

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

GINA LANGLEY — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Federal Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Gina Langley
(Your Name)

700 Oak St
(Address)

Neptune Beach, FL 32266
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. The United States Solicitor General waived his right to respond on 11-23-2015 in this Court's Case 15-6929 to the Petitioner's claim for refund for tax years 2004, 2009, 2011, 2012 and 2013 totaling \$51,068.84 plus interest. Why has Petitioner not received the federal tax refund as claimed in that case on 11-9-2015 (See Appendix A pages one and two, Appendices D4, D5, F1, F2, G1, G2, H1, I1, I3)?
2. How is simultaneously possible that Petitioner's 2004 final joint marital tax return shows self assessed tax of \$37,483.90, the IRS 2004 account transcripts page one for Petitioner's 2004 final joint marital tax shows 2004 tax return filed 4-15-2005 tax per return records \$37,483.90 and the IRS can falsely states on 4-29-2014 that "Petitioner self assessed taxes in the amount of \$42,117.85". (See Appendix I pages one through six)
3. How is simultaneously possible that Petitioner's 2004 final joint marital tax return shows self assessed tax of \$37,483.90, the IRS 2004 account transcripts page one for Petitioner's 2004 final joint marital tax shows 2004 tax return filed 4-15-2005 tax per return \$37,483.90 and The IRS can then contradictorily states on page two of the IRS 2004 tax year transcripts for Petitioner "tax per return \$42,117.85" (See Appendix I pages one through six and J pages one through six) ?
4. Wouldn't the failure of the United States in accordance with rules of civil procedure 11B to deny it's falsification of a taxpayer's tax year transcripts in over 14 years of proceedings show intent in it's collection of unlawful tax in the amount of \$4,633.95 plus interest since 2005? (Appendices I and J)
4. When you show the two statements that are in contradiction, Senate Hearings on the Judiciary, S 933, 1950 does not that raise the implication of the presence of all the necessary elements of a crime?" (appendices I and J)
5. Is the Commissioner of Internal Revenue required to treat similarly situated persons equally in refunding the joint marital tax refund for the final year of marital status if the joint marital tax refund is made during a year which the status of the taxpayer is now single as known by the Commissioner? (See Appendices I and J)
6. How is it simultaneously possible that the Final Order on the Dissolution of Marriage of Petitioner for the final joint marital tax year 2004, (the determination of the distribution of those marital assets / liabilities) the State of Florida Ordered Petitioner paid no marital debt while \$42,273.56 is simultaneously and

QUESTION(S) PRESENTED continued

7. contradictorily recorded as joint martial 2004 1040 tax payments by the United States for Petitioner's 2004 tax transcripts? (See appendices, I, J and K)
8. How is the State of Florida's granting a lien on Petitioner's homestead without her knowledge or consent to a state of Florida elected government official on March 15, 2015, and in March 2006 valid when the alleged liens existence prohibits the Petitioner from insuring or marketing her homestead for which no one assists in the cost of maintenance or repair? (See appendix K pages one through thirteen, B9, C7, D3, E3) *and appendix L pgs 1 to 22*

LIST OF PARTIES

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

[] 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:

[✓] Per Rule XV Served:

Solicitor General of the United States
Room 5614
Department of Justice
950 Pennsylvania Ave NW
Washington, D.C. 20530-0001

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<i>Kazadi Big Musungayi, v. The United States, Fed. Cl. 08-548T, February 27, 2009</i>	11,12, 14
<i>Langley V. Comm'r, 109 T.C.M. (CCH) 1050, N. 17-267-13L, 2015 WL 392980 (Jan., 13, 2015)</i>	13
<i>Court of Federal Claims, Case 16-206 PEC, on Feb. 3, 2017</i>	14
<i>Giamelli v Commissioner, 129 TC 107, 111, 2007 WL 3170471 (2007)</i>	14
<i>Swanson v Commissioner, 121 T.C. 111, 119, 2003 WL 22020782 (2003)</i> ..	14
U.S. Court of Federal Claims “(Fed.Cl.)” in, <i>Rosenberg, v the United States</i> , No. 05-1272 T, filed August 3, 2006	15, 16
<i>Banks V United States, 741 F.3d 1268, 1277 (Fed. Cir 2014)</i>	16, 17
<i>Reynolds v Army & Air Force Exch. Serv.</i> , 846F.2d 746, 748 (Fed. Cir. 1988)	17
<i>Jones v United States, 440 F. App'x 916, 918 (Fed. Cir. 2011)</i>	17
<i>Souders V. South Carolina Pub Ser. Auth.</i> , 497 F.3d 1303, 1308 (Fed. Cir. 2007).....	17
<i>Jackson v. United States, 612 F. App'x 997, 998-99 (Fed. Cir. 2015)</i>	17, 18
<i>Loretto v Teleprompter Manhattan CATV Corp.</i> , 458 US 419 (1982).....	18, 19
<i>Martinez</i> , No 14-8913 – Decided April 20, 2016 The USSC	19
<i>U.S. V Olano</i> , 507 US 725-733	19
<i>US v Dominques Benitez</i> , 542 US 74	19
<i>Nebbia v. New York</i> , p 525	19
<i>Jordon v Gillgan</i> , 500 F.2d 701,704 (6 th Cir. 1974)	19
<i>Hicklin v Edwards</i> , 226 F. 2d 410, 413 (8 th Cir. 1971)	20

TABLE OF AUTHORITIES CITED CONTINUED

STATUTES AND RULES	PAGE NUMBER
<i>section 6511(a). See 26 C.F. R./ Section 301.6402-3(a)(5)(2008)."</i> ..	11, 12
<i>"26 U.S.C. Section 7422(a).</i>	11, 12
Section 7422(a) does not preclude jurisdiction over Plaintiff's takings claim, because the Takings Clause of the United States Constitution is money-mandating in its own right and, therefore provides an independent and self-executing cause of action.....	15
28 U.S.C. Section 1295(a)(3).....	15
title 18, United States Code Section 1621 enacted on 6-25-1948 Public Law 772, eighteen congress	19
<i>Rule 60(b)(4) of Federal rules of Civil Procedure</i>	19, 20
OTHER	
<i>Langley, 2015 WL392980, at *5,</i>	13
<i>Title 18, Section 1620 Public Law 772 as stated in the Hearings on the Judiciary S933 on Friday march 10, 1950</i>	15
3-18-2015 as document #20150611111 or bk 17100 pages 921-924	18

TABLE OF CONTENTS

OPININONS BELOW	pgs 1 - 5
JURISDICTION	pg 7
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	pgs 8 - 10
STATEMENT OF THE CASE	pgs 11 - 20
REASONS FOR GRANTING THE WRIT.....	pg 21 - 22
CONCLUSION	pgs 23 - 24

INDEX TO APPENDICES

APPENDIX A: 1.....	<u>pg</u> United States Supreme Court Case 15-6929. United States 11-23-15 waiver to Petitioner's claim for 1040 tax refund for tax years 2004, 2009, 2011, 2012 and 2013.
2.....	Petitioner's claim for tax refund totaling \$51,068.84 and Petitioners claim for damages incurred by the United States falsification of Petitioner's tax record for year 2004 and unlawfully collecting tax of \$4,633.95.
APPENDIX B: 1-2.....	United States Court of Appeals for the Federal Circuit 2017- 1818 Denial of Petitioner's rehearing on 1-19-2018.
3-10..	United States Court of Appeals for the Federal Circuit 2018- 1818 Opionion 11-20-17.
APPENDIX C: 1	United States Court of Federal Claims Judgment 16-206T 2-7-2017
2-8.....	United States Court of Federal Claims Opinion 16-206T 2-3-2017
APPENDIX D: 1.....	United States Court of Appeals for the Eleventh Circuit Case 15-10791 E 9-10-15 Denial of Petitioner's motion for rehearing

- 2..... United States summary of the Argument 6-1-2015
- 3..... United States affirmation no jurisdiction over state takings
- 4..... Petitioner's 8-20-2015 claim for refund for tax year 2004 Case 15-10791 that the US waived it's right to respond on 11-23-15
- 5..... Petitioner's 8-20-2015 claim for refund for tax years 2009, 2011, 2012, and 2013 Case 15-10791 that the US waived it's right to respond on 11-23-2015.

APPENDIX E:

- 1..... **United States Tax Court** Order 2-18-15 Case 17267-13
Denying Petitioner's motion for rehearing.
- 2..... United States Tax Court Order and Decision Case 17267-13
2008 and 2010 Moot January 14, 2015.
- 3..... United States Tax Court Memo 2015-11 page two Case
27396-12, *Langley vs. Commissioner*
- 4..... United States Tax Court Order Case 27396-12 for the US to
account for payments applied and refunds made...on June 26,
2014
- 5..... United States 8-22-2014 collection hearing determination that
tax years 2008 and 2010 have a zero balance per the US Tax
Court's Order on June 26, 2014 and that the 2010 overpayment
by Petitioner was applied to tax year 2009.
- 6..... US 8-18-2014 Notice that 2010 overpayment of \$1,687.33 was
applied to Petitioner's tax year 2009.
- 7..... US 8-22-2014 collection hearing provision of Petitioner's 2009
tax year transcripts that does not show 2010's overpayment of
\$1,687.33 as being applied.
- 8..... US notice that on February 7, 2017 \$1,279.82 of the
Petitioner's 2013 tax refund due was now applied to tax year
2010 a year declared Moot by the US tax court and that on 8-
22-2014 the US in collection hearings stated was a zero
balance in the unlawful taking of Petitioner's assets. (See F2)

APPENDIX E: 9..... Petitioner's 2009 1040x Tax return filed on 4-15-2014 showing a refund due of \$118.71 to Petitioner for tax year 2009

10..... US Claim in 16-206 on 6-10-16 "her claim for refund fro 2009 appears to be timely."

11.... US claim on 5-10-16 "She should have filed a 1040X"

APPENDIX F: 1..... Petitioner's 2013 tax return showing an overpayment and a refund due of \$3,210.27 for tax year 2013

2..... United States Notice to Petitioner of 2013 overpayment and the United States erroneous application of that overpayment to various tax years different from E8 application of that credit by the United States.

APPENDIX G: 1..... Petitioner's 2012 1040x Tax return filed on 4-15-2014 showing a refund due Petitioner in the amount of \$1,445.97 for tax year 2012

2..... US 2-15-2016 Notice that a \$1,446.00 refund due to Petitioner for tax year 2012 overpayment.

APPENDIX H: 1..... Petitioner's 2011 1040x Tax return filed on 4-15-2014 showing a refund due Petitioner in the amount of \$1,053.18

APPENDIX I: 1..... Petitioner's 2004 final joint marital tax return showing self assessed tax of \$37,483.90

2..... US Declaration on march 4, 2014 of Petitioner's 2004 account transcript showing tax return filed 4-15-2005 tax per return \$37,483.90.

3..... US false statement in US Tax Court Case 27396-12 that knowingly falsely stated "self assessed taxes in the amount of \$42,117.85."

4..... US false claim on page two of Petitioner's 2004 tax transcripts "tax return filed 5-30-2005 tax \$42,117.85 and an unlawful collection of tax by the US.

5..... US claim that April 15 vs May 30 as noted on the IRS

Transcripts, are beside the point.....

pg

APPENDIX I: 6..... US Supplemental appendix filed 7-30-2017 Again presenting an erroneous amount as Petitioner's tax return filed collecting unlawful tax in the amount of \$4,633.95.

APPENDIX J: 1..... **The United States collection hearing** officer provides the accounting on August 29, 2014 of the 2004 tax refund check as Ordered by the US Tax Court on June 26, 2014.

2..... The US Treasury check payable to Petitioner but cashed by by x spouse equal in amount to ½ the 2004 joint marital tax paid by him plus interest on March 24, 2006.

3..... The amount of 2004 joint marital tax paid by the x spouse.

4..... The United States determines on June 16, 2009 in Petitioners claim that Petitioner did not make any tax payments.

5..... Petitioner's response since 2006 to the United States of the \$42,273.56 of 2004 tax paid by petitioner erroneously applied to joint marital tax unequally by the United States.

6..... Petitioner's 2004 tax payments made to the United States not accounted for in the only process available to become single.

APPENDIX K: 1..... **Last State Order, alleged lien filed 3-15-2015** without Petitioner's knowledge or consent rendering Petitioner's homestead worthless.

2..... the recorded location of Petitioner's homestead.

3..... Statement by Florida elected official S Green that she has preserved the funds in escrow account to receive lien.

4..... Statement by Florida elected official S Green that she has preserved the funds in escrow account to receive lien on March 17, 2006.

5-7.... September 22, 2004 consent by Petitioner's x spouse to give his ½ share interest in the former marital home to his attorney S

pg 4- 4-17-2018

Green without Petitioner's knowledge or consent.

pg

APPENDIX K:

- 8..... Location of Petitioner's homestead.
- 9..... State of Florida elected official S Green violation of the hipa act and fax that on June 8, 2005 \$79,163.92 of funds from the sale of Petitioner's property for which the 2004 tax relates remains in escrow and to date has not been accounted for.
- 10..... State of Florida District Court of Appeal case 1D11-2642 does not require an accounting of the Funds that existed on June 8, 2005 in Court ordered escrow.
- 11..... State of Florida District Court of Appeal case 1D10-26 does not require an accounting of the funds that existed on June 8, 2005 in court ordered escrow.
- 12..... State of Florida Supreme Court Case SC08-1521 does not require an accounting of the funds that existed on June 8, 2005 in court ordered escrow.
- 13..... The State of Florida's 2006 Order in the distribution of former marital assets that totaled 1.6 million dollars on the day of separation was = \$289.41 for the Petitioner and Ordered that Petitioner did not pay any marital debt from 2004 to July 2006 contradictory to the United States application of \$42.273.56 of Petitioner's 2005 and 2006 tax payments to joint martial tax.

Appendix L - pays 1 to 22 per clerks. letter 4/23/18

pg 5
4.17.2018

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix P to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 19, 2018.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 19, 2018, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was March 15, 2018
A copy of that decision appears at Appendix K1 to K12
(s)

☒ A timely petition for rehearing was thereafter denied on the following date: January 19, 2018, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Kazadi Big Musungayi, v. The United States, Fed. Cl. 08-548T, February 27, 2009 states:

“26 U.S.C. Section 7422(a). To be “duly filed,” a taxpayer's claim for a refund must meet the requirements set forth in section 6511 of the Internal Revenue Code... Section 6511(a). Because an original income tax return that discloses the amount of overpayment constitutes a claim for refund, a taxpayer who has filed such a tax return has satisfied the filing requirement of *section 6511(a)*. See 26 C.F.R./Section 301.6402-3(a)(5)(2008).”

Langley V. Comm'r, 109 T.C.M. (CCH) 1050, N. 17-267-13L, 2015 WL 392980 (Jan. 13, 2015). According to the Tax court, the IRS issued a supplemental Notice of Determination on November 20, 2014, in which the IRS stated that there were no outstanding balances due for tax years 2008 and 2010; thus the court dismissed those claims as moot. See *Langley, 2015 WL392980, at *5*,

Court of Federal Claims, Case 16-206 PEC, on Feb. 3, 2017 in it's Opinion

pg 2, (See Appendix C5, and C8), Ordered:

“As explained below, Defendant's RCFC 12(b)(6) amended motion with regard to Ms. Langley's income refund claim for 2009 is **DENIED.**”-

The US *Court of Federal Claims, Case 16-206 PEC, on 2-3-17* in it's Opinion

Id.at page 18, (See C5) Ordered:

“**Id.** Because the IRS adjusted Ms. Langley's taxes based on her 2010 amended tax return... For this reason, defendant's RCFC 12(b)(6) amended motion to dismiss Ms. Langley's tax refund claim for 2009 for failure to state a claim is **DENIED.**”

Title 18, Section 1620 Public Law 772 as stated in the Hearings on the Judiciary S933 on Friday march 10, 1950, two contradictory, simultaneous, material statements in official proceedings is prima facio perjury.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

US Fed. Cl in Rosenberg, v the United States, No. 05-1272 T, filed August 3, 2006 page 8, states:

“Section 7422(a) does not preclude jurisdiction over Plaintiff's takings claim, because the Takings Clause of the United States Constitution is money-mandating in its own right and, therefore provides an independent and self-executing cause OF action.”

The uncontroverted factual allegations in the complaint are treated as true. *Banks V United States*, 741 F.3d 1268, 1277 (Fed. Cir 2014).”

Reynolds v Army & Air Force Exch. Serv., 846F.2d 746, 748 (Fed. Cir. 1988) (“[O]nce the [trial] court's subject matter jurisdiction [is] put in question, it [is] incumbent upon [plaintiff's] to come forward with evidence establishing the court's jurisdiction.”)

Jones v United States, 440 F. App'x 916, 918 (Fed. Cir. 2011). and it has no jurisdiction over claims against a state or its officials. See *Souders V. South Carolina Pub Ser. Auth.*, 497 F.3d 1303, 1308 (Fed. Cir. 2007) (Court of Federal Claims has no jurisdiction over takings by state governments); *Jackson v. United States*, 612 F. App'x 997, 998-99 (Fed. Cir. 2015) ..

in *Loretto v Teleprompter Manhattan CATV Corp.*, 458 US 419 (1982):

“In general with regard to permanent invasions of property, “no matter how minute the intrusion and no matter how weighty the public purpose behind it, we have required compensation.”

In *Martinez*, No 14-8913 – Decided April 20, 2016 The USSC stated:

“Given the Guidelines' complexity, a district Court's use of an incorrect guidelines range may go unnoticed. That error can be remedied on appeal pursuant to Federal Rule of Criminal Procedure 52(b) provided that (1) there was an error that was not intentionally relinquished or abandoned, *U.S. V Olano*, 507 US 725-733; (2) the error is plain, ie, clear or obvious (3) The error affected the taxpayer's substantial rights, which in the ordinary case means he or she must show a reasonable probability that, but for the error, the outcome of the proceeding would have been different, *US v Dominques Benitez*, 542 US 74, Once these three conditions have been met, the Court should exercise its discretion to correct the forfeited error if the error seriously affects the fairness, integrity or public reputation of judicial proceedings, *Olano*, 507 US at 736.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Nebbia v. New York, p 525 :

“the guaranty of due process ...demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the objective sought to be (obtained)”

The Senate Hearings on the Judiciary S933 in 1950, States:

“Be it enacted by the Senate and House of Representatives of the US of America in Congress assembled that title 18, United States Code Section 1621 enacted on 6-25-1948 Public Law 772, eighteen congress be amended to read as follows “ Whoever, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered that that he will certify truly or that any written testimony or certificate subscribed by him which he does not believe to be true, or willfully gives or makes contradictory testimony or statements in judicial proceedings in respect to any material matter is guilty of perjury.”

Rule 60(b)(4) of Federal rules of Civil Procedure provides:

“on motion and upon such terms as are just, the Court may relieve a party from a final judgment, order, or proceeding for the following reasons. The judgment is void. In applying that rule, the Federal courts have determined that when a court lacks jurisdiction over the subject matter or any judgment rendered is void, a legal nullity. *Jordon v Gillgan*, 500 F.2d 701, 704 (6th Cir. 1974) cert. Denied 421 US 991 (1975); *Hicklin v Edwards*, 226 F. 2d 410, 413 (8th Cir. 1971), there is no time limit on the attack on a judgment as void under rule 60(b)(4) of Federal rules of Civil Procedure. *United States v. Sotis*, 131 F. 2d 783, 787 (7th Cir. 1942).

STATEMENT OF THE CASE

On November 23, 2015 (Appendix A1), the Solicitor General of the United States in this Court's Case #15-6929 waived its right to file a response to Petitioner's 1040 federal income tax refund due to Petitioner from the United States for tax years 2004, 2009, 2011, 2012 and 2013 totaling \$51,068.84 plus interest.

On November 23, 2015, the Solicitor General of the United States in this Court's Case #15-6929 waived its right to file a response to Petitioner's claim for damages for the unequal treatment by the United States as claimed by Petitioner in case 15-6929. (See Appendix A2) on 11-9-15:

“2006 ck # 28911585 payable to the appellant by the respondent but never received by the Petitioner but the United States until August 29, 2014 when the United States proved that ck 28911585 payable to Gina Langley for 2004 refund was cashed by others. (See Appendix J1 and J2)

“the United States refunded in 2006 to the petitioner's x spouse ½ of the joint 2004 marital 1040 tax the x spouse paid plus interest but treated the petitioner unequally as a similarly situated person and refunded none of the joint marital tax paid by Petitioner for 2004 even though Petitioner paid 98.8 % of the total 2004 tax (\$42,273.56) and the petitioner's x spouse paid \$97.77 he received back half of what he paid and none was ever received by the appellant.” (See appendices I pages one through six and J pages one through six)

Kazadi Big Musungayi, v. The United States, Fed. Cl. 08-548T, February 27, 2009 states:

“26 U.S.C. Section 7422(a). To be “duly filed,” a taxpayer's claim for a refund must meet the requirements set forth in section 6511 of the Internal Revenue Code... Section 6511(a). Because an original income tax return that discloses the amount of overpayment constitutes a claim for refund, a taxpayer who has filed such a tax return has satisfied the filing requirement of *section 6511(a)*. See 26 C.F.R./Section 301.6402-3(a)(5)(2008).”

Ms. Langley's original 2013 federal 1040 tax return , in accordance with

26 U.S.C. Section 7422(a) and Sections 6511(a) and 6511 (b), was timely filed on 4-15-2014, claiming the refund due to [MS] of \$3,210.27 on line 74a, from [MS] overpayment of federal income tax for tax year 2013 via W2 withholding for tax year 2013. (See Appendix F1 and F2). In accordance with , *Kazadi Big Musungayi, v. The United States, Fed. Cl. 08-548T, February 27, 2009.*

[MS] original 2013 tax return 4-15-2014, disclosed the amount of overpayment constituting a claim for refund, timely in accordance with 7422(a) on 4-15-2014.

The [US] on 6-2-14, noticed the overpayment for [MS] tax year 2013, per the claim for refund in the original return filed on 4-15-2014, timely, in the amount of \$3,210.27. (See Appendix F1 and F2)

[MS] original 1040X 2012 tax return disclosed the \$1,445.97, of overpayment of tax constituting a claim for refund, timely in accordance with 7422(a) on 4-15-2014. (See Appendix G1 and G2) *Kazadi Big Musungayi, v. The United States, Fed. Cl. 08-548T, February 27, 2009.*

On February 15, 2016, the [US] Noticed that for tax year 2012 Ms. Langley was due a refund in the amount of \$1,446.00. (See Case: 17-1818, Doc. 20, Pages: 170 & 356 filed, 06/12/2017). (See Appendix G1 and G2)

2011

[MS] original 1040X, year 2011 tax return disclosed on line 21, the \$1,053.18, of 2011 federal tax overpayment, constituting a claim for refund, timely in accordance with 7422(a) and 6511 on 4-15-2014. (See Appendix H) *Kazadi Big Musungayi, v. The United States, US Fed. Cl 08-548T.*

On Feb. 15, 2016 the [US] collected unlawful tax when \$833.75 of 2012 refund due was credited to tax year 2011. (See F2)

The [US] on 6-2-2014, collected unlawful tax when \$1,279.82 of 2013 tax year refund was applied to tax year 2011. (See Appendix F2)

2010

The [US] on 8-22-2014 stated "Tax years 2008 and 2010 have a zero balance due." (See Appendix E5, E6 and E1.)

The United States Tax Court on Jan 14, 2015 (See **Appendix E1**), that the U.S. Court of Federal Claims "(Fed. Cl.*)" affirmed on Feb 3, 2017 in it's Opinion page 4 at 2 (See Appendix C5), Ordered:

"In January 2015, the Tax Court issued its decision. See *Langley V. Comm'r, 109 T.C.M. (CCH) 1050, N. 17-267-13L, 2015 WL 392980 (Jan., 13, 2015)*.

According to the Tax court, the IRS issued a supplemental Notice of Determination on November 20, 2014, in which the IRS stated that there were no outstanding balances due for tax years 2008 and 2010; thus the court dismissed those claims as moot. See *Langley, 2015 WL392980, at *5*, But the Tax Court sustained the proposed levy to collect unpaid balances for the remaining tax years, 2006 (for \$121,48 due and 20,..)"

The [US] on 2-7-2017, in a showing of intent in the unlawful taking of [MS] assets, during official proceedings, collected unlawful tax in the amount of \$1,279.82 when \$1,279.82 of the 2013 tax year refund due to [MS] was then applied to tax year 2010. (See **Appendix E8**).

2009

[MS] original 1040X 2009 tax return disclosed the \$118.71, of overpayment of tax constituting a claim for refund, timely in accordance with 7422(a) and 6511 on 4-15-

2014. (See Appendix E9, E7, E6, E5) *Kazadi Big Musungayi, v. The United States, Fed. Cl. 08-548T, February 27, 2009.*

On Feb. 15, 2016 the [US] collected unlawful tax of \$612.25 of 2012 refund due [MS], that the [US] applied to tax year 2009. (See Case: 17-1818, Document: 20 Pages 171 and 343 filed 06/12/2017.)

On August 18, 2014, the [US] collected unlawful tax of \$1,687.33 of 2010 tax year overpayment due [MS], that the [US] applied to tax year 2009. (See appendix E6, E7 and E9).

The *Court of Federal Claims, Case 16-206 PEC, on Feb. 3, 2017* in it's Opinion pg 2, (See Appendix C5, and C8), Ordered:

“As explained below, Defendant's RCFC 12(b)(6) amended motion with regard to Ms. Langley's income refund claim for 2009 is **DENIED.**”

The US *Court of Federal Claims, Case 16-206 PEC, on 2-3-17* in it's Opinion Id.at page 18, (See C5) Ordered:

“Id. Because the IRS adjusted Ms. Langley's taxes based on her 2010 amended tax return... For this reason, defendant's RCFC 12(b)(6) amended motion to dismiss Ms. Langley's tax refund claim for 2009 for failure to state a claim is **DENIED.**”

[MS] 2004 Tax Refund Claim

This Court erroneously cites an arbitrary and capricious date of May 30, 2008 for [MS] 2004 tax refund claim to be have been brought with no sound basis in law.

Giamelli v Commissioner, 129 TC 107, 111, 2007 WL 3170471 (2007) See

Swanson v Commissioner, 121 T.C. 111, 119, 2003 WL 22020782 (2003) (See Case: 17-

1818, Document: 20, Page: 176, Filed: 06/12/2017).

U.S. Court of Federal Claims “(Fed.Cl).” in, *Rosenberg, v the United States*, No. 05-1272 T, filed August 3, 2006 page 8, that states:

“Section 7422(a) does not preclude jurisdiction over Plaintiff's takings claim, because the Takings Clause of the United States Constitution is money-mandating in its own right and, therefore provides an independent and self-executing cause of action.”

The [US] on 5/24/2017 stated: “This Court has jurisdiction under 28 U.S.C. Section 1295(a)(3). (See Case: 17-1818, Doc. 16, Page: 8, Filed: 05/24/2017).

Title 18, Section 1620 Public Law 772 as stated in the Hearings on the Judiciary S933 on Friday march 10, 1950, two contradictory, simultaneous, material statements in official proceedings is prima facio perjury. There is no filing deadline.

The 2004 tax year transcripts, prepared by the [US], for [MS] Langley's 2004 tax year, two pages are simultaneously, materially, contradictory. On page one, the [US] correctly shows [MS] self assessed tax for tax year 2004, the final joint return for the marital entity, line 74 of 1040 form , tax = \$37,483.90. (See Appendix I1 and I2).

On page two of The 2004 tax year transcripts, prepared by the [US], for [MS] Langley's 2004 tax year at the [US] “SAppx17” (See appendix I5, I6, and I4 and I3), contradictorily state: “Tax return filed 5-30-2005 tax = \$42,117.85.”

[MS] 2004 tax per return, self assessed is \$37,4863.90 and not and cannot also simultaneously and materially contradictorily be \$42,117.85. That result, is an unlawful collection of tax, penalties and interest of \$4,633.95 since 2005 by the [US] in the [US] unlawful taking of [MS] assets.

pg 15 4-17-2018

US Fed. Cl in Rosenberg, v the United States, No. 05-1272 T, filed August 3,

2006 page 8, states:

“Section 7422(a) does not preclude jurisdiction over Plaintiff's takings claim, because the Takings Clause of the United States Constitution is money-mandating in its own right and, therefore provides an independent and self-executing cause of action.”

In a showing of intent in the taking of [MS] assets, on 4-19-2014 in US Tax court case 27-39612 (Tax year 2004) the [US] knowingly falsely states

“On April 15, [MS] filed a joint return ... self assessed taxes in the amount \$42,117.85.” (See Case: 17-1818, Document 20, Page: 136, Filed: 06/12/2017).

That is not possible to infer from the [US] 2004 tax transcripts page one, that shows tax return filed April 15, 2005 tax = \$37,483.90.

Only page two shows 2004 tax of \$42,117.85 as an unlawful collection of \$4,633.95 by the [US] for tax year 2004 in the unlawful taking of [MS] assets.

the [US] “SAppx17” (M28) contradictorily state: “Tax return filed 5-30-2005 tax = \$42,117.85.” for no legitimate purpose.

The uncontroverted factual allegations in the complaint are treated as true. *Banks V United States, 741 F.3d 1268, 1277 (Fed. Cir 2014).*”

The [US] has not denied [MS] claims, that the [US] with criminal intent, falsified the [MS] 2004 tax transcripts and collected tax in the unlawful taking of [MS] assets:

As noted in [MS] reply brief, the [US] in collection hearings stated:

“On August 5, 2014...the settlement officer... You also wanted to know about the refund which was issued in 2006 for tax year 2004 which nobody has been able to explain.” (See Case: 17-1818, Document 20 Page 186, Filed:

pg 16 4-17-2018

06/12/2017). (See appendix J1, J2, J3, and I6)

The x spouse paid \$97.77 of the 2004 tax liability. (See Appendix J3) In an act of discrimination, the [US] refunded the x spouse ½ the tax he paid for the final martial joint tax return for 2004 in March 2006. (See appendix I6, J1, J2) and none to the [MS].

The [US] did not prove that refund on the 2004 tax transcripts until August 2014 when ordered to do so by the US Tax Court in June 2014: (See Appendix J1, J2, and E4)

The uncontroverted factual allegations in the complaint are treated as true. *Banks V United States*, 741 F.3d 1268, 1277 (Fed. Cir 2014)."

The [US] has not denied [MS] claims, that the [US] with criminal intent, collected tax in the unlawful taking of [MS] assets, treated the [MS] unequally and that the [US] with criminal intent, in its unfair, deceptive and abusive practice of mailing simultaneous contradictory notices as claimed by [MS] on May 10, 2016 in 16-206 PEC at ECF #7, as [MS] also claimed in the US Supreme Court Case 15-6929 by [MS] on 11-9-15 that the [US] waived its right to respond to on November 23, 2015 in No: 15-6929. (See appendix A1 and A2). *Reynolds v Army & Air Force Exch. Serv.*, 846F.2d 746, 748 (Fed. Cir. 1988) ("[O]nce the [trial] court's subject matter jurisdiction [is] put in question, it [is] incumbent upon [plaintiff's] to come forward with evidence establishing the court's jurisdiction.")

The [US] in it's reply brief, Case" 17-1818, Doc(s) 14 &16, page 22 filed 5-24-17:

"The Court of Federal Claims has no authority to review a state court decision. See *Jones v United States*, 440 F. App'x 916, 918 (Fed. Cir. 2011). and it has no jurisdiction over claims against a state or its officials. See *Souders V. South Carolina Pub Ser. Auth.*, 497 F.3d 1303, 1308 (Fed. Cir. 2007) (Court of Federal Claims has no jurisdiction over takings by state governments); *Jackson v. United*

States, 612 F. App'x 997, 998-99 (Fed. Cir. 2015) .."

The Order on the on the Dissolution of Marriage, Ordered [MS] paid no marital debt from the time of filing (August 2004 to the Order 6-21-2006) (See Appendix K page 13) .Both categories of the [MS] tax payments, ie IRS joint marital debt and Dissolution of the marital entity order did not pay marital debt, cannot be simultaneously true. The IRS erroneously applied \$42,273.56 Of [MS] tax payments to marital debt in violation of the State of Florida's Order on the Dissolution of the marital entity.

Last, The State of Florida recorded an alleged lien to Ms. Green, an elected State of Florida official on Ms. Langley's homestead without Ms. Langley's knowledge or consent on 3-18-2015 as document #20150611111 or bk 17100 pages 921-924. (See appendix K1 through K13).

[MS] langley has received no compensation for this intrusion of her property, made possible via the process as required in/by the IRS for the determination of tax reporting status (married or single) for [MS] 2004 tax year, the final year of "married status per IRS regulation.

The only service provided by Ms. Green, was a faxed letter dated June 8, 2005 (See appendix K9) showing that there was a 2004 IRS error of \$4,265.38 and \$914.00.", and \$79,163.92 of [MS] funds remained, from the sale of property for which the 2004 tax was paid, which to date has not been accounted for. The USSC in *Loretto v Teleprompter Manhattan CATV Corp.*, 458 US 419 (1982):

"In general with regard to permanent invasions of property, "no matter how

minute the intrusion and no matter how weighty the public purpose behind it, we have required compensation.”

In *Martinez*, No 14-8913 – Decided April 20, 2016 The USSC stated:

“Given the Guidelines' complexity, a district Court's use of an incorrect guidelines range may go unnoticed. That error can be remedied on appeal pursuant to Federal Rule of Criminal Procedure 52(b) provided that (1) there was an error that was not intentionally relinquished or abandoned, *U.S. v Olano*, 507 US 725-733; (2) the error is plain, ie, clear or obvious (3) The error affected the taxpayer's substantial rights, which in the ordinary case means he or she must show a reasonable probability that, but for the error, the outcome of the proceeding would have been different, *US v Dominques Benitez*, 542 US 74, Once these three conditions have been met, the Court should exercise its discretion to correct the forfeited error if the error seriously affects the fairness, integrity or public reputation of judicial proceedings, *Olano*, 507 US at 736.

Nebbia v. New York, p 525 “the guaranty of due process ...demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the objective sought to be (obtained)”

The Senate Hearings on the Judiciary S933 in 1950, States:

“Be it enacted by the Senate and House of Representatives of the US of America in Congress assembled that title 18, United States Code Section 1621 enacted on 6-25-1948 Public Law 772, eighteen congress be amended to read as follows “ Whoever, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered that that he will certify truly or that any written testimony or certificate subscribed by him which he does not believe to be true, or willfully gives or makes contradictory testimony or statements in judicial proceedings in respect to any material matter is guilty of perjury.”

Rule 60(b)(4) of Federal rules of Civil Procedure provides:

“on motion and upon such terms as are just, the Court may relieve a party from a final judgment, order, or proceeding for the following reasons. The judgment is void. In applying that rule, the Federal courts have determined that when a court lacks jurisdiction over the subject matter or any judgment rendered is void, a legal nullity. *Jordon v Gillgan*, 500 F.2d 701,704 (6th Cir. 1974) cert. Denied 421 US

991 (1975); *Hicklin v Edwards*, 226 F. 2d 410, 413 (8th Cir. 1971), there is no time limit on the attack on a judgment as void under rule 60(b)(4) of *Federal rules of Civil Procedure*. *United States v. Sotis*, 131 F. 2d 783, 787 (7th Cir. 1942).

REASONS FOR GRANTING THE PETITION WRIT

It is not simultaneously possible that the appellant while single paid a 1040 joint martial tax debt of a marital entity and be ordered in the accounting of an distribution of the martial entity as a non martial debt payment the "process" which determines the distribution of the marital entity so that the only distribution is to parties not entitled to the retained earnings of the former marital entity (comprehensive income)

It is inequitable for the appellant to sustain a loss on the dissolution of after tax retained earnings earned over a 20 year span while there remains funds Ordered into trust that remain unaccounted for by a government official. It is inequitable that the appellant with school age children has to re-earn the loss incurred in a distribution that does not adhere to generally accepted accounted principles while there remains funds unaccounted for by a government official that were ordered into trust and not accounted for in the uncompensated taking of petitioner's assets in violation of Petitioner's rights as guaranteed by the 5th and 14th amendments of the United States Constitution Nebbia v. New York, p 525 "the guaranty of due process ...demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the objective sought to be (obtained)"

The act of conversion on the appellant's property as a divorcing person whose assets belonged to a marital entity not by her choice accomplished a taking of the appellant's private property under the Fifth and Fourteenth Amendments requiring the payment of "just Compensation.". Lucas v South Carolina Coastal Council US 112 S ct

appendix A pg 11

2/8/16 complaint USCFC

17-1818
exhibit 4
pg 25

USSC 15-6929

pg 8 of eleven

11-9-15

Petitioner's Statement of facts

In Loretto v Teleprompter Manhattan CATV Corp, 458 US 419 (1982) in general with regard to permanent invasions of property, "no matter how minute the intrusion and no matter how weighty the public purpose behind it, we have required compensation."

Last, BECAUSE OF THE FINDINGS OF THE ORIGINAL COURT

The honorable Judge Cohen stated "no one can grant the relief appellant is requesting."
and our government employees should be held accountable for breeching their duty to accurately account for a taxpayers payments made and taxes due.

pg 22 4.18.2018

appendix 17 pg 12
2/8/16 Complaint USCA

17-1818
exhibit 4
pg 26

USSC 15-6929
pg. 9 eleven 11-9-15
Dehtone, Statement of Facts

M111

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lina Lely

Date: ~~April 17, 2018~~
June 20, 2018
11/6/2018

pg 23 4-17-2018