum standard is not met." (*U.S. v. Morton Salt Co.,* P. xxi).

-To the very best of Petitioner's knowledge and belief, these questions and evidence for same have never been properly adjudicated in any lower court, and only in this honorable court's original rulings which are being ignored, and are ripe for lawful judicial review and constitutional clarification.

- This is not a political, left or right, conservative or liberal, party spirit or opinion based issue. It IS a constitutional, original intent, rule of law and case precedent issue that affects millions of Americans.

CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE

U.S. Constitution, Art. 1, Sect. 2, cl. 3; Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers...

U.S. Constitution, Art. 1, Sect. 9, cl. 4, direct taxes - No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census of Enumeration herein before directed to be taken.

U.S. Constitution, Art. 1, Sect. 8, cl. 1; The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

U.S. Constitution. 5th Amendment - No person shall be... deprived of life, liberty, or property, without due process of law;

U.S. Constitution, 7th Amendment - In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved...

U.S. Constitution, 16th Amendment; The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

26 U.S.C.—Law proving income tax liability; the lawful original definition of income; the authority to assess and tax any asset of any American as lawful income.

Internal Revenue Manual: 4.10.7.2.9.8 (01-01-2006):

> 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.

STATEMENT OF THE CASE

Petitioner begs the Court's patience with this discourse, but this issue cannot be properly understood without all the relevant facts in evidence being laid out. (*American Communications Assn. v. Douds*, P. vi). Truth has been so seriously suppressed and camouflaged over time that it is impossible to expose it without first chipping away at the shroud surrounding it until the truth begins to shine through. This takes words to paint the picture of the true facts at issue.

The evidence cannot be casually perused to see the picture despite the possible temptation to believe that "everyone knows" that the meaning of this evidence "cannot be true" because it has been going on for so long... "conventional wisdom." Disclosure takes study and contemplation if truth and justice are still the aim of our courts.

Petitioner was not appointed assistance of counsel, despite request, and was not able to afford assistance of an attorney because he is a disabled veteran essentially barely financially surviving as it is, and couldn't locate any to assist him pro bono on these issues, thus he has had to wade through all this on his own over years, with the help of thousands of pages of documents from others supporting his position.

1. Petitioner, approximately in late 2002, early 2003, began requesting answers and information from the government Defendants/IRS (hereafter "IRS") on various discrepancies he found in standing U. S. Supreme Court case law, IR Code and Congressional and other testimony, versus what the IRS is claiming and presuming about Petitioner's (and all others similarly situated) tax liability on what is being alleged as taxable "income". Petitioner, multiple times, requested the required hearing with the IRS on these topics, but was never provided his time to be heard.

2. Despite repeated requests for clarification, and providing ample evidence to bring significant challenges to IRS *fiction of law* (P. xi) and ongoing "presumptions" claimed by the IRS, which is not evidence, (*A.C. Aukerman Co. v. R.L. Chaides Const. Co.,* P. vi; *Del Vecchio v. Bowers,* P. x; *Heiner v. Donnan,* P. xiii; *New York Life Ins. Co. v. Gamer,* P. xvi;), the IRS and lower courts have consistently refused to provide *findings of fact and conclusions of law*, (P. xi) despite a proper response being stipulated in the IRS' own documents, (See Appendix C, Exhibit E1 & E3). The IRS stated in writing that it *would not* answer the case law, I.R. Code and Congressional evidence outside of court. (See Appendix D, Exhibits C 1-5).

3. Multiple summons for Petitioner's financial records with third parties were made by the IRS, which Petitioner challenged (as an attempt to get his due process

time as stipulated in IRS response letters). Motions to Quash said summons were dismissed without adjudication of provided case evidence, or *finding of facts and conclusions of law.* No answers to this court's own precedent were forthcoming.

4. Standing and jurisdiction of the IRS were challenged (*Federal Crop Insurance Corporation v. Merrill,* P. x; *Hagans v. Lavine,* P. xii; *Main v. Thiboutot,* P. xv; *Standard v. Olsen, P. xviii; Summers v. Earth Island Institute, P. xix;*) to assess and deprive Petitioner of property without due process of law (*5th Amendment;, P. 2; Black's Law Dictionary,* P. vi; *Kazubowski v. Kazubowski, P. xiv; Schulz v. IRS and Anthony Roundtree*, P. xvii). This was ignored as well and the alleged IRS jurisdiction and standing against Petitioner in this case are challenged to date.

5. Petitioner was then assessed almost $300,000 for an alleged "income" tax liability for years 2003, 2004, 2005 and 2006 based on frivolous presumptions that he had any "income" which created a liability being assessed for, and without any evidence of record. The IRS did not consider the nature of the funds in the records of the assessed accounts, and simply labeled it all as Petitioner's wages or other alleged business "income", which appears to be standard operating procedures against all Americans. This created a hyper-inflated assessment based on fictitious obligations and falsification of records.

6. The IRS then levied ALL of Petitioner 's business account, (Records not provided by levied bank), ALL of his Social Security Retirement funds for life, (See Appendix E, Exhibit S, $8364 levied to 2-1-17) outside due process of law and "fundamental fairness and substantial justice," *(Vaughn v. State,* P. xxii), and without proof of debt. The IRS also attacked all of Petitioner's lawfully protected Veterans Disability Compensation, but the Appeal's Court *Reversed and Remanded* Petitioner's Veteran's Disability Compensation attack challenge, (on 10-20-16, Mandate dated 12-12-16) back to Colorado District Court, 16-cv-00512-PAB, with no adjudication to date after Amended Brief was ordered, and filed on 1-17-17, and ORDER Drawing Case dated 2-15-17). The IRS even attempted levy of Petitioner 's Mother's Social Security funds which account Petitioner was named on to help her due to her ongoing health issues, but attempted levy was denied by the levied bank.

7. Petitioner brought suit against named Defendants for attempting to destroy Petitioner's ability to survive, and for violations of law, for levy fraud, for non-disclosure, and to seek constitutional protections, as well as demanding a Jury trial, (which is Petitioner's right under the7th Amendment, (P. 2) to have the evidence heard by an unbiased group of his peers who would clearly see the standing evidence and truth. Jury trial was never addressed, and thus, denied. It is the government's duty to protect Petitioner's and all American's rights and not be in

noncompliance with standing laws and case precedent by denying those rights.

8. Although the 10th Circuit Court of Appeals *Reversed and Remanded* the Veteran's Disability Compensation attack challenge as not being "legally frivolous", it denied all other challenges, claiming the U.S. Supreme Court case precedent and other self-authenticating evidence cited was "legally frivolous", but without any supporting *finding of fact or conclusions of law* in support. The lower courts also did not require the IRS or other defendant to reply to defend against actual evidence. It is not the judicial branch's position to be defending the IRS in this complaint and providing cover for the IRS by ignoring the evidence of record. These issues will now be argued below.

REASONS FOR GRANTING THE PETITION

A. The nature and original lawful definition and understanding of "income" must be decided based on original intent and standing Supreme Court case precedent, not hearsay or presumption, or frivolous and unsubstantiated newer case precedent!

1. Petitioner wants to make it clear that he is NOT contesting the government's right to tax lawful "income", and that this is NOT a "tax protest" issue, (or similarly biased labels which have been illegally used against him to taint and prejudice any who are involved with this case... *Treasury Inspector General for Tax Administration*, P. xx). Neither is Petitioner "anti-government" nor "anti-tax" but IS against unlawful taxation, and is anti-corruption, and supports lawful taxation for lawful government purposes. Petitioner is one of the many millions of "Tax Honesty" Americans.

2. Petitioner can only act on what evidence he has discovered, and defend his life and his assets using the substance of the evidence and existing law, (*Fortney v. U.S.,* C.A.9, P. xi), and if questions are not realistically answered, and doubt has been created, especially without rebuttal evidence in fact, "the doubt should be resolved in favor of the taxpayer." (*Gould v. Gould*, P. xii; *Hassett v. Welch.,* P. xiii). Far too much deference has been given by the courts to the IRS without proper vetting of the actual claims made and evidence provided.

3. Because the IRS has used some previous lower court precedent against other individuals and their arguments against Petitioner ,which were labeled "frivolous" for many decades, does not raise such questionable precedent to the level of credible evidence in this instant case. Evidence herein has never been adjudicated in any of the lower courts cited by the IRS, making moot any legal standing to use lower court cites as evidence in this instant case. Such cases may

have been labeled "frivolous" in regard to the lack of evidence presented, but certainly did not contain the evidence herein. In addition, in the *Internal Revenue Manual,* (P. xiii)", it clearly describes that the IRS and all lower courts are bound to U.S. Supreme Court case precedent, and that any previous cases cannot be allowed to be used beyond the named people in the case.

4. All previous lower court cases cited by the IRS, and the Court of Appeals citing of its own rulings,[1] run counter to the U.S. Supreme Court *Staire Decisis* . In *Sniadach* (P. xviii), this court overturned similar actions apart from due process of law and lawful judgement, but this case is far beyond that challenge. The IRS has willfully and wantonly attacked Petitioner, and all other Americans similarly situated, for defending his rights by raising this court's standing case precedent on these issues, (*U.S. v. Mason*, P. xxi) and requesting clarification, but the IRS and lower courts failed to consider any of it as relevant evidence, denying Petitioner's right to be heard.

5. This court ruled that *Staire Decisis* dictated "intrinsically sounder doctrine" (*Adarand Constructors, Inc. v Pena*, P. vi) especially since all such Supreme Court cases provided in Petitioner's defense have never been overturned, and yet are being discarded under *color of law*, (*Atkins vs. Lanning*, P. vi) with newer "precedent" being relied upon without proper adjudication of relevant evidence. This is a suppression of *Staire Decisis* and creates clear conflicts between this court, and the lower courts and IRS.

6. Petitioner (and all Americans) are required to know the law to understand what our personal responsibilities are, especially in tax liabilities and duties in lawful support of government. (*Joseph Nash v. John Lathrop,* P. xiv). In order for this to occur, we must study standing cases, the statutes, the Constitution, and other legal sources on the subject, as well as request answers from relevant government authorities who know or should know the laws. Petitioner has done so with the IRS regarding an alleged tax liability, but been denied answers. Any tax liability must be proven valid despite "demanding payment, even repeatedly" (*Boathe v Terry*, P. vii). Judicial review (5 U.S.C., P. v) of the Executive Branch of government/IRS by the co-equal but independent Judicial Branch is a vital safeguard of American liberties.

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[1] The Court of Appeals in its October 20, 2016 ruling, claimed that... "Appellant has raised these same arguments before, and we have rejected them before. *See, e.g., Maehr v. IRS*, 480 F. App'x 921, 923 (10th Cir. 2012)," however this is not accurate. The evidence regarding wages not being lawful income was not addressed, and the fact that assessment was made on gross assets which were NOT wages or business profit to Petitioner, and was mostly business expenses, was also not addressed by the Appeal's Court.

7. Petitioner realizes the first impression of the ramifications of these challenges, but the issue is one of the Rule of Law, original intent and what is right and just for our Union, not one of power and control over Americans and the threat to illegal or unconstitutional government activities long since forgotten. The threat is to Americans and their future, and is simply part of draining the swamp President Trump and administration are focusing on, (who are receiving a copy of this Petition). Unless we begin to bring government back under original intent of Congress and our Founding Generation, the Rule of Law, and this court's precedent, our Republic will be completely consumed by the swamp, and will represent something far worse than our Founding Generation left behind and fought against. We are either a Constitutional Republic, or we have lost our way and our laws and Constitution have become meaningless and of no effect any longer.

8. Petitioner maintains that his challenges are meritorious on multiple levels but are being resisted without proper adjudication of evidence presented. This issue affects not only Petitioner, but also all Americans similarly situated, which appears to be many millions of Americans.

POINTS OF DOCUMENTED AND UNDISPUTED FACT

9. The first relevant issue is that a tax on "income" appears to be a lawful and constitutional tax, however, the word "income" is not defined in the Internal Revenue Code, *(U.S. v. Balard,* P. xx*)*, and said code is not clear and unambiguous. The definition of "income", over time, has been expanded beyond original or lawful intent. *(Gould v. Gould*, P. xii). The IRS refuses to prove that its definition of "income" includes "wages, salary or compensation for service" (herein "wages") for work/labor using any statutes, laws or case precedent, or even its own code.

10. The term "income" had "a well defined meaning before the [16th] amendment to the Constitution was adopted", and no legislation changed, or can change, that meaning. (1913 Congressional Record, P. v). "Income" did not include "everything that comes in" to anyone's account. (*Doyle v. Mitchell Brother, Co.*, P. x; *Southern Pacific v. Lowe,* P. xviii). "Income" originally meant what we today call "unearned income" or "passive income", or corporate profits, capital gains, interest income, investment income and the like.

11. "Income" at the time the 16th Amendment was adopted meant everything BUT wages of the working man or woman. Income was originally understood to be an excise tax (*Brushaber v. Union Pac. R.R. Co.,* P. vii; *Peck & Co. v. Lowe*, P. xvi;) on the exercise of privilege or enjoyment of commodities, (Chas. C. Steward Mach. Co. v. Davis, *P. viii; Flint v. Stone Tracy Co.,* P. x*i; Pollock* v *Farmers' Loan & Trust co.*, P. xvi; *Stratton's Independence, Ltd. v. Howbert*, P. xix). Further, "income" had

to meet *specific criteria* to be lawfully and constitutionally labeled as a taxable item.

12. Lawful income "must have the essential feature of" a "gain" or "profit" to the recipient, and "if there is no gain, there is no income." (*Conner v. United States,* P. ix; *Staples v. U.S.,* P. xviii; *U.S.C.A.* Const. Am 16, P. xx). "Profit is a different thing altogether from mere compensation for labor," (*U.S. v. Balard,* P. xx). "Income" was originally identified with " the gain derived from or through the sale or conversion of capital assets... a gain, a profit... proceeding from the property..." (*Merchants Loan & Trust Co. v. Smietanka,* P. xvi; *Taft v. Bowers*, P. xix). The very use of the words "gains" and "profits" is to "limit the meaning of the word income", (*Southern Pacific v. Lowe,* P. xviii), and shows a clearly understood distinction between "wages", and any kind of "gain or profit or income."

13. Congress sought to tap the "unearned wealth of the country" (45 Congressional Record, P. v) and to reach the business "profits" (*Black's Law Dictionary,* 2nd Edition, P. vi) "from" other principal sources... a byproduct of productive businesses and assets. Original intent on exactly how "income" was defined did not include "wages, salary or compensation for services," (*Conner v. United States,* P. ix; Gov. A.E. Wilson on the Income Tax [16] Amendment, P. xii; *Laureldale Cemetery Assn. v. Matthews,* P. xiv; *Lucas v. Earl,* P. xv; *U.S. v. Balard,* P. xx).

14. "Only a small proportion (3.9%) of the population of the United States was covered by the income tax" in 1936. (Treasury Department's Division of Tax Research Publication, P. xix). Is this court or any American expected to believe that there were so few Americans working for a living in 1939 that only 3.9% of the entire working population of America were involved with receiving "wages" for their work? Most Americans then had NO lawful "income" (gain or profit) "derived" from something, and their wages were not classified as "income" at that time.

15. The 16th Amendment states, in part...

> "Congress shall have power to lay and collect taxes on incomes, from whatever source derived..." (P. v).

This is similar to wording in 26 U.S.C., Section 61, (P.v). Both declare "income" as something derived "from whatever source". Petitioner asks this court to consider; If "gains, profit and income" are synonymous with "wages, salary or compensation for services" as the IRS claims but court precedent denies ... i.e., "wages" are the exact same thing as "income"... then how does Petitioner (or anyone in America) "derive" any "income" FROM "wages", which is allegedly the same thing? Something "derived from" a parent source can be taxed as "income" but

Petitioner's (and millions of other American's) wages have been assessed by the IRS as "derived" income when it is not. (*Edwards v. Keith,* P. x; *Peck & Co. v. Lowe,* P. xvi; *Pollock v. Farmers' Loan & Trust co.*, P. xvi;).

Webster's Dictionary defines "derived" as...

> "to take, receive, or obtain especially from a specified source," and "to take or get (something) from (something else)."

Black's Law Dictionary, 6th Edition states...

> "Derived. Received from specified source."

The property (wage, salary or compensation) would be the parent "source" substance (principal) and the "gain, profit or income" would be a separate "derivative" obtained *"from"* the parent substance through other mechanisms of law or business pursuits.

Webster's Dictionary defines "*from*" as. . .

> "... to show removal or separation," and "used to indicate the place that something comes out of."

Black's Law Dictionary, 6th Edition states...

> "From. As used as a function word, implies a starting point, whether it be of time, place, or condition; and meaning having a starting point of motion, noting the point of departure, origin, withdrawal, etc. One meaning of 'from' is 'out of.'"

16. The IRS is claiming that wages, once received for labor or other work, somehow, through an as yet unknown mechanism of law, (short of smoke and mirrors) is transformed into "income" (gain/profit) that is now taxable. Multiple standing court cases have held that a tax on "income" is not "a tax on its source..." i.e., the source of income is not "income" or the subject of the income tax. (*Graves v. People of State of New York*, P. xii), therefore how can Petitioner's wages be the specific target of an "income" tax since wages are considered a "source" of "income"?

17. The ONLY possible way "income" can be "derived from" Petitioner's (or any American's) "wages", ("to take or get (something) from (something else)"), is if Petitioner takes what may be left of his wages he receives in exchange for labor or other work, and invests it, or in some other way, creates (derives) a "gain or profit"

FROM the wages, such as interest or other "gain/profit/increase" from investment of wages. "The meaning of 'income' in this amendment is... Something of exchangeable value, proceeding from" the wage or asset. (*Taft*, P. xix). There can be no other reasonable way to "derive" "income" from "wages, salary or compensation for service".

18. The IRS is claiming that all Petitioner's (or any American's) labor is completely free to him, and thus, "all" his wages for that labor are pure "profit" and "gain". It also alleges that there are ZERO costs related to the ability to provide labor to make a living. This makes Petitioner's labor, which is a form of lawful, personal assets, (*Butchers' Union Co. v. Crescent City,* P. viii;), inherently worth nothing. The costs to be able to "derive" a "profit" or "gain" are clearly established and understood for businesses, so to claim there are no "costs" related to Petitioner (or all others) in providing labor or services is untenable, and this court's cases cited, and other evidence, clearly establishes this. There are "costs" for Petitioner and all Americans to be able to produce labor, (*Adkins v. Children's Hospital, P. vi*). To suggest otherwise is to create a form of involuntary servitude called slavery where ALL, or parts of, someone's personal labor is owned by someone else.

19. When Petitioner (or anyone) gives 8-10 hours a day, 5-6 days a week in labor or service, each of those hours must have intrinsic value to him. Those wages were not handed freely to him without personal cost. The work was provided by Petitioner and not the IRS, so what laws authorize the IRS to claim that part of every hour's wage is not Petitioner's own, not belonging to him but belonging to the IRS? If it costs Petitioner $1500 a month to live and be able to work, and he makes $1500 a month in wages to equally support that living, where is the "profit" or "gain" to Petitioner alleged by the IRS?

20. Working for a wage is not a government privilege that can be directly taxed as Petitioner, and all working Americans, are being taxed. Labor is a personal, private asset which can be sold at will, (a privately-contracted, equally-exchanged and agreed upon value-for-value situation). Petitioner's right to work (*Butchers' Union Co. v. Crescent City,* P. viii; *Coppage v. Kansas,* P. ix; *Flint v. Stone Tracy Co.,* P. xi; *Jack Cole Company v. Alfred T, MacFarland, Commissioner, P. xiii; Jerome H. Sheip Co. v. Amos, P. xiv; Sims vs. Ahrens*, P. xviii; *Slaughter House,* P. xviii) and contract through a private agreement between Petitioner and his employer, or through self-employment, is not something which the government has any right to interfere with or to claim any lawful rights under. Petitioner has no contract with the IRS that he has any knowledge of or agreed to knowingly or willingly that would call for such a personal, direct tax.

21. Does it cost this Supreme Court's Justices anything to be sitting there daily, or the clerks to be arriving at work daily, or the attorneys to be in the courtroom daily? Are there ANY costs related to being able to arrive at the court to perform duties and receive a wage or salary, as there are costs for any business to be able to produce a "profit" or "income" after ALL expenses? This court, and many others, originally understood this as common knowledge at one time. Petitioner has never "derived" any taxable "income" from his wages or other assets, yet ALL his assets for living have been or are being attacked because of this presumption that he had any taxable "income".

22. If the "principal" (wage) is attacked right from the top, this diminishes the value of Petitioner's labor or work to him, and prevents him from actually being able to produce lawful "income" through "deriving" assets from the wage (principal) (*Crandall v. Nevada.*, P. x) because he has expenses he must pay for to be able to work. Any business taxed on gross "receipts" would soon be out of business. Is it any wonder Americans are struggling as they are, often with two or more jobs to pay for costs to be able to work and feed and clothe their families, AND pay wage taxes?

23. Petitioner asks this court to further consider... if there are actual income tax laws that Petitioner has truly violated, as the IRS claims, versus simply personal belief of not being "liable" to file an "income" tax return, which exonerated Cheek *(Cheek v. U.S.*, P. ix), and others, from any lawful criminal charges of violation of an alleged tax law, then what actual tax law has Petitioner violated in the last 14 years, and what subsequent law authorizes the IRS to maliciously assess, lien, and levy all Petitioner has, especially without any criminal charges and apart from due process of law or valid proof of liability or debt on the record?

24. Ample charges of "owing" an alleged lawful "income" tax and not paying it have been consistently charged against Petitioner, and assets seized accordingly. What happened to reason and justice and the Rule of Law? If Americans all across the Republic simply claimed it was their "belief" that they were not violating any valid standing law... such as against murder, theft, assault, fraud, rape... would this exonerate them, and nullify actual standing laws they violated, and free all of them from any criminal or civil violation of the alleged laws they were being prosecuted through?

25. If they were freed from criminal actions due to belief, would that suddenly create a law authorizing government to take all their assets? How is this different if there is an actual "income" tax "law" being violated that proves liability to Petitioner (or any American) for a tax on his wages, and a law supporting said levy of all Petitioner's assets? By what "law" is Petitioner and countless other Americans being administratively assessed under, especially without evidence of debt? This extra-

lawful levy action is nothing but an administrative form of malicious prosecution under *color of law*. RICO/Title 18 & Title 42 clearly come to mind.

26. The evidence is clear from original intent of this court and Congress, but a lie has been sold to America over generations since WWII, and is egregiously harming most American's finances. Alabama was the first State in the Union to ratify the 16th Amendment. According to the *August 3, 1909 edition of the New York Times*, a Col. Bulger introduced the 16th Amendment in the Alabama House. Said the New York Times...

> "The only interruption to his speech was a query by Representative J. T. Glover of Birmingham, who wanted to know if the amendment would affect salaries. Col. Sam Will John, also of Birmingham, responded that it would not."

27. The ability for government to tax the people must be based on a constitutional platform of a direct (apportioned-U.S. Constitution, Art. 1, Sect. 2, cl. 3 and U.S. Constitution, Art. 1, Sect. 9, cl. 4, P. 2) or indirect (uniform/excise - U.S. Constitution, Art. 1, Sect. 8, cl. 1, P. 2) tax, and be clearly designated as either in law without any vagueness. (*Winters v. New York, P. xxii*).

28. The "income" tax is to be an indirect, excise tax on privilege, and be uniform across the States. The IRS has avoided defining what type of tax "income" tax is, let alone defining "income", or how it is complying with this legal requirement, or show how it is being constitutionally applied to Petitioner or others similarly situated, and can't even show in their own code where personal private American wage liability is created, like liability for other constitutional, lawful taxes. The IRS has been taxing personal wages as a direct tax on the source, and not apportioning it according to the constitution, and without any lawful authority to be doing so on wages. This is an "important question" which must be addressed.

B. However, if wages "<u>COULD</u>" somehow be proven to be lawful "income", does this authorize the IRS to hyper-inflate assessments, and call anything going into any account as "income" or "wages", especially without evidence or lawful proof?

1. The above being argued and defended, even **<u>IF</u>** the IRS could prove with evidence on the record that "wages" ARE lawful "income", and this court overturns all of its case precedent cited to counter that claim, or it disagrees with the argument for lawful and constitutional cause, there is another tangent which compounds the IRS' *fraudulent* assessment against Petitioner and others similarly situated. Claiming that "ALL" assets in any account, including ALL gross assets

entering into a business account, is actual "income" (wages or business income/profit received) that can lawfully be assessed is frivolous at best, and clearly fraud against Petitioner and others.

2. Even if this court were to overturn its original case precedent on the original definition of income, for lawful cause, we must, in all fairness, go on to review the actual assessment that is claimed to be based on Petitioner's actual wages/income, and what Petitioner's approximately $300,000 tax assessment is actually based on.

3. The IRS is claiming to be assessing Petitioner's lawful wages or business profits as taxable "income", therefore, the approximately $300,000 assessment would be prima facie evidence that Petitioner made a fairly specific amount of actual and proven taxable personal wages or business profit that have any chance of being taxable items. Based on the apparent 30% tax rate against Petitioner, (based on the IRS' claim of a $300,000 debt), how can the IRS, in the slightest lawful means prove that Petitioner made over $250,000 PER YEAR in personal wages and/or business profits for each year of 2003, 2004, 2005 and 2006, ($1 million over 4 years-30% being app. $300,000), especially without any evidence in the record to prove this?

4. Is this court expected to believe that Petitioner made that kind of actual wage or business profit on top of the obvious far greater gross assets that would have to be in evidence for this 30% personal tax rate, and all without any records to verify such? The actual summonsed business bank records used to make the assessment (not in evidence by the IRS) clearly prove Petitioner's claim that the assessment was upon business expenses and customer's order payments and NOT on lawful wages, or business profits of any sort to Petitioner. "Gross income and not 'gross receipts' is the foundation of income tax liability." *(U.S. v. Balard*, P. xx). All that comes in is not "gross income" but only that which is actual "income" that is separate from gross receipts. The IRS ignored this fact.

5. Petitioner is a disabled Navy veteran, since 1972. He has had only part-time work, or self-employment, or no work at all, since 1984, and even gave up ownership of his house because he couldn't pay the expenses of upkeep, taxes, etc. The IRS knew or should have known Petitioner's financial condition from the records they obtained through multiple summons, and available Social Security records, showing nothing remotely in evidence suggesting a wage, or receiving business profits, at that or any level. The IRS did not considered the evidence, or bother with due diligence in lawfully determining if there was ANY wage or business profit that was in the record, and willfully, wantonly and fraudulently assessed all "gross receipts" damaging Petitioner severely, and most likely many others, routinely.

6. On top of all the above, as mentioned previously, the IRS attempted levy of all of Petitioner's Mother's Social Security account he was named on, but was denied this levy by the bank, (See Appendix F, Exhibit F1 - original bank record available). In addition, Petitioner has a friend (as just one example) that has been having only 15% of his social security garnished (Evidence expected from SSA, but not received as yet) for over 8 years now for alleged back income taxes, which Petitioner previously called to the IRS' and the lower court's attention, with no comment. Petitioner asks why is the IRS acting seemingly arbitrarily in 3 different ways, allegedly within known and standing laws? Petitioner wonders how the bank had lawful criteria to prevent the IRS from taking Petitioner's mother's social security funds from the account he was named on, and only 15% is being garnished directly from a friend's Social Security. By what lawful authority is the IRS taking *ALL* of Petitioner's social security?

7. This is simply more evidence of IRS fraud against Petitioner, and any others similarly situated who receive such hyper-inflated assessments. This rises to the level of creating fictitious obligations, falsification of records and constructive fraud, (*McNally v. United States*, P. xv; *Williams v. Dorsaneo*, P. xxii). The IRS has been clearly silent on this, and has been warned by this court before about this silence being a form of fraud, (*U.S. v. Tweel,* P. xxi), through failing to respond to lawful challenges and this court's case precedent, as have the lower courts also.

8. Petitioner contends that this is prima facie evidence of IRS "standard operating procedures" for most every assessment, levy, and subsequent taking of American's homes, lands, accounts and other property, and needs to be vetted, and if discovery were allowed, evidence showing unlawful IRS administrative activities would surely be available, such as the *unjust enrichment* of IRS agents through bonuses or other "rewards" for forced collection of alleged tax liabilities.

C. The IRS claims the 16th Amendment is its alleged authority to tax income and wages of Petitioner and all Americans, but this position conflicts with this court's case precedent and historical evidence.

1. The claim that a lawful "income" tax was "authorized" by the 16th Amendment in 1913 is a frivolous claim. There is no foundation for the IRS' position that "income", as used in the 16th Amendment, (P. v), includes wages and salaries of any American working in the private sector and living in any of the States of the Union. The 16th Amendment does not define "income" nor does the language prove that a new tax on wages was suddenly authorized by the original intent of Congress. This is only frivolously and fraudulently presumed and enforced by the IRS.

2. This honorable court ruled in multiple cases that there was "no new power of taxation" created by the 16th Amendment, which conflicts with the IRS's claim . . .

a) *Bowers v. Kerbaugh-Empire Co.,* P. vii
b) *Eisner v Macomber,* P. x
c) *Evans vs. Gore,* P. x
d) *Peck & Co. v. Lowe,* P. xvi

3. If the term "income" had "a well defined meaning "**before**" the (16th) amendment to the Constitution was adopted", (1913 Congressional Record, P. v, emphasis added), by what authority does the IRS claim the 1913, 16th Amendment is the authority for "initiating" an "income" tax on American's business profits or American's wages, especially if they cannot define "income? This is not in evidence of any record. If the IRS cannot or will not define "income", how can Petitioner or any American be held to something that is not in evidence, or even know what "income" is and what their tax duty is without simply looking to original intent and court precedent as in this case to find where "income" IS clearly defined?

4. The actual income tax code instituted and understood shows over 300 examples of pre-1913 derivation dates, beginning as far back as 1863, and all still relevant in today's code. ("Derivation Code Sections of the Internal Revenue Code of 1939 and 1954" dated January 21, 1992 - http://sedm.org/Litigation/09-Reference/DerivOfCodeSectOfIRC.pdf. - Too large to include herein). This pre-existing "income" tax was NOT originally on Petitioner's or any American's wages but only on gains, profits and income from privileged business and other taxable activities as argued above.

5. The 16th Amendment simply cleared up the *Pollock* Court's conclusion[2]. The 16th Amendment provides that Congress could "continue"... to apply the income tax to "gains" that qualify as "incomes" (that is, the subclass of receipts that had always been subject to the "income" excise tax due to being the product of an exercise of privilege, such as other taxation[3] without being made to treat the tax as direct and needing constitutional apportionment when applied to dividends and rent by virtue of judicial consideration of the "source." The 16th Amendment merely says that privileged "gains" (actual "income") can't escape the tax by resorting to *Pollock's* "source" argument. (*Graves v People of State of New York*, P. xii).

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[2] The Pollock court embraced an overturned argument that when applied to excisable gains realized in the form of dividends and rent, the "income" tax was transformed into a property tax on the personal property sources (stock and real estate) from which the gains were derived. *(Pollock v. Farmers' Loan & Trust,* 157 U.S. (1895).

[3] As compared to activity creating a liability "clearly" defined in Section 5001 - Alcohol; Section 5703 - Tobacco; Section 5801, 5811 and 5821 - Firearms.

6. If the original lawful "income" tax codes predate 1913, which evidence proves, and it is to be treated as an indirect excise tax on privileged activity, and not a "new" tax on any new subject, it begs the question... "by what mechanism of law, statute or authority is the IRS taxing Petitioner's, (or any American similarly situated) wages, let alone all gross business assets in any account, as 'income', without clear and unambiguous laws and evidence of record?"

Discussion on Relevant Evidence

1. There is no law or code that overrides constitutional protections of life, liberty or property without due process and certainly not where validation of debt has not been established or verified. Original intent is the focus and challenge herein. This court's precedent presented clearly proves a different story than what the IRS is attempting to knowingly and wantonly, or unwittingly, deceive the lower courts and this court with regarding Petitioner or all other Americans similarly situated. This court clearly originally aligned itself with original intent. (*Mattox v. U.S.* , P. xv). The IRS has shown willful negligence in not providing answers to simple questions, which it is required to do, but has failed to do. (*U.S. v. La Salle N.B.,* P. xxi).

2. Either the IRS can answer the evidence, or it cannot, but certainly they should be required to rebut and defend with evidence instead of being allowed to walk freely away from the controversy and not be held accountable to the charges. Instead, the IRS is depending on the courts, which are intended to be *Independent* from the other two branches of government, (and an alleged separate power of our government) to defend the IRS, creating an air of bias against Petitioner, and all Americans, by the lower courts, (*Liteky v. U.S.*, P. xiv), and an apparent willful collaboration to defraud appears between the separate powers in our government.

2. How long does anyone continue believing in Santa Claus or the Easter Bunny despite the clear lack of evidence for either? Why is this issue so hard for mature, fair and just minded adults to grasp? If such standards are maintained for *this* issue as with other game-changing issues of the past, we'd still believe the earth is flat despite the clear evidence to the contrary that is now self-evident. As already stated, this court is "free to act in a judicial capacity, (*U.S. v. Morton Salt Co.,* P. xxi) to correct this error, and justice demands this for America.

3. Newer case precedent which counters standing case precedent is relegating original standing case precedent of this court to the dust bin of history, for expediency and continuation of fraud based on a forgetful and a negligent lower court judiciary and the American public. Such lesser and fraudulent precedent being allowed to stand unchallenged casts a shadow over all courts, and renders ANY U.S.

Supreme Court decisions potentially moot. If such standing case precedent is labeled "legally frivolous" by the IRS and the lower courts, (or any future government agency or body), or even this court against its own precedent, what is to prevent any standing U.S. Supreme Court ruling from being rendered useless and labeled "frivolous" at will with any newer frivolous precedent? Checks and balances must work properly but haven't been for considerable time on these issues.

4. What part of the U.S. Supreme Court case precedent, which is on point herein, is "legally frivolous" and what makes it so? What part of due process and right to jury is frivolous, and in what way? This ignoring of, or dismissal of, standing case precedent is setting a dangerous precedent that could undermine any number of past or future cases on the frivolous and erroneous precedent alone. Certainly valid and meritorious "substantial" questions and evidence have been raised, yet the IRS and lower courts, instead, parrot the "frivolous" mantra, and do not give a point by point rebuttal of evidence presented and claims made.

5. The Internal Revenue Code is a maze of obfuscation and word-smithing, admitted to by a previous IRS Commissioner (Shirley Peterson, P. xvii), and a unanimous 2003 "House Concurrent Resolution 141." (Not provided but available in Congressional records at http://clerk.house.gov/evs/2003/roll128.xml). In addition, a 1997 GAO report, (The Government Accountability Office, P. xii) indicated that the GAO was unable to determine whether the IRS was routinely using lawful enforcement practices or not. This is still unanswered by the IRS but evidence herein (and the "*Reverse and Remand*" order from the 10th Circuit Court of Appeals), and evidence in previous courts, strongly suggests the IRS is not using "lawful" enforcement practices, and is routinely violating the same.

6. The costs to Americans for just preparing the erroneous income/wage tax forms run into a billions of dollars per year, not counting the trillions in this unproven wage tax to them. The costs to businesses yearly for dealing with W2's, W4's, W9's, withholding taxes and such runs into the billions of dollars per year. Imagine the relief and financial improvements to both parties in correcting this obvious error? This court can help unite America on solid lawful grounds in these issues which would provide immediate relief to millions of Americans and businesses, and restore confidence in the Judiciary and confidence in justice and truth and the Rule of Law.

7. The IRS has not proven that American's wages were taxed prior to the 16th Amendment, or after the 16th Amendment up to the WWII era, when this tax was to be temporarily installed for the war effort but never rescinded after it. What better way to begin the "simplification" of this mess then by finally bringing these issues herein to the table and allow the IRS the opportunity to rebut what is claimed by

Petitioner and millions of Americans and what this honorable court previously ruled on, and vet and correct this ongoing egregious fraud and misapplication of the Rule of Law and standing precedent for millions of Americans?

8. There are many other very questionable tangents involving the IRS, many of which were raised in the District and Appeals Courts with many court cites and other self-authenticating evidence, (and each can stand on its own merits) but Petitioner wants to begin with the most fundamental and basic issues that cannot, in all good conscience, be refuted or ignored any longer, and which is going viral to America. Millions already know of these Supreme Court cases and the facts, and have removed themselves from the system and have not engaged the IRS. Petitioner had no choice but to engage and defend his life and assets, and subsequently, other Americans similarly situated, using the standing cases.

9. Petitioner prays this court will address this case to arrive at a lawful answer to the questions and conflicts. Petitioner has 100's of pages of evidence of correspondence and facts which cannot be presented herein. There are X-IRS agents, tax experts and attorneys, and other groups, who have written extensively on these issues which support Petitioner's position, but which are being suppressed and not being allowed to be properly heard. Amicus Briefs from many of them are available. The IRS has routinely reneged on publicly answering when it stated it would, and even scheduled the sessions over the last 20 years.

10. Petitioner moves this court to consider carefully... what would a Jury of Petitioner's/American's peers feel about such unlawful and egregious actions by the IRS Defendants against Petitioner, (or any American), ... years of oppression and attacks without having Petitioner's arguments truly heard? Why has this been kept from any jury to review over the decades? Petitioner maintains it is because anyone with a reasonable and fair mind would immediately see the fatal flaws in the IRS' position, and their silence on the facts. No rebuttal to this court's standing case precedent suggests the IRS has no response that is lawfully valid or credible.

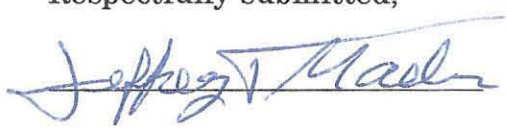
11. This has caused severe financial and emotional damage to Petitioner (and all others similarly situated), for years, and created a debt for Petitioner to family and others, and loss of quality of life and ability to carry on daily living for mere survival, and created credit damage, (credit card can't be paid, and credit agencies reporting on IRS liens and levies) and severely limiting the ability to carry on life, business pursuits or obtain loans, which cannot be sustained as is for much longer. This certainly raises these issues to an "injury in fact" (*Lujan v. Defenders of Wildlife*, P. xv; *Valley Forge Christian College v. Americans United*, P. xxi) which is clearly demonstrated, even in the mere ongoing threat to Petitioner, and others all these years, and provides convincing argument for judicial review. (5 U.S.C., P. v).

12. This controversy is ripe for adjudication, and all evidence considered to once and for all determine whether U.S. Supreme Court case precedent is valid, or it can be vacated at will by other government agencies or lower courts to allow a fraudulent or hyper-inflated tax on all Americans.

CONCLUSION

This Petition for a Writ of Certiorari should be GRANTED, and requested remedy to Petitioner, and relief for America, be provided, posthaste.

Respectfully submitted,



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FILED
United States Court of Appeals
Tenth Circuit

App-A

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

October 20, 2016

Elisabeth A. Shumaker
Clerk of Court

JEFFREY T. MAEHR,

Plaintiff - Appellant,

v.

JOHN KOSKINEN, Commissioner of Internal Revenue; JOHN VENCATO, Revenue Agent; GINGER WRAY, Revenue Agent; JEREMY WOODS, Disclosure Specialist; WILLIAM SOTHEN, Revenue Agent; GARY MURPHY, Revenue Agent; THERESA GATES, Program Manager; SHARISSE TOMPKINS, Disclosure Manager; CAROLYN W. COLVIN, SSA Acting Administrator; WELLS FARGO BANK N.A.; JOHN AND JANE DOES 1-100,

Defendants - Appellees.

No. 16-1204
(D.C. No. 1:16-CV-00512-LTB)
(D. Colo.)

ORDER AND JUDGMENT*

Before **KELLY**, **McKAY**, and **MORITZ**, Circuit Judges.

Appellant Jeffrey Maehr appeals the district court's dismissal of his *pro se*

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

complaint as legally frivolous.

In his complaint, Appellant challenges both the assessment of unpaid income tax liabilities against him and the manner in which the government is seeking to collect these unpaid liabilities.

We agree with the district court that Appellant's challenges to his underlying tax liabilities are frivolous. Appellant has raised these same arguments before, and we have rejected them before. *See, e.g.*, *Maehr v. IRS*, 480 F. App'x 921, 923 (10th Cir. 2012). The cases and statutes cited by Appellant do not change this analysis. We thus affirm the dismissal of all of Appellant's challenges to the validity of the previously adjudicated determination that he is liable for unpaid income taxes.

Most of Appellant's challenges to the government's collection efforts are also legally frivolous. For instance, this court has previously rejected as frivolous the argument that the IRS is only authorized to levy the property of government employees, *see James v. United States*, 970 F.2d 750, 755 n.9 (10th Cir. 1992), and Appellant's argument that his Social Security retirement benefits cannot be levied under 42 U.S.C. § 407(a) ignores the fact that this provision is expressly superseded by 26 U.S.C. § 6334(c) in the tax-collection context. Appellant's reliance on 26 U.S.C. § 6331(h) is also misplaced. This statute permits a levy of up to fifteen percent on certain payments listed in § 6334(a) that would otherwise be completely exempt from levy; it places no limitations on the government's

authority to levy property that falls outside the express protections of § 6334(a), including Social Security retirement benefits. The allegations in Appellant's complaint are also insufficient to establish a meritorious legal claim for relief against Wells Fargo based on its role in the levies placed on Appellant's accounts.

However, we are persuaded that Appellant's complaint raises one potentially meritorious claim for relief relating to the manner in which the government is seeking to collect his unpaid tax liabilities. Appellant alleges that the government has placed two levies on the bank account where he receives his disability payments from the Veterans' Administration, seeking seizure of all funds from this account despite the fact that the money in this account comes almost entirely from VA disability payments that are statutorily exempt from levy. *See* 26 U.S.C. § 6334(a)(10).

In their brief on appeal, Appellees argue there are two reasons why we can affirm the dismissal of this claim as frivolous: (1) the IRS did not place a *direct* levy on any exempt VA disability payments; and (2) even if the IRS is improperly levying exempt disability payments, "'the only remedy available to the taxpayer would be full payment of the assessment of his tax liability followed by a suit for refund in district court.'" (Br. at 13 (quoting *Marvel v. United States*, 548 F.2d 295, 297 (10th Cir. 1977)) (brackets omitted).)

We address the second of these arguments first. In *Marvel*, we considered a business's request for a preliminary injunction to prevent the IRS from levying

on the business's assets during the pendency of a district court lawsuit for refund of a partial payment of employment taxes. We noted that the Anti-Injunction Act appears on its face to prevent any such injunctive relief: "Except as provided in sections 6121(a) and (c), 6213(a), and 7426(a) and (b)(1), no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person . . . ." 26 U.S.C. § 7421(a). We then noted that this provision had been subject to "a long and variable history of judicial construction ranging from strict enforcement to equation with the ordinary judicial standard for equitable relief." *Marvel*, 548 F.2d at 297. Most recently, however, the Supreme Court had employed a strict construction of this Act, recognizing only a narrow exception applicable where the taxpayer demonstrates "'that under no circumstances could the Government ultimately prevail' and that 'equity jurisdiction otherwise exists.'" *Id.* (quoting *Enochs v. Williams Packing & Navigation Co.*, 370 U.S. 1, 7 (1962)). Given "the literal wording of the Act, the strict pattern of construction adopted by the Supreme Court, and the great deference afforded by the Supreme Court to the government's interest in the prompt collection and enforcement of taxes," we refused to recognize any other exception to the applicability of the Anti-Injunction Act. *Id.* at 300. We then held that the business had failed to satisfy the demanding requirements of the *Williams Packing* exception to the Act, and we thus held that the district court had properly denied the requested injunctive relief. *Id.* at 300–01.

As for the language from *Marvel* that Appellees quote in their brief, this language relates to the jurisdiction of the tax court in refund cases involving the partial payment of employment or excise taxes, and it has no clear applicability here. We also note that Appellees' brief ignores the fact that Appellant's complaint sought relief other than injunctive relief, and they have not addressed whether Appellant could potentially obtain other relief for the allegedly illegal levying of the bank account where Appellant's VA disability benefits are deposited.

However, *Marvel*'s broader holding—that the Anti-Injunction Act prevents injunctive relief unless the plaintiff can satisfy the demanding *Williams Packing* exception—is still at issue in determining whether or not Appellant can obtain injunctive relief for this claim. And on this point, there is an unresolved question regarding the possible distinction between directly levying exempt funds and placing a levy on the bank account where such funds are deposited.

If the IRS had placed a direct levy on Appellant's VA disability benefits, we have little doubt that Appellant would have been able to satisfy the *Williams Packing* test and obtain injunctive relief. We see no possibility of the government prevailing on the merits in such a case, and a disabled veteran will likely be able to show that he will suffer irreparable injury if the government is not enjoined from illegally levying the VA benefits on which he relies for his maintenance and survival. *See Comm'r v. Shapiro*, 424 U.S. 614, 627 (1976) (stating that the

second prong of the *Williams Packing* test is satisfied if "the taxpayer shows that he would otherwise suffer irreparable injury"). However, here the government has not directly levied Appellant's VA benefits, and it suggests that it may do indirectly what it may not do directly—that it may wait until exempt VA disability benefits have been directly deposited into Appellant's bank account and then promptly obtain them through a levy on all funds in the bank account, despite their previously exempt status. The government cites no authority to support this argument, and the few cases we have found adopting such a rule, *see, e.g.*, *Calhoun v. United States*, 61 F.3d 918 (Fed. Cir. 1995) (unpublished table decision); *United States v. Coker*, 9 F. Supp. 3d 1300, 1301–02 (S.D. Ala. 2014); *Hughes v. IRS*, 62 F. Supp. 2d 796, 800–01 (E.D.N.Y. 1999), have not considered whether this result is consistent with the Supreme Court's opinion in *Porter Aetna Casualty & Surety Co.*, 370 U.S. 159 (1962), or with 38 U.S.C. § 5301's prohibition against the levy of veterans' benefit payments either before or after receipt by a beneficiary.

We **REVERSE AND REMAND** for the district court to consider Appellant's non-frivolous legal claim that the IRS has improperly levied exempt VA disability benefits by placing a levy on all funds in the bank account where Appellant's disability benefits are deposited. In so doing, we express no opinion on the ultimate resolution of this claim or on the unresolved questions regarding the availability of the types of relief Appellant has sought or may seek in an

amended complaint addressing only this claim. We **AFFIRM** the dismissal of all other claims and arguments as legally frivolous. Appellant's motion to proceed *in forma pauperis* on appeal is **GRANTED**. All other pending motions are **DENIED**.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge

FILED
United States Court of Appeal
Tenth Circuit

November 10, 2016

Elisabeth A. Shumaker
Clerk of Court

APP 12

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

JEFFREY T. MAEHR,

Plaintiff - Appellant,

v.

JOHN KOSKINEN, Commissioner of Internal Revenue, et al.,

Defendants - Appellees.

No. 16-1204

ORDER

Before **KELLY**, **McKAY**, and **MORITZ**, Circuit Judges.

Appellant's petition for rehearing is denied.

The petition for rehearing en banc was transmitted to all of the judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, that petition is denied.

Entered for the Court

Elisabeth A. Shumaker

ELISABETH A. SHUMAKER, Clerk

App. C; Exhibit E-1

IRS mission statements:

1.2.1.2.1 (Approved 12-18-1993)
P-1-1

1. Mission of the Service: Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

2. Tax matters will be handled in a manner that will promote public confidence: All tax matters between taxpayers and the Internal Revenue Service are to be resolved within established administrative and judicial channels. Service employees, in handling such matters in their official relations with taxpayers or the public, will conduct themselves in a manner that will promote public confidence in themselves and the Service. Employees will be impartial and will not use methods which are threatening or harassing in their dealings with the public.

4.10.7.2 (05-14-1999)
Researching Tax Law

1. 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.

1.2.1.6.2 (Approved 11-26-1979)
P-6-10

1. The public impact of clarity, consistency, and impartiality in dealing with tax problems must be given high priority: In dealing with the taxpaying public, Service officials and employees will explain the position of the Service clearly and take action in a way that will enhance voluntary compliance. Internal Revenue Service officials and employees must bear in mind that the public impact of their official actions can have an effect on respect for tax law and on voluntary compliance far beyond the limits of a particular case or issue.

1.2.1.6.4 (Approved 03-14-1991)
P-6-12

1. Timeliness and Quality of Taxpayer Correspondence: The Service will issue quality responses to all taxpayer correspondence.

2. Taxpayer correspondence is defined as all written communication from a

App. C Exh E-3

Your Rights as a Taxpayer

Publication 1

This publication explains your rights as a taxpayer and the processes for examination, appeal, collection, and refunds. Also available in Spanish.

The Taxpayer Bill of Rights

1. The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

2. The Right to Quality Service

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

3. The Right to Pay No More than the Correct Amount of Tax

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

4. The Right to Challenge the IRS's Position and Be Heard

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

5. The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

6. The Right to Finality

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

7. The Right to Privacy

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

8. The Right to Confidentiality

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

9. The Right to Retain Representation

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

10. The Right to a Fair and Just Tax System

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

- TAS never offered!
- no hearings ever provided!

The IRS Mission | Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

App. D
Exhibit C1

SMALL BUSINESS/SELF-EMPLOYED DIVISION

September 11, 2008

Jeffret T. Maehr
924 E. Stollsteimer Rd
Pagosa Springs, CO 81147

Dear Mr. Maehr:

This responds to your Freedom of Information Act (FOIA) request of August 20, 2008, received in our office on September 10, 2008.

You asked for documentation clarifying some words used in the IR Code.

The Freedom of Information Act does not require agencies to respond to interrogatories. It also does not require agencies to conduct research to answer substantive tax questions or decide which resolution, decision, or statutes you are seeking. Furthermore, the Act does not require an agency to respond to statements that may be more appropriately addressed in judicial proceedings. The Act does not require agencies to provide explanations and/or correct the requester's misinterpretation of information.

To the extent you are seeking records that establish the authority of the Internal Revenue Service to assess, enforce, and collect taxes, the Sixteenth Amendment to the Constitution authorized Congress to impose an income tax. Congress did so in Title 26 of the United States Code, commonly known as the Internal Revenue Code (IRC). The IRC may contain information responsive to portions of your request. It is available at many bookstores, public libraries and on the Internet at www.irs.gov.

Income tax filing requirements are supported by statute and implementing regulations, which may be challenged through the judicial system, not through the FOIA. It is not the policy of the Internal Revenue Service to engage in correspondence regarding the interpretation and enforcement of the IRC. We will not reply to future letters concerning these issues.

APP D
EX-C (2)

If you have any questions please call me at (801) 620-7635 or write to: Internal Revenue Service, Disclosure Office 12, M/S 7000, PO Box 9941 Ogden, UT 84409. Please refer to case number RM08-3485.

Sincerely,

Robert Maestas ID # 29-81692
Disclosure Specialist
Disclosure Office 12

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

APP D
Ex C-3

June 25, 2015

Jeffrey T. Maehr
924 E. Stollsteimer Rd.
Pagosa Springs, CO 81147

Dear Mr. Maehr:

I am responding to your Freedom of Information Act (FOIA) request dated June 10, 2015 that we received on June 16, 2015.

Your letter asks for documentation proving the legal, lawful and constitutional definition of income that created the liability against you. You also ask for copies of documents pertaining to the IRS legal authority to create a liability, for the names and positions of my two immediate supervisors, agent numbers and verification that you made this correspondence and all other Freedom of Information Act requests known to them.

Income tax filing requirements are supported by statute and implementing regulations, which may be challenged through the judicial system, not through the FOIA. It is not the policy of the Internal Revenue Service to engage in correspondence regarding the interpretation and enforcement of the IRC. We will not reply to future letters concerning these issues.

Sharisse Tompkins, Disclosure Manager and Theresa Gates, Program Manager, are the names of my two immediate supervisors. These positions do not have agent numbers therefore; no information is responsive to your request on agent numbers.

In your previous requests, you also asked for documentation showing what privilege or corporate activity you have engaged in to be liable for filing the Form 1040, declaring your wages to be actual privileged gains, profit, or income. This appears that you are requesting your wage and income transcripts that deemed you liable for filing a Form 1040 declaring your wages to be actual privileged gains, profit, or income.

Treasury Regulation 26 CFR 601.702(d) provides that requests for records processed in accordance with routine agency procedures are specifically excluded from the processing requirements of FOIA.

As a result, Disclosure offices will no longer process requests for transcripts under the FOIA. Your request is not being processed. You need to resubmit your request using the enclosed procedures for obtaining the information you need.

APP. D
Exc-4

We apologize for any inconvenience this may cause you.

If you have any questions please me at (512) 460-4433 or write to: Internal Revenue Service, Disclosure Scanning Operation – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F15168-0037.

Sincerely,

Jeremy Woods ID# 02-21413
Disclosure Specialist
Disclosure Office 09

Enclosure:
Procedures 1st Party Requesters

Department of the Treasury

Internal Revenue Service
PO BOX 11138
CASPER, WY 82602

APP. D
C-5

Date: 02/07/2014

Taxpayer Identification Number:
[redacted]

Tax Period(s) Ended:
12/31/2003, 12/31/2004, 12/31/2005, 12/31/2006, 12/31/2004

JEFFREY T MAEHR
924 E STOLLSTEIMER PL
PAGOSA SPGS, CO 81147-8628000

Person to Contact:
GARY MURPHY
Employee Identification Number:
1000771005
Contact Telephone Number:
(307)261-6370 x227
Contact Hours:
12:30 p.m. to 4:30 p.m.

This is in reply to your recent correspondence.

Federal tax laws are passed by Congress and signed by the President. The Internal Revenue Service is responsible for administrating federal tax laws fairly and ensuring that taxpayers comply with the laws. We do not have authority to change the tax laws.

The Internal Revenue Service strives to collect the proper amount of revenues at the least cost to the public, and in a manner that warrants the highest degree of public confidence in our integrity, efficiency, and fairness. In accomplishing this, we continually strive to help taxpayers resolve legitimate account problems as effectively as possible. While tax collection is not a popular function of government, it clearly is a necessary one. Without it all other functions would eventually cease. NO!

There are people who encourage others to deliberately violate our nation's tax laws. It would be unfortunate if you were to rely on their opinions. These persons take legal statements out of context and claim that they are not subject to tax laws. Many offer advice that is false and misleading, hoping to encourage others to join them. Generally, their advice isn't free. Taxpayers who purchase this kind of information often wind up paying more in taxes, interest, and penalties than they would have paid simply by filing correct tax returns. Some may subject themselves to criminal penalties, including fines and possible imprisonment.

Federal courts have consistently ruled against the arguments you have made. Therefore, we will not respond to future correspondence concerning these issues.

Sincerely yours,

GARY MURPHY
REVENUE OFFICER

App. E

Social Security Administration
Retirement, Survivors and Disability Insurance
Important Information

Exh 5

Great Lakes Program Service Center
600 West Madison Street
Chicago, Illinois 60661-2474
Date: March 25, 2016
Claim Number: 326-48-4743A

0000536 00001043 1 MB .439 0318M9RST4PI T2 P2
JEFFREY T MAEHR
924 E STOLLSTEIMER RD
PAGOSA SPRINGS CO 81147-7305

We are writing to you about the Internal Revenue Service (IRS) Notice of Levy.

What We Will Take Out

The Internal Revenue Service (IRS) will take all of your Social Security payment beginning with the payment you would receive around April 1, 2016 because you owe them money. The IRS calls this action a Notice of Levy.

What We Plan To Do

IRS asked us to take $697.00 from each monthly payment you are due to pay IRS. We withheld $697.00 from the payment you will receive around April 1, 2016. After that we will withhold $697.00 each month. You will receive another letter showing the payment amount you will receive.

Suspect Social Security Fraud?

Please visit http://oig.ssa.gov/r or call the Inspector General's Fraud Hotline at 1-800-269-0271 (TTY 1-866-501-2101).

If You Have Questions

If you need more information or have any questions, please contact your local IRS office.

Social Security Administration

APP. F – Citizen's Bank Worksheet

Exhibit F – 1

Garnishments - Federal Benefits Review

Mary Lou Mahr

Federal Benefits Defined:
Benefit payment means a Federal benefit payment referred to in Sec. 212.2(b) paid by direct deposit to an account with the character "XX" encoded in positions 54 and 55 of the Company Entry Description field of the Batch Header Record of the direct deposit entry.

Date Garnishment Received 1-15-2016

Date of Account Review 1-15-2016

Time of Account Review 1:28pm 1-15-16
**Must be completed within 2 business days of receipt, balance as of time completing review.*

Lookback period Start Date 10-30-2015

Lookback Period End Date ##########
Starts the day prior to account review and then proceeding 2 months. Example: Acct review July 1, look back is June 30 back to April 30.

Amount of Federal Benefits during lookback period: *(attach history printout)*

Date	Description	Amount
12/31/2015	SSA	657.00
	SSI	96.00
12/3/2015	SSA	657.00
	SSI	96.00

Total of Federal Benefit deposits $ 1506.00

Account Balance As of Account Review date 780.33

Protected Account Balance $ 780.33
Lesser of account balance date of review or total of federal benefit deposits over lookback period.

Amount of Garnishment

Amount Subject to Garnishment $ 0

Hold or Freeze Amount $ 0

Date of Notice 1/15/2016
Send within 3 business days of acct review, one notice for each garnishment can cover multiple accounts

No. _____

_____

In The

Supreme Court of the United States

✦

Jeffrey T. Maehr,

Petitioner

v.

John Koskinen, Commissioner of Internal Revenue; et al

Respondents

CERTIFICATE OF SERVICE

I, Jeffrey T. Maehr, do declare that on February 22, 2017, as required by the Supreme COURT Rule 29, I have served the enclosed PETITION FOR A WRIT OF CERTIORARI on the person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to him and with first-class postage prepaid as follows:

1. Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N. W., Washington, DC 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 22, 2017

Jeffrey T. Maehr

In The

Supreme Court of the United States

✦

Jeffrey T. Maehr,

Petitioner

v.

John Koskinen, Commissioner of Internal Revenue; et al

Respondents

NOTARY WITNESS

I, Jeffrey T. Maehr, do declare that on this February 22, 2017, that my 10 copies plus original PETITION FOR A WRIT OF CERTIORARI and Rule 40 Application to the U.S. Supreme Court against John Koskinen, Commissioner of Internal Revenue, et al, is being sent via Priority First Class Mail, flat rate tracking to the following address:

U.S. Supreme Court, 1 First St., N.W., Washington, D.C. 20543.

Document Witnesses this day by Colorado Notary named below.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2-22, 2017

Jeffrey T. Maehr

Jeffrey T. Maehr

Cynthia Havens

Notary Printed Name

Notary Signature

CYNTHIA HAVENS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164029012
MY COMMISSION EXPIRES AUGUST 2, 2020

SEAL