UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Jeffrey T. Maehr, Plaintiff/Petitioner - 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 Colvin, Acting Social Security Administrator; -Wells Fargo Bank, NA; -John and Jane Does, 1-100, Defendants/Respondents - Appellees.	Case No. 16-1204 Appellant/Petitioner's Opening Brief

NOTICE AND INSTRUCTIONS

If you proceed on appeal pro se, the court will accept a properly completed Form A-12 in lieu of a formal brief. This form is intended to guide you in presenting your appellate issues and arguments to the court. If you need more space, additional pages may be attached. A short statement of each issue presented for review should precede your argument. Citations to legal authority may also be included. This brief should fully set forth all of the arguments that you wish the court to consider in connection with this case.

New issues raised for the first time on appeal generally will not be considered. An appeal is not a retrial but rather a review of the proceedings in the district court. A copy of the completed form must be served on all opposing counsel and on all unrepresented parties and a proper certificate of service furnished to this court. A form certificate is attached.

APPELLANT/PETITIONER'S OPENING BRIEF

1. Statement of the Case.

Petitioner, a free man living on the land of Colorado, and not a corporate person or other agent or federal citizen, filed suit against Defendants for lack of proof of debt, wrongful tax assessment, and unlawful taking of all assets under color of law[1], apart from standing statutes and IR Code protecting Petitioner's assets, which shocks the conscience.[2] Petitioner was denied due process under the 5th Amendment[3] by Judge Babcock, who is deemed to know the law[4], (as Defendants

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

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

[2] The U.S. Supreme Court established the "shock-the-conscience test" in *Rochin v. California*, 342 U.S. 165, 72 S. Ct. 205, 96 L. Ed. 183 (1952).

[3] 5th Amendment; "No person shall be...deprived of life, liberty, or property, without due process of law.."; "The right of the people to be secure in their persons, houses, papers, and effects, against **unreasonable** searches and **seizures**, shall not be violated... United States Constitution, Bill of Rights, Article IV. (Emphasis added.)

"In this case the sole question is whether there has been a taking of property without that procedural due process that is required by the Fourteenth Amendment. We have dealt over and over again with the question of what constitutes 'the right to be heard' (*Schroeder v. New York*, 371 U.S. 208, 212) within the meaning of procedural due process. See *Mullane v. Central Hanover Trust Co*., 339 U.S. 306, 314 . In the latter case we said that the right to be heard 'has little reality or worth unless one is informed that the matter is pending and can choose for himself whether [395 U.S. 337, 340] to appear or default, acquiesce or contest.' 339 U.S., at 314 . In the context of this case the question is whether the interim freezing of the wages without a chance to be heard violates procedural due process. - Where the taking of one's property is so obvious, it needs no extended argument to conclude that absent notice and a prior hearing (cf. *Coe v. Armour Fertilizer Works*, 237 U.S. 413, 423) this prejudgment garnishment procedure violates the fundamental principles of due process." *Sniadach v. Family Finance Corp*., U.S. Supreme Court (1969).

[4] "Officials and judges are deemed to know the law and sworn to uphold the law; officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law, even the Citizen cannot plead ignorance of the law, the courts have ruled there is no such thing as ignorance of the law, it is ludicrous for learned officials and judges to plead ignorance of the law therefore there is no immunity, judicial or otherwise, in matters of rights secured by the Constitution for the United States of America." *Owen vs. City of Independence*, 100 S Ct. 1398; *Maine vs. Thiboutot*, 100 S. Ct. 2502; and *Hafer vs. Melo*, 502 U.S. 21;

are so deemed to know the law), has committed Fraud on the Court,([5]) and has shown contempt for the court process,([6]) contempt of U.S. Supreme Court standing precedent, Congressional testimony, and other standing law cited by Petitioner. He has also shown contempt of his oath of office, and contempt for Petitioner defending himself (his ONLY choice) from these unlawful actions, calling it all "frivolous"([7]) without any mandatory Findings of Fact and Conclusions of Law([8]) in support of this "frivolous" finding.

Petitioner filed for reconsideration asking which parts of the U.S. Supreme Court

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[5] The court erred in multiple ways denying the proper function of the court to occur and lawful adjudication of clearly defined laws and evidence, making it a fraud on the court functions. In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated;

> "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function ---thus where the impartial functions of the court have been directly corrupted."

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to...

> "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

[6] A judge who does NOT follow the proper procedures and rules of due process of law and laws which govern adjudication, is showing contempt for the proper judicial functions of the court and taking unto himself prosecution of the case from the bench in assisting Defendants.

[7] **Frivolous**; "An answer or plea is called 'frivolous' when it is clearly insufficient on its face, and does not controvert the material points of the opposite pleading, and is presumably interposed for mere purposes of delay or to embarrass the plaintiff." *Ervin v. Lowery*, 64 N. C. 321; *See also Strong v. Sproul*, 53 N. Y. 499; *Gray v. Gidiere*, 4 Strob. (S. C.) 442; *Peacock v. Williams*, 110 Fed. 910. *Liebowitz v. Aimexco Inc.*, Colo.App., 701 P.2d 140, 142; *Cottrill v. Cramer*, 40 Wis. 558.

The question that needs to be addressed is exactly who has the "frivolous" responses in these and past court proceedings? Defendants? Who has the actual evidence in fact that is being ignore and so labeled as frivolous without any rebuttal and evidence of record?

[8] "The parties are entitled to know the findings and conclusions on all of the issues of fact, law, or discretion presented on the record." *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.* certiorari to the united states court of appeals for the fourth circuit No. 01-46. 2.535 U.S. 743, 122 S. Ct. 1864, 152 L. Ed. 2d 962, (2002). Argued February 25, 2002--Decided May 28, 2002. See also FRCPA Rule 52(a) and *United States v. Lovasco* 431 U.S. 783 (06/09/77), 97 S. Ct. 2044, 52 L. Ed. 2d 752, and *Holt v. United States* 218 U.S. 245 (10/31/10), 54 L. Ed. 1021, 31 S. Ct.

case precedent and definitions of "income", and other stated laws, were "frivolous", and in what way, but was denied any answer, and Petitioner still asks this question of this court herein.

Petitioner wishes to emphasize that ALL previous court cases cited on these issues did not have the actual evidence presented before the courts (and by code should not have been cited or alluded to by the Court or Defendants against Petitioner - see "Importance of Court Decisions" cited at #7, P. 22, below) and therefore no adjudication of the actual evidence took place, despite the "frivolous" label being used against Petitioner by Defendants Koskinen/agents and the District Court.

Lastly, these individual issues presented herein are certainly related to each other, but each stands on its own merits and are not dependent on any other issues. Each deserve individual scrutiny of the evidence, and scrutiny of Defendants lack of evidence or rebuttal under due process.

2. Statement of Facts Relevant to the Issues Presented for Review.

A) Defendants Koskinen/agents have repeatedly claimed that the 16th Amendment is their authority to attack Petitioner's assets, but have neglected to show exactly how this is in evidence in their actions against Petitioner.

B) Defendants Koskinen/agents have persistently failed to rebut standing U.S. Supreme Court precedent and Congressional testimony and other evidence of record presented to them on the true, originally-defined word, "income".

C) Defendants Koskinen/agents created unlawful assessments against Petitioner based on the unproven claims regarding what is "income" Petitioner had, claiming all Petitioner's wages and all other assets are somehow "income" that can lawfully be taxed by the government and thus, taken at will.

D) Defendants Koskinen/agents created fraudulent Notices of Levy with intent to mislead recipients on their authority to directly Levy Petitioner's assets.

E) Defendants Koskinen/agents unlawfully garnished the entirety of Petitioner's assets apart from 5th Amendment due process rights and other standing laws, which they knew or should have known about, which protects at least 85% of his social security, protects ALL of his Veterans Disability Compensation, and all his business fund that are not proven lawful "income".

F) Defendants Colvin/unknown SSA agent, and Wells Fargo Bank, both colluded with Koskinen/agents in the taking of his assets, and acted apart from standing due process protections, and standing statutes and code, which they knew or should have known about, which protects Petitioner's assets.

G) Defendants Koskinen/agents, representing the "Internal Revenue Service", claim to be lawfully authorized to act on behalf of this alleged U.S. Government agency, but have failed to provide evidence refuting previous government claims of NOT being a U.S. government agency.

3. Statement of Issues.

a. First Issue: The Defendant's Koskinen/agents claim the authority to directly tax Petitioner's property in the way of "wages, salary or compensation for services" (or to take ANY money in ANY account of Petitioner regardless of its nature as other than "income") stems directly from the 16th Amendment, but this has been refuted by the U.S. Supreme Court.

Argument and Authorities:

Prior to the 16th Amendment, the Supreme Court found that direct taxation of wages was unconstitutional and that "income" tax was to be an excise tax on the conduct of business in a corporate capacity, (See Second Issue below for more authority), and a tax on other Privilege([9]), and not on any right([10]) to work. The 16th Amendment did

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[9] "The requirement to pay [excise] taxes involves the exercise of privilege." Flint v. Stone Tracey Company, 220 U.S. 107, 108 (1911).

[10] "The legislature has no power to declare as a privilege and tax for revenue purposes, occupations that are of common right." *Sims vs. Ahrens*, 167 Ark. 557; 271 S.W. 720, 730, 733 (1925).

> "The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but, the individual's rights to live and own property are natural rights for the enjoyment of which **an excise cannot be imposed**." *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401 (1958). (Emphasis added - "excise" discussed below).
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> "It could hardly be denied that a tax laid specifically on the exercise of those freedoms would be unconstitutional... A state [or federal government-Petitioner] may not impose a charge for the enjoyment of a right granted by the federal Constitution." *Murdock v Pennsylvania*, 319 US 105, at 113; 480, 487; 63 S Ct at 875; 87 L Ed at 1298 (1943); "The 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." *The Antelope*, 23 U.S. 66, 120.
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> "Among these unalienable rights, as proclaimed in the Declaration of Independence, is the right of men to pursue their happiness, by which is meant, the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment... It has been well said that, the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable ...to hinder his employing.., in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most sacred property." *Butchers' Union Co. V. Crescent City*, CO., 111 U.S. 746, 757 (1883); power to dispose of that according to the will of the owner. Labor is property, and as such merits protection. The right to make it available is next in importance to the rights of life and

NOT provide for a "new" tax on wages that did not exist prior to the 16th Amendment.([11])

Petitioner has repeatedly requested where, then, does the authority to directly tax Petitioner's wages ([12]), or any of his assets as "income", come from if not the 16th Amendment? This, too, has only been met with more silence and improper collection activities.([13]) If the 16th Amendment confers "no new power of

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liberty. It lives to a large extend the foundation of most other forms of property, and of all solid individual and national prosperity." *Slaughter - House Cases*, 83 U.S. 36, at 127 (1873).

[11] "The Sixteenth Amendment to the Constitution has not enlarged the taxing power of Congress..." 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.

"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." *Brushaber v. Union Pac. R.R. Co.,* 240 U.S. 1, 11, 12, 18 (1916);

"In the former case it was pointed out that the all-embracing power of taxation conferred upon Congress by the Constitution included two great classes, one indirect taxes or excises, and the other direct taxes, and that of apportionment with regard to direct taxes. It was held that **the income tax in its nature is an excise**; that is, it is a tax upon a person measured by his income . . . It was further held that the effect of the Sixteenth Amendment was not to change the nature of this tax or to take it out of the class of excises to which it belonged, but merely to make it impossible by any sort of reasoning thereafter to treat it as a direct tax because of the sources from which the income was derived." ([14-15]*; Peck & Co. v. Lowe,* 247 U.S. 165 (1917). Brief for the Appellant at 11, 14-15; See also *Stratton's Independence, LTD. v. Howbert*, 231 US 399, 414 (1913)." (Emphasis added).

"... It manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation." *Evans vs. Gore,* 253 US 245, 263 (1920).

"The legislature has no power to declare as a privilege and tax for revenue purposes, occupations that are of common right." *Sims vs. Ahrens*, 167 Ark. 557; 271 S.W. 720, 730, 733 (1925).

"It was not the purpose or effect of that amendment to bring any new subject within the taxing power." *Bowers v. Kerbaugh-Empire Co.,* 271 U.S. 170; 46 S.Ct. 449 (1926);

[12] Thousands of individuals in this State carry on their occupations as above defined who derive no income whatever therefrom." *Sims v. Ahrens*, 271 SW 720 (Ark. 1925).

[13] Something the IRS was previously chastised about by the U.S. Supreme Court but has completely ignored - "Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . . **We cannot condone this shocking behavior by the IRS**. Our revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the

taxation" (Evans , infra) to tax wages as "income", what law then authorizes the Defendants to directly assess Petitioner's assets that are NOT lawfully proven "income", let alone garnish the entirety of his living under false claims?

b. Second Issue: Supposing, but disputed, that the 16th Amendment HAS authorized a "new power of taxation" to tax Petitioner's "wages" as "income", Defendants Koskinen/agents continue to call what they please as "income" that can be taxed, but without any evidence in fact or of record.

Argument and Authorities: The term "income" is not defined in the IR Code (U.S. v. Balard, infra), so Petitioner, required to know the law and determine whether he had any lawful "income", had to look elsewhere for the definition, which the courts amply supplied, but which created conflicts with Defendant's claims against Petitioner. Petitioner has repeatedly requested documentation from Defendants Koskinen/agents refuting the lawful original standing definition of "income" as repeatedly defined by the U.S. Supreme Court.

"Income" as originally defined by all the courts was not "everything that comes in," (Doyle, infra), was not directly on "wages", and was a "corporate profit" or "unearned wealth"([14]), or "income" that could be "derived from" wages. (See discussion on "derived" below). Defendants Koskinen/agents, despite repeated notices of the standing cases, refused to provide an answer to evidence presented, and are acting against Petitioner under color of law.

U.S. Supreme Court case precedent and authorities are cited below. These cases have never been overturned and certainly call into question the Defendants Koskinen/agents hearsay and presumptions regarding liability on alleged "excisable income" of Petitioner as being all his assets, wages or other compensation, (including all business assets).

✦ Helvering v. Edison Bros. Stores, 133 F2d 575. (1943); "The Treasury cannot by interpretive regulations, make income of that which is not

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same from the government in its enforcement and collection activities. If that is the case we hope our message is clear... **This sort of deception will not be tolerated and if this is routine it should be corrected immediately**." *U.S. v. Twee*l, 550 F.2d 297, 299. See also *U.S. v. Prudden*, 424 F.2d 1021, 1032; *Carmine v. Bowen*, 64 A. 932. (Emphasis added). (It IS, obviously, "routine").

[14] 45 Congressional Record, 4420 (1909) "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.' "

income within the meaning of revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the 16th Amendment."

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

✦ Edwards v. Keith, 231 F. 110 (2nd Cir. 1916); "The statute and the statute alone determines what is income to be taxed. It taxes only income 'derived' from many different sources; one does not 'derive income' by rendering services and charging for them."

Webster's Dictionary defines "derived" as: "to obtain from a parent substance." The property (wage or compensation) would be the parent substance (principal) and the "gain or profit or income" would be a separate "derivative" obtained from the parent substance. "From" means "to show removal or separation."

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

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

✦ Lucas v. Earl, 281 U.S. 111 (1930); "The claim that salaries, wages, and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who has performed the services . . . is one that is without support, either in the language of the Act or in the decisions of the courts construing it. Not only this, but it is directly opposed to provisions of the Act and to regulations of the U.S.

> Treasury Department, which either prescribed or permits that compensations for personal services not be taxed as an entirety and not be returned by the individual performing the services... It is to be noted that, by the language of the Act, it is not salaries, wages or compensation for personal services that are to be included in gross income. That which is to be included is gains, profits, and income derived from salaries, wages, or compensation for personal services. Since it is not the salary, the wage or the compensation that is to be included, but only the gain, profit or income that may be derived therefrom, it would seem plain that salaries, wages or compensation for personal services are not to be taxed as an entirety... Since, also, it is gain, profit or income to the individual that is to be taxed, it would seem plain that it is only the amount of such salaries, wages or compensation as is gain, profit or income to the individual..." (Emphasis added).

Defendants Koskinen/agents clearly make no distinction between "wages" and "income" calling them the same thing, but wages are not "gain" or "profit, and certainly any assets sitting in an account are not "income" unless proven to be "derived from" something else, and cannot be used as some evidence of a tax liability, or for an assessment.

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

Are we to believe that there were so few Americans working for a living in 1939 that only 3.9% were involved with making "wages"? Of course not. Most people had NO lawful "income" (gain or profit derived from something...) and their wages were not classified as "income." If wages were NOT defined as "income" (U.S. v Ballard, supra), i.e., "gain" or "profit", by what authority except "because we say so" can Defendants Koskinen/agents claim they are today?

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

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

> ✦ "The true function of the words 'gains and profits' is to limit the meaning of the word 'income' and to show its use only in the sense of receipts which constituted an accretion to capital. So the function of the

word 'income 'should be to limit the meaning of the words 'gains' and 'profits.'" Southern Pacific v. Lowe. Federal Reporter Vol. 238 pg. 850. See also, Walsh v. Brewster. Conn. 1921, 41 S.Ct. 392, 255 U.S. 536, 65 L.Ed. 762..

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

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

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

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

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

Consider; If "gains, profit and income" are synonymous with "wages, salary or compensation for services"... i.e., "income" equals "wages", as Defendants Koskinen/agents claim, then how does Petitioner "derive" any "income" FROM "wages"([15]) which is allegedly the same thing? How does one derive "income" from "income?"

The ONLY possible way "income" can be "derived" ("obtain from a parent substance") from Petitioner's "wages" is if Petitioner takes what may be left of his wages (principal minus all costs to produce labor), 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." There can be no other reasonable way to "derive" "income" from "wages, salary or compensation for service", otherwise, Defendant's Koskinen/agents are claiming that "all" wages of Petitioner are pure "profit" and "gain", and there are ZERO costs related to the ability to provide labor to make a living.

This means Petitioner's labor is worth nothing - has zero value and costs him nothing, and everything is profit. The costs to be able to work are clearly established for businesses, so to claim there are no "costs" related to Petitioner in providing labor is unreasonable, and court cases cited, and other counter evidence, clearly establishes this.([16]) To suggest otherwise is to create a form of slavery.

"Income" is also "derived from" investment capital, net "gain" from a rental property and other "derived" means for producing "income". The argument is that wages are NOT lawful income that can be taxed because working is a right and wages are not "gains and profits" to Petitioner. In addition, Defendants Koskinen/agents cannot call all Petitioner's assets in some account as "income" that would fall under the alleged 16th Amendment authority to tax Petitioner, and garnish his entire living due him outside the law.

Petitioner has never "derived" income from his wages or other assets which

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

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

have been taken by Defendants Koskinen/agents. He has never received any 16th Amendment "income", or any "gain or profit" and thus all illegal taking has been fraud on Petitioner and the courts by Defendants Koskinen/agents.

Defendants Koskinen/agents are forcing Petitioner into a legal category titled "taxpayer" (in contrast to being a "nontaxpayer"([17])), with assessed liability where no mechanism of law or activity supports such against Petitioner. There is no evidence in fact of record despite ample evidence from Petitioner to the contrary, especially being a "nonresident alien"([18]) in regard to such "taxpayer" category.

Petitioner herein is not addressing the relevant issue of there being no actual law that requires most Americans to actually file, (which WAS the subject in his previous cases filed) but this evidence is presently being properly adjudicated in U.S.A. v. Richard Thomas Grant, United District Court in Oakland, California, case # 14CR00590-PJH([19]).

c. Third Issue: Even "IF" Defendants Koskinen/agents could prove that "wages" are "income", Defendants Koskinen/agents created fraudulent assessments against Petitioner, claiming that "ALL" Petitioner's assets in his possession, including all business assets, was actual "income" that can lawfully be taxed.

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

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

[19] Although this is not the topic of this appeal, this is merely to show this court more evidence of IRS fraud taking place against Americans and being lawfully challenged. In this case, it will come out that the US lawmakers have NOT written a law that requires the ordinary American to file and pay the Federal Income Tax. The exposé will be conducted by, 1) Defendant, Richard Thomas Grant, 2) Peymon Mottahedeh, the Founder and President of Freedom Law School (www.LiveFreeNow.Org), and 3) Joseph Banister, former gun carrying Criminal Investigation Division Special Agent of the IRS, (www.FreedomAboveFortune.com), who demanded that IRS show him the law that required him to force Americans to file and pay the Federal Income Tax, but the IRS and U.S. Government have repeatedly failed to do so, even to the point of harassment and reprisal against those asking questions.

Argument and Authorities: Defendant's Koskinen/agents filed multiple third party summons on Petitioner's private and business interests over the course of several years, (See original amended Brief Exhibits G1-8, - others available), which Petitioner brought to previous courts to demand validation from Defendants Koskinen/agents, but without any evidence placed into the record by Defendants Koskinen/agents. Defendants concocted an assessment, apparently calling ALL business expenses of record, and ALL business deposits and receipts over the course of years 2003-2006, as "income" subject to an "income" tax, and neglecting ANY outgoing expenses in the same records.

Defendant's Koskinen/agents arbitrarily and capriciously made an assessment on ALL assets of Petitioner as taxable "income", with no distinguishment between lawful "income" and all assets Petitioner possesses, even despite their own code providing for deductions on business and other expenses, which they conveniently and fraudulently ignored in Petitioner's case.

These levies are in violation of clear standing laws, severely damaging Petitioner in multiple ways.

d. Fourth Issue: Based on the previous foundation of fraud, Defendant's Koskinen/agents unlawfully created fraudulent "Notices of Levy" which were contrary to standing code regulations and were misleading recipients of lawful authority to directly levy Petitioner.

Argument and Authorities: Defendants agents Vencato and Murphy, under the authority of Koskinen, and in what appears to be a vindictive and malicious move against Petitioner, (encouraged by "getting away with it" and by previous Court's lack of adjudication of the evidence of record), filed fraudulent Notices of Levy, in complete disregard for their own IR Code (See Amended Brief Exhibits D 1-8) for the filing of any lawful Levy, as well as other laws.

Most importantly in Petitioner's case, alleged "lawful" Notices of Levy have fraudulently not disclosed a relevant section of IR Code which is the authority to Levy directly, but is NOT disclosed to banks and other institutions. (See Amended Brief Exhibit D, P.4, #3 & Exhibit D8).

IRC 6331 - Levy and distraint, Section A,[20] is the section purposefully left off

[20] IRC 6331 - Levy and Distraint (a) Authority of Secretary

this Notice of Levy. It, of course, clearly states who CAN be directly levied and upon "what". Levy is upon "accrued salary or wages of any officer, employee or elected official, of the United States..." and Petitioner is not any of these, nor was his "accrued salary or wages" the target of the unlawful levy and taking by Defendants Koskinen/agents.

Direct levy does NOT apply to Petitioner and no levy can be applied without "Warrants of Distraint" and "Notice and Demand" which are not of record with levies in Petitioner's case.

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

A recent GAO (Government Accountability Office) report([21]) indicated that the GAO was unable to determine whether the IRS was routinely using lawful enforcement practices or not. Now we know the Defendants Koskinen/agents/ IRS, have not, at least in Petitioner's case, and likely elsewhere.

e. Fifth Issue: Defendant's Koskinen/agents, via fraudulent Notices of Levy, attacked the entirety of Petitioner's living from all sources, despite protections against the same.

Argument and Authorities: Defendant's Koskinen/agents, in a series of

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If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. **Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official**. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section. (Emphasis added).

[21] "...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.

calculated and vindictive, frantic and erratic moves against Petitioner;

> 1) Twice attempted levy of ALL his Veteran's Disability Compensation against standing code and other laws,
>
> 2) Levied his entire Social Security assets apart from standing law, (now standing at almost $2800),
>
> 3) Twice attacked all his business assets which weren't even Petitioner's assets but were customer payments for products as yet paid for or delivered, and certainly could not be considered taxable "income" they had any right to.

Veteran's Disability Compensation Authorities:

> The Veterans Disability Act of 2010 is a Federal law which exempts VA disability from withholding of any sort. Existing code, USC, Title 38, §5301, already protected VA disability from withholding, but this provision was reiterated and included in the newer legislation of 2010.

In addition, "26 U.S. C. § 6334" states clearly...

> "Property exempt from levy section;
>
> (10) Certain service-connected disability payments. Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—
> (A) subchapter II, III, IV, V,,[1] or VI of chapter 11 of such title 38, or
> (B) chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such title 38.
>
> Petitioner certainly fits into this lawful category. (See amended Brief, Exhibit M). See also Title 42 U.S. Code, Subchapter II, § 407.
>
> Continuing with authorities...
>
> Seventy Fourth Congress Chapter 510; An Act- To safeguard the estates of veterans derived from payments of pension, compensation, emergency officers' retirement and insurance, and other purposes. Section 3.
>
> > "Payments of benefits due or to become due shall not be assignable, and such payments made to, or on account of, a beneficiary under any of the laws relating to veterans shall be

> exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or any legal or equitable process whatever, either before or after receipt by the beneficiary." Approved August 12, 1935.

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

> (h) Continuing Levy on Certain Payments.--
>
> (2) Specified payment.--For the purposes of paragraph (1), the term 'specified payment' means--
> (B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a)...

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

It is clear the law protects all of Petitioner's service-related Disability Compensation he has right to, yet Defendants Koskinen/agents violated these standing laws and Petitioner's rights.

Social Security Retirement attack discussion and Authorities:

The following shows an inconsistent and erratic attack on Petitioner's assets. As described in original amended Brief, Defendant's Koskinen/agents first proceeded to garnish social security funds via his account with First Southwest Bank in Pagosa Springs, Colorado. This included the taking of ONLY $15.88 out of his entire $697 payment. (See amended Brief Exhibit F 2-3). Petitioner challenged even this taking with the bank and they returned the $15.88 and closed the account, and returned all the rest of Petitioner's Social Security funds via check.

Petitioner then used an account with Citizens Bank of Pagosa for his social security, where his mother's social security account was, and on which he is named to assist her in her finances. At the same time period, Defendant's Koskinen/agents attempted levy of my mother's social security funds, which the Bank official notified us of. The bank official determined that there could be NO levy of the funds in this account, and filed the allegedly required paperwork (See amended Brief Exhibit F-1) showing the well-known two month fund limit. This shows even more arbitrary and capricious actions by Defendants.

Petitioner's social security was at this same time deposited to his Citizens Bank account but Defendant's Koskinen/agents bypassed the bank and existing funds in it and sent NO Notice of Levy to the bank for Petitioner's SS account (since the bank already demonstrated it was protecting said funds), and went directly to Defendant Colvin/Social Security Administration to garnish his total social security monthly amount, which they are presently continuing to assist with.

Further Authority in defense:

Taxpayer Relief Act (Public Law 105-34) Section 1024,

> (h) Continuing Levy on Certain Payments.--
>
> (1) In general.--The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer." (Emphasis added).

It must be noted that the title states "Continuous Levy 'ON' Certain Payments" which does not authorize the levy of ALL the social security payment, and no law is of record authorizing such a 100% complete taking. In fact, Petitioner is awaiting documents from the Social Security Administration proving another man similarly situated as Petitioner with regard to IRS garnishment that has ONLY 15% of his Social Security garnished. Why is Petitioner maliciously being treated biasedly outside the same laws which protect others?

Taxpayer Relief Act (Public Law 105-34) Section 1024 addresses what funds CAN be lawfully "continuously levied" but does NOT include Social Security retirement funds. If Section 1024 does NOT pertain to Petitioner's Social Security "Old-Age" retirement payments, then by what law can Koskinen/agents use to justify authority to garnish the entirety of Petitioner's social security payments especially outside due process, and by what laws can Colvin stand on to accomplice said taking of funds?

Further authority:

> Title 42, Subchapter II - FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS, § 407 - Assignment of benefits; (a) In general - "The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the

> moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law." (Emphasis added).

Part-time Business account;

Business account records are with Credit Card processor PayPal and documentation of Levy amounts and times have not been available to Petitioner via his account, but would be available if subpoenaed, and only by mail.[22] As stated previously, said funds were NOT lawful "income" and were business assets yet to be paid to vendors and for customer order processing, damaging my small, part-time online business.

Defendant's Koskinen/agents cannot claim that these assets were lawful "income" that could be taxed, and certainly had no authority to take customer's monies.

This whole process has obviously left Petitioner in a serious position financially, having to pay monthly debts, take care of his disabled mother living with him without adequate funds, and now having to relocate her to family out of state, and Petitioner will also likely have to relocate to some as yet undetermined location due to financial depravation. This cannot be sustained as such, and this egregious action must be corrected or continuing immediate and irreparable damages will continue.

e. Sixth Issue: Defendants Colvin/SSA and Wells Fargo Bank both colluded with Defendant's Koskinen/agents in violating their fiduciary duty to Petitioner to protect his assets from unlawful garnishment under standing laws as provided above.

Argument and Authorities: Defendants Colvin/SSA and Wells Fargo Bank received "Notice of Levy" and promptly acted without any evidence that such a levy was valid, or based on any court judgment or lawful adjudication, and in violation of standing laws they knew or should have known existed.

Wells Fargo Bank was twice noticed of the standing laws protecting Petitioner's

[22] Paypal Corp., ATTN; Legal-Civil, 2211 N. 1st St., San Jose, CA 95131. Petitioner is attempting to obtain these records as well.

service-related Veterans Disability Compensation, and they ignored them and provided no answer to Petitioner on his lawful challenge, and cooperated nevertheless with Defendant's Koskinen/agents.

In addition, both Defendants did not provide or have supporting positive law requiring either Defendant Colvin/SSA and Wells Fargo Bank to comply with Defendant's Koskinen/agents Notice of Levy, and complied ONLY with administrative laws based on hearsay and presumption which violated Petitioner's due process 5th Amendment rights.

f. Seventh Issue: Recently discovered evidence raises serious questions regarding the lawful status of the "Internal Revenue Service" and exactly what agency it is working for, which surely begs some sort of response and explanation by Defendant's Koskinen/agents.

Argument and Authorities: Several documents, including a court case (Diversified Metal Products v T-Bow Company - amended Brief, Exhibit S, (better copy attached) and amended Brief Exhibit N-3) raise further issues of authority of the Defendant's Koskinen/agents claiming to be working for the "Internal Revenue Service" to be acting against Petitioner.

Amended Brief Exhibits N 1-2 from the Treasury Department's own website shows two Treasury Orders, 150-02 and 150-06, showing the name and functions of "Internal Revenue Service" were "canceled" in 2005.

The obvious question Petitioner and the Court should be asking is, "what exactly is the "Internal Revenue Service" and through what agency or authority is it acting since 2005?" If the agency itself denies being an agency of the U.S. government, what else could it be? What is its legal name, and by what mechanism of law is it acting against Petitioner and his assets claiming to be representing the U.S. Government?

4. Do you think the district court applied the wrong law? If so, what law do you want applied?

The above authorities prove that Defendant's have acted outside lawful parameters against Petitioner, and the court did NOT apply the proper laws, or provided any evidence of lawful authority of Defendant's Koskinen/agents. Petitioner simply wants evidence in fact for all actions performed, rather than mere presumption and hearsay being the evidence provided.

5. Did the district court incorrectly decide the facts? If so, what facts?

Yes. The court ignored the cited authorities and laws, ignored the evidence and claim, and called it all "frivolous", and had NO evidence in fact before it, either from Defendants, or from the court itself, to label cited authorities as "frivolous."

6. Did the district court fail to consider important grounds for relief? If so, what grounds?

Petitioner filed an original Motion for Emergency Injunction, which was denied on grounds which favored Defendants and harmed Petitioner. Petitioner also filed motion for recusal based on the appearance of bias and prejudice against Petitioner defending himself against unlawful taking in denying to proceed with the case. Claims for relief were clearly stated. The ability to live and function has been severely hampered by all Defendants which the court ignored, despite clear laws in support of Petitioner.

The mere fact that Defendant's Koskinen/agents have provided no evidence of record to justify jurisdiction and authority over Petitioner, and ignored standing statutes and case precedent should alert this court to problems with the alleged lawful procedure.

7. Do you feel that there are any other reasons why the district court's judgment was wrong? If so, what?

Yes! The issues at hand have never been properly adjudicated in ANY court in America, EVER. The actual cases routinely cited by Defendants Koskinen/agents calling Petitioner's claims as "frivolous" never had the actual evidence before the court, and thus the cases could not properly label arguments as frivolous. In addition, such cases cannot be used by Defendants Koskinen/agents since all past cases apply ONLY to that case and NOT to this case and Petitioner's arguments and evidence.

Internal Revenue Manual: 4.10.7.2.9.8 (01-01-2006) Importance of Court

Decisions;

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

If lower court cases cannot be used "against" the Defendants Koskinen/agents, and used only "for the taxpayer and years litigated," then certainly this applies in the same vein to the benefit of Petitioner, and all evidence provided by Petitioner MUST be heard.

The number of U.S. Supreme Court cases cited, and their clear lack of ambiguity, and their precise definition of "income" is certainly foundation upon which Petitioner has greatly relied up in his defense, and which have never been rebutted;

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

Thus, the District Court's claims of "frivolous" without ANY independent findings of fact and conclusions of law are without merit, and certainly the avoidance of clear laws cited which are not frivolous laws did further harm to Petitioner. The Judge and Defendants Koskinen/agents are required to properly apply laws in evidence, or are acting outside their official([23]) capacities.

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[23] Title 42 U.S.C. Sec. 1983. When lawsuits are brought against federal officials, they must be brought against them in their 'individual' capacity not their official capacity. When federal officials perpetrate constitutional torts, they do so ultra vires (beyond the powers) and lose the shield of immunity. See also *Redfield v Fisher*, 292 P 813, at 819 [1930]; "...an...officer who acts in violation of the Constitution ceases to represent the government." Brookfield Co. v Stuart, (1964) 234 F. Supp 94, 99 (U.S.D.C., Wash. D.C.); "...an officer may be held liable in damages to any person injured in consequence of a breach of any of the duties connected with his office... The liability for nonfeasance, misfeasance, and for malfeasance in office is in his 'individual', not his official capacity..." 70 AmJur2nd Sec. 50, VII Civil Liability.

8. What action do you want this court to take in your case?

ALL the issues raised in the District Court amended Brief and herein should be answered by the Defendants rather than allowing hearsay and presumption under color of law to prevail. The District Court denied even requiring Defendants to respond to the clear evidence presented, and Petitioner's due process rights were denied. Surely Defendants can answer the clear, simple questions with evidence in fact if there is such evidence in existence. Why haven't they answered despite repeated requests which they are required to answer under IR regulations of record? (See Amended Brief, Exhibit E 1-3).

Petitioner points the court to the original Amended Brief that fleshes out these issues in more detail, but would ask the court to either remand the case back to District Court (to other than Babcock) for proper adjudication and rebuttal, or to ORDER Defendants to reply to the relevant charges and evidence, and provide remedy as stated in the amended Brief, for the sake of justice and due process.

9. Do you think the court should hear oral argument in this case? If so, why?

Petitioner asks the Appeals Court to simply consider the evidence presented by Petitioner, and the lack thereof from Defendants, and if the Court has its own questions which are not addressed in the previous documents, or wants more clarification, or even more evidence in support of Petitioner's defense, (amicus briefs, and other documents in support, or expert witnesses available) then oral arguments might be in order. The mere fact that no answers have ever been provided to the evidence presented stands as prima facie evidence that such evidence does not exist and Defendants are acting outside of lawful authority under color of law against Petitioner, and he moves for remedy and recompense posthaste.

Respectfully submitted,

_____ _____

Date Signature

CERTIFICATE OF SERVICE

I hereby certify that on _____ I served a copy of the Appellant/Petitioner's Opening Brief by United States Postal Mail to the below named Defendants, at the last known and available addresses listed.

1. John Koskinen/Commissioner of Internal revenue, 1111 Constitution Ave., N.W., Washington, D.C. 20224.

2. John Vencato, Revenue Agent, 301 S. Howes St., Fort Collins, Colorado 80521.

3. Ginger L. Wray, Revenue Officer, 12600 W. Colfax Ave., C-300, Lakewood, Colorado 80215.

4. Carolyn Colvin, SSA Acting Administrator, Office of Public Inquiries, 6401 Security Blvd., Baltimore, MD 21235.

5. Jeremy Woods, Disclosure Specialist, Disclosure Office 9, Stop 93A, P.O. Box 621506, Atlanta, GA 30362 (Only address available).

6. Sharisse Tompkins, Disclosure Manager, Disclosure Office 9, Stop 93A, P.O. Box 621506, Atlanta, GA 30362 (Only address available).

7. Theresa Gates, Program Manager, Disclosure Office 9, Stop 93A, P.O. Box 621506, Atlanta, GA 30362 (Only address available).

8. Gary Murphy, Revenue agent, 100 E. B St., Rom. 120, Casper, WY 82601.

9. William Sothen, Revenue agent, 103 Shepphard Drive, Durango, CO 81301.

10. Wells Fargo Bank, NA, P.O. Box 29728, Phoenix, AZ 85038-9728.

_____ _____

Date Signature

CERTIFICATE OF COMPLIANCE

I certify that the total number of pages I am submitting as my Appellant/Petitioner's Opening Brief is 30 pages or less. I understand that if my Appellant/Petitioner's Opening Brief exceeds 14,000 words, my brief may be stricken and the appeal dismissed.

_____ _____

Date Signature