No._____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2018

Melba Ford, *Applicant/Petitioner*

v.

The United States of America, *Respondent*

APPLICATION FOR EMERGENCY STAY OF JUDGMENT ISSUED BY THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA,

With TWELVE Declarations in Support

To the Honorable Elena Kagan, Circuit Justice for the Ninth Circuit:

The issues I raise herein have application to every American. I am eighty years old, and will likely lose my home at any moment due to the abstract of judgment issued by The Hon. Dale A. Drozd on November 6, 2018 in a forfeiture case against me. That judgment was issued despite his knowledge that

- No summary record of assessment was ever prepared or signed concerning me and 2003 by a duly authorized representative of the Commissioner, (none appears in the record, See Record, All), despite his knowledge that

- IRS produced in discovery irrefutable evidence that it used its Sun MicroSystems Computer (SMS Computer) in Martinsburg, W. Virginia to falsify IRS' controlling, actionable Individual Master File (IMF) module concerning me and 2003, to make it appear IRS prepared a substitute income tax return, when no such thing exists or happened, despite his knowledge that

- It was the SMS Computer which calculated the supposed income tax the attorneys claim I owe, and which automatically produced the UNSIGNED "30 day" and "90 day" Letters, which the head of the DoJ's Tax Division, Principal Deputy Assistant Attorney General Richard E. Zuckerman, repeatedly and falsely claimed were produced by a human, despite Mr. Drozd's knowledge that

- Mr. Zuckerman provided a repeatedly falsified paper Form 4340 Certificate to conceal the underlying digital fraud concerning me and the 2003 IMF module, and despite Judge Drozd's knowledge that

- Mr. Zuckerman procured expert testimony from an unknown-named, unwitting IRS revenue officer, who swore that a summary record of assessment was prepared by a "duly authorized delegate of the Secretary on Feb. 26, 2007", when no such thing exists or happened.

I filed my Combined Rule 59/Rule 60 Motion in the case on October 11th, 2018, which Mr. Drozd is point-blank refusing to acknowledge or to rule on.

Moreover, the panel of the Ninth Circuit assigned to my appeal, 18-17217, has point-blank refused to rule on my Emergency FRAP Rule 8 Motion seeking stay of Mr. Drozd's judgment, and the Ninth Circuit has ignored my suggestion/request that the *en banc* Circuit stay the judgment during the course of my appeals.

It is has become apparent, there is no "independence of the judiciary", a.k.a. no separation of powers in regard to income tax matters. The two branches are acting as one.

Intro Recapitulation

I, with others, have discovered that IRS and DoJ enforces the income tax on so-called "non-filers" by using computer and document fraud, supplemented by falsified DoJ court claims and declarations procured from unwitting IRS agents.

All involved judges are aware of the program, (although not the operational details), as exemplified by the **uniformly** incoherent "reasoning", misrepresentations and outright fraud offered to defeat litigation on the subject.[1]

Hence, in regard to income tax matters and "non-filers", there is no separation of powers; all federal bar attorneys are prolonging the executive branch record falsification program and acting as one to block adjudication thereof by victims, such as me.

As a result, my home is now in jeopardy. And I am not alone in suffering from the effects of the IRS/DoJ record falsification program, being run now IN THE CLEAR with full knowledge of involved judicial officers. (See appended Exhs. C-M, Declarations of eleven (11) other Americans whose due process rights have been destroyed by the program, and/or by the subsequent actions of judicial officers in recent litigation.)

I am not an attorney, so if any procedural errors are discovered in this document, I will amend it under the direction of Justice Kagan or of the Court.

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[1] For example, the Hon. Dale A. Drozd held:

"Plaintiff maintains that any and all documentation of the IRS creating a substituted return for her is falsified because she did not voluntarily swear out a return under penalty of perjury because she simply did not file a tax return for 2003." [See 17-00034, Doc. 19, Order, Pg. 8, @ 2.]

I "maintained" no such incoherence because I know IRS never "creates" or prepares substitute income tax returns, nor prepares and signs summary records of assessment. But IRS uses layered, digital, document and testimonial fraud, supported by attorney fraud in every filing, to conceal that lacuna.

A. Statement of the Petition/Application

During the course of an ongoing forfeiture case 17-00187 in the Eastern District of California, I discovered and presented to The Hon. District Judge Dale A. Drozd irrefutable IRS-supplied documentation proving that no human being with duly delegated authority calculated, prepared and signed a summary record of assessment on February 26, 2007 concerning me and 2003, contrary to the falsified Form 4340 Certificate [Doc. 35-8] DoJ entered into the record, and contrary to the claims by all involved attorneys, including Judge Drozd.[2]

It is indisputable that no summary record of assessment appears in the record, signed or unsigned. [See Record, All] And, I credibly contend, the Government cannot produce one.

Accordingly, I have repeatedly sought stay of the judgment issued against me by Judge Drozd on September 28, 2018, [See Exh. A, Order], and the abstract of judgment his Clerk issued November 6, 2018, [See Exh. B, Judgment], which authorizes IRS/DoJ seizure of my home, *at any moment*.

But, although I filed, among other documents, my Combined Rule 59/60 motion in his Court on October 11, 2018, [17-00187, Doc. 71], and although I filed on December 3, 2018 in my appeal to the Ninth Circuit, an Emergency FRAP Rule 8 Motion to stay the judgment, [18-17217, Doc. 11106280] and although I filed an emergency suggestion to the *en banc* Ninth Circuit on March 18, 2019 seeking relief from the failure/refusal of Mr. Drozd and the Circuit panel to rule on my emergency motions to stay the judgment, the entire judiciary of the Ninth Circuit has gone mute. I am thus left in "legal limbo", despite the fact my home is subject to legal theft *at any moment*.

B. Statement of the Case

There is no separation of powers and no independence of the judiciary in cases involving the income tax and so-called "non-filers". Evidence acquired from litigation during the past five years across the country (See Exhs. C-M. attached), proves judicial and executive branch attorneys act as one, exerting concerted effort to delay IRS' reckoning with justice.

Specifically, I and others have discovered that some judges, such as Judge Drozd, have knowingly used falsified IRS certifications during income tax-related litigation, which documentation allows judges to presume substitute income tax returns and summary records of assessment were prepared and signed by duly authorized delegates of the Commissioner, on specified IRS/DoJ-claimed dates, despite the FACT no such thing exists or occurred.

Said differently, Americans are being defrauded during litigation, and theft of their property and/or their incarceration is being justified by the most sophisticated digital/document falsification program ever operated in the history of our Government, with the involved judges' knowledge, as the following sequence bears out.

During discovery in the underlying forfeiture case, the head of the DoJ's Tax Division, Principal Deputy Assistant Attorney General Richard E. Zuckerman, provided indisputable

[2] See Exh. A, Order, Sep. 28, 2018, [Docket 17-187, Doc. 70, Pg. 4, Last Snt., Pg. 5, Table, Line 6.]

evidence from IRS manuals[3] proving that no summary record of assessment was calculated, prepared and signed by an IRS employee with duly delegated authority, concerning me and 2003. In fact, the documentation HE supplied proves that an IRS computer prepared the unsigned documents[4] he claims were prepared and signed by a human on February 26, 2007.[5]

That is, Mr. Zuckerman provided internal documentation from IRS proving the Service used its Sun MicroSystems Computer to calculate the supposed "deficiency amount" the attorneys claim I owe in income taxes, and that said SMS Computer generated multiple unsigned, wrongly-dated documents concerning me and 2003, which Mr. Zuckerman stated in his filings were prepared by a "duly authorized delegate of the Secretary on Feb. 26, 2007". [See footnote 5, for one such fraudulent Zuckerman claim.]

So, to conceal the fact no human *ever* prepared either a substitute income tax return or a summary record of assessment in the INCOME TAX MATTERS related to me, and to conceal the fact IRS uses either one of two adjunct databases to falsify its actionable, all-controlling Individual Master File records,[6] (in order to create the impression IRS prepares substitute income tax returns and summary records of assessments, when it didn't), Mr. Zuckerman presented to the Court a falsified Form 4340 Certificate.

That Certificate shows multiple competing dates on which Mr. Drozd could presume that 1.) a substitute income tax return had been prepared when one wasn't, and that 2.) a summary record of assessment had been prepared/signed by a human, when one wasn't.

To further his desired forfeiture of my home, Mr. Zuckerman procured the testimony of a pseudonym-d IRS revenue officer, having him declare under oath that a "duly authorized

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[3] See IRM 5.18.1.6.1 (ASFR Dummy TC 150), et seq., for stunning proof the ASFR program is wholly automated, run by computers, complete with place-holding "dummy returns" that do not exist in reality, etc. The richness of the IRS computer/document/attorney fraud beggars imagination.

[4] Mr. Zuckerman's acolyte, Jonathan Hauck, admitted in an email to me that IRS computers determined my tax liability, and that IRS COMPUTERS prepared a "30 day letter", a.k.a. Letter 2566, and a "90 day Letter", a.k.a. Letter 3219, neither of which was signed, but bore the name "Jan Sinclair". Hauck wrote

> "I believe I have explained that no paper 1040 was filled out for you by some individual IRS worker. Your tax liability was determined by a computer, hence the "Automated" part of the ASFR acronym. For definition of the Automated Substitute for Return System, see Internal Revenue Manual ("IRM") **5.18.1.3.1 (04-06-2016) ASFR System Overview:** ASFR is a stand-alone system residing on a SUN Microsystems platform at the Enterprise Computing Center (ECC). Systemic processing occurs weekly."

[5] For one example of Zuckerman's claims in 17-00187, See Doc. 35-2, Statement of Undisputed Facts, ¶48, pg. 8; on "02/26/2007",

[6] IRS uses either the Sun MicroSystems database or the Audit Information Management System database to insert into the targeted annual "module" of its all-controlling Individual Master File software, data reflecting IRS' pretended preparation of substitute income tax returns, which never occur, and IRS pretended preparation of signed summary records of assessment, which don't exist.

delegate of the Secretary of the Treasury made timely assessments" against me concerning 2003 on "02/26/2007",[7] when the lawyers know no such thing ever happened or exists.

So, despite the fact no summary record of assessment appears in the record [See Record, All], and despite the fact Judge Drozd knew IRS revealed via discovery irrefutable evidence that the SMS Computer prepared unsigned, wrongly dated "30 day" and "90 Day" letters which Mr. Zuckerman claimed were prepared/signed by a duly authorized human, The Hon. Judge granted summary judgment against me, reiterating the same palpably false claim the executive branch attorneys exude: "a duly authorized delegate of the Secretary of the Treasury signed an assessment" concerning me and 2003 on "Feb. 26th, 2007".[8]

Again, no signed assessment appears in the record, in violation of Treasury Regulations binding on the Service,[9] and multiple holdings of various courts.[10]

C. Procedural History

On September 28, 2018, despite his knowledge that nothing occurred on February 26, 2007 other than a mere data entry into IRS' IMF 2003 module of dollar amounts calculated by the Sun Micro-Systems Computer on July 11, 2006, The Hon. Mr. Drozd issued Summary Judgment [17-00187, Doc. 70] favoring IRS/DoJ. Mr. Drozd held "a duly authorized delegate of the Secretary of the Treasury signed an assessment" concerning me and 2003 on "Feb. 26th, 2007".[11] Truly, that is a material fact, and is utterly controverted. Summary judgment was never appropriate.

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[7] See 17-00187, Doc. 35-4, Declaration of "K.M.", Pg. 5, ¶ 30, for the unknown-named Revenue Officer's claim.

[8] Exh. A, Order, Sept. 28, 2018, [Docket 17-00187, Doc. 70, Pg. 4, Last Snt., Pg. 5, Table, Line 6]

[9] "Again, as we remarked almost 50 years ago, Treasury regulations 'are binding on the Government as well as on the taxpayer.' *Brafman v. United States*, 384 F.2d 863, 866 (5th Cir. 1967). Indeed, '[w]here the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures.' 'This is so even where the internal [agency's] procedures are possibly more rigorous than otherwise would be required.'" *Romano-Murphy v. CIR*, No. 13-13186. 11th Cir, March 7, 2016, citing *Morton v. Ruiz*, 415 U.S. 199, 235 (1974)

[10] In *Brafman* v. United States, eminent jurist The Hon. John Minor Wisdom of the Fifth Circuit invalidated an assessment not signed by the proper official, under this analysis:

> "Mrs. Brafman contends, however, that no valid assessment was made on July 23, 1956, because the assessment certificate was not signed.... The Treasury Regulations set forth the procedures governing the assessment process: The District Director shall appoint one or more assessment officers, and *the assessment shall be made by an assessment officer signing the summary record of assessment.* The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period if applicable, and the amount of the assessment.... *The date of the assessment is the date the summary record is signed by an assessment officer.* * * * Treas. Reg. § 301.6203-1 (1955) (emphasis added.)

[11] Again, see Exh. A, Order, Sept. 28, 2018, [Docket 17-00187, Doc. 70, Pg. 4, Last Snt., Pg. 5, Table, Line 6]

On October 11, 2018, I filed my Combined Rule 59(e) and Rule 60 Motion [17-00187, Doc. 71], contending Mr. Drozd had no jurisdiction to even address the case, due to the heinous acts of Richard E. Zuckerman, presenting falsified documents (a Form 4340 Certificate), a falsified affidavit of an IRS revenue officer, and fraudulent repeated claims that "a duly authorized delegate of the Secretary prepared/signed a summary record of assessment on February 26, 2007", (when no such document exists nor appears in the record), and the Certification proffered by IRS/DoJ was repeatedly falsified to conceal the underlying fraud committed in IRS' digital records.

On November 6, 2018, Mr. Drozd ignored my motion and allowed his clerk to issue an "Abstract of Judgment" [Doc. 72], which DoJ can use at any moment to justify theft of my home.

On November 14, 2018, I filed a Notice of Appeal [Doc. 74] to the Ninth Circuit.

On **November 15, 2018**, the Ninth Circuit Clerk established **Docket #18-17217** [Doc. 1108974].

On December 3, 2018, I filed in the Ninth Circuit my "Emergency FRAP Rule 8 Motion to Stay" Mr. Drozd's judgment, since he refuses to provide me the protection justice requires. [Doc. 11108326 recorded on]

On December 4, 2018, the Circuit panel issued an Order [Doc. 11108950], ignoring my Emergency FRAP Rule 8 Motion, but staying my appeal until Mr. Drozd rules on my Combined Rule 59/Rule 60 Motion [Doc. 71].

On January 18, 2019, I filed in the District Court my Motion to Render Immediate Judgment [Doc. 78] respectfully requesting Mr. Drozd set my Combined Rule 59/Rule 60 Motion [Doc. 71] for immediate resolution. He ignored it.

On March 7, 2019, [Doc. 11220189] I filed in the Circuit my motion seeking to have the assigned panel rule on my Emergency FRAP Rule 8 Motion. It has been ignored.

On or about March 18, 2019, I filed a suggestion for *en banc* review of the Panel's failure to adjudicate my Emergency FRAP Rule 8 Motion. It, too, has been ignored.

D. Standards for Granting a Stay

Authority of this Court or any Circuit Justice to grant a stay is found in 28 U.S.C. §2101(f), and this Court's Rule 44.1, which states that "stay may be granted by a Justice of this Court as permitted by law." It seems to me this Court also has "general supervisory authority" over the Courts below, to grant the simple injunction I request.

To implement their stay jurisdiction, the Circuit Justices of the Court have established four general criteria that the stay applicant must satisfy.

1. The Applicant must establish that there is a 'reasonable probability' that four Justices will consider the certiorari issue sufficiently meritorious to grant certiorari.

2. The Applicant must show that there is a 'fair prospect' that a majority of the Court will conclude that the decision below on the merits was erroneous.

3. The Applicant must demonstrate that irreparable harm will result from the denial of a stay.

4. In close cases, it may be appropriate to balance the equities, by exploring the relative harms to the parties and to the public at large.

Argument

Although both the Circuit and District Court below have issued no judgment concerning the stay I seek, thus leaving me in "legal limbo" without any protection from prospective IRS/DoJ action to seize my home, I will address each criterion in the order set forth above.

Please note, however, even in the absence of a ruling by any judge concerning the stay I am requesting, I am justified in attempting to litigate in this Court the FAILURE/REFUSAL of the entire Ninth Circuit judiciary to rule on my Emergency FRAP Rule 8 Motion.

1. The Applicant must establish that there is a 'reasonable probability' that four Justices will consider the certiorari issue sufficiently meritorious to grant certiorari.

If I am never allowed to secure relief in the Courts below from the underlying executive branch record falsification program and the overt support thereof provided by judicial officers, this Court can be assured I will return here post haste, filing a petition for certiorari.

In the meantime, by just stating the proposition set forth in some detail above, I feel there is a reasonable probability every Justice of this Court will consider the issues I am presenting "cert worthy". In other words, there is more than a reasonable probability the Justices will find the institutionalized falsification of IRS records, the DoJ's knowing use thereof, and the overt support provided the scheme by judicial branch officers, sufficient to grant certiorari.

2. The Applicant must show that there is a 'fair prospect' that a majority of the Court will conclude that the decision below on the merits was erroneous.

Since the evidence provided by IRS and DoJ overwhelmingly proves that no signed summary record of assessment exists in my case, and that the Form 4340 Certification Mr. Zuckerman provided the Court was repeatedly falsified and used to conceal the fact no human signed an assessment on Feb. 26th, 2007, it is clear that the majority of the Court will find the decision of Judge Drozd granting summary judgment against me was not only wrong, but dead wrong.

3. The Applicant must demonstrate that irreparable harm will result from the denial of a stay.

I have already had property stolen from me by the Government. Portions of my social security checks are withheld every month by virtue of a fraudulent IRS levy against me. I can't even sell my property to raise funds to hire an attorney, since it is "liened" by IRS. And, I have learned that no bonding company will provide a bond for me, unless I have an attorney involved.

I have also become aware that once the IRS initiates the forfeiture process at the local level, no state authority will intervene on my behalf. Hence, I have learned that said process, once begun to steal my home, is inexorable.

That said, if this Court fails or refuses to grant me relief, it is very likely my home will be stolen by IRS on the basis of the falsified records upon which Mr. Drozd knowingly relied.

Further, I contend that "Justice delayed is justice denied". Unarguably, Judge Drozd, the assigned Panel, and the en banc Ninth Circuit have exhibited zero interest in protecting my property from theft by IRS and DoJ, even though such seizure would be based on falsified documents presented in the forfeiture case against me. So, as long as the Courts below will not rule on my emergency petitions, justice is being delayed and denied.

Finally, in this context, it is very likely the judges in the Ninth Circuit simply would rather the Supreme Court handle this "hot-potato", since it drives a stake to the heart of the fraud underpinning the enforcement of the income tax by the unified judicial and executive branches.

4. In close cases, it may be appropriate to balance the equities, by exploring the relative harms to the parties and to the public at large.

This is not even a close case. There is no conceivable harm that could come to the public should a stay be granted during the pendency of Judge Drozd's adjudication of my Combined Rule 59/Rule 60 Motion, (filed six months ago on 11 October 2018), and any necessary appeal.

Moreover, the public interest and balance of equities overwhelmingly favors a stay. Stated fully, should the public be apprised of the provision of falsified evidence by Richard E. Zuckerman to Judge Dale A. Drozd, upon which he knowingly based his judgment against me, the public interest overwhelmingly lies in eliminating that conscience-shocking fraud by which our public servants enforce the income tax.

Argument Postscript

No more important case will ever arrive in this Court, since the IRS/DoJ scheme affects every American. That is, if, as irrefragable IRS-supplied evidence proves, IRS institutionally falsifies federal records, i.e. commits crimes, to enforce the income tax on those who don't voluntarily self-assess, the discovery of that surreptitious program has earth-shattering implications for all Americans.

Finally, in this context, it is imperative that we work together, that all men and women of good will re-establish the Rule of Law, the "independence of the judiciary" and the separation of powers in income tax matters, to ensure our brilliantly-conceived form of Government remains stable and viable, delivering justice to the oppressed as its Founders intended.

Relief Requested

For the foregoing reasons, I request that an order be entered staying the judgment issued by The Hon. Judge Drozd, during the course of his delay to adjudicate my Combined Rule 59/60 Motion, and during any subsequent appeal.

Alternatively, I request the Justice Kagan simply order Mr. Drozd to rule on my Combined Motion, since he issued the judgment in September 2018 authorizing the likely imminent seizure of my home, based on falsified digital records, falsified paper certifications, falsified testimony of an unknown-named revenue officer, and falsified claims by Mr. Richard E. Zuckerman in multiple filings during the course of the litigation below,

In further alternative, I request Justice Kagan refer my application to the entire Court, setting briefing and argument at its earliest convenience to ensure adjudication before the summer recess.

Respectfully presented,

Melba Ford
905 Ross Way
Hanford, California 93230

Verification/Declaration

Comes now Melba Ford, with personal knowledge of the admissible facts related above and competent to testify thereto, pursuant under penalty of perjury pursuant to 28 USC §1746, that the facts stated in the foregoing **"Application for Emergency Stay of Judgment Issued by the U.S. District Court for the Eastern District of California"** are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

Melba Ford

CERTIFICATE of SERVICE

This is to certify that a copy of the foregoing **"Application for Emergency Stay of Judgment Issued by the U.S. District Court for the Eastern District of California"** was served via United States Mail on April 9, 2019 to:

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Commissioner, IRS
Office of Procedure and Administration
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Washington, D.C. 20224

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Mr. Richard E. Zuckerman
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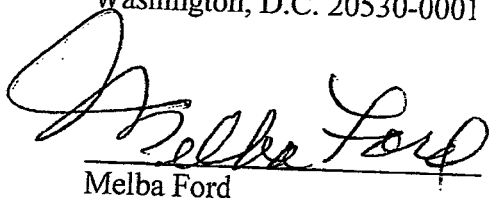

Melba Ford

Exh. A

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

17-cv-00187 [Doc. 70]

USDC Order Granting Government's

Motion for Summary Judgment

and

Denying Defendant's Remaining Motions

as Moot

September 28, 2018

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MELBA L. FORD,

Defendant.

No. 1:17-cv-00187-DAD-EPG

ORDER GRANTING GOVERNMENT'S MOTION FOR SUMMARY JUDGMENT AND DENYING DEFENDANT'S REMAINING MOTIONS AS MOOT

(Doc. Nos. 35, 54, 55, 57)

This matter came before the court on March 20, 2018 for hearing on plaintiff United States of America's ("plaintiff" or "the United States") motion for summary judgment. (Doc. No. 35.) Attorney Jonathan Hauck of the U.S. Department of Justice Tax Division appeared on behalf of the United States, and defendant Melba Ford appeared at the hearing representing herself *pro se*. Following oral argument, plaintiff's motion was taken under submission. Having considered the parties' briefs and oral arguments, and for the reasons stated below, the court will grant plaintiff's motion for summary judgment and deny defendant's remaining motions as moot. The court will enter judgment against defendant Ford for $190,854.91, which represents her 2003 federal income tax liability, including interest and penalties assessed pursuant to 26 U.S.C. § 6702 for the years of 1993, 2001, 2002, 2003, and 2005.

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BACKGROUND

The United States filed this action to reduce a federal tax assessment for the income tax year of 2003 to judgment against defendant. Defendant Ford, despite being born and raised in the United States, does not believe herself to be a federal citizen of the United States and believes that the Bill of Rights guarantees her the right to earn a living without taxation.[1] (*See* Doc. No. 35-1 at 2.) Apparently based upon this belief, defendant has not filed a tax return with the Internal Revenue Service ("IRS") for at least nineteen years prior to 2009. (*Id.*)

The facts underlying this case are largely undisputed.[2] In 2009, defendant submitted a signed Form 1040, the U.S. individual income tax return, to the IRS for her 1993 income tax year. (*See* Doc. No. 35-2 at ¶¶ 9–10.) Additionally, defendant submitted a corrected Form 1099, which documents miscellaneous income, stating that she had not earned any federal income. (*Id.* at ¶¶ 11–13.) Defendant's Form 1040 for 1993 was deemed to contain at least one frivolous position pursuant to 26 U.S.C. § 6702(c). (*See id.* at ¶ 14.) As a result, the IRS assessed a $5,000 frivolous filing penalty against defendant pursuant to 26 U.S.C. § 6702(a). (*Id.*) The IRS

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[1] In a deposition given on August 9, 2017, defendant testified as to her belief that her income was not taxable because it did not constitute federal income. (*See* Doc. No. 35-3 at 27–28) ("I have a right, by the Constitution of this country to make a living. Everyone has a right. The Bill of Rights guarantees us a living. Without taxation.") Defendant also testified to her belief that she is a sovereign citizen and thus not subject to federal law. (*See id.* at 29) ("I'm not a United States citizen. I was born and raised here in this country, but that does not make me a United States, meaning federal citizen. I am not a federal citizen.").

[2] In her opposition to the pending motion, an unauthorized "addendum" to that opposition, and in her "motion to clarify facts precluding summary judgment," defendant Ford maintains that there are material issues of fact precluding the granting of plaintiff's summary judgment motion. (*See* Doc. Nos. 44, 47, 54.) However, these are largely arguments about what defendant believes is or is not permitted under the law, rather than arguments identifying factual disputes about what did or did not happen in this case. (*See, e.g.*, Doc. No. 44 at 3) (stating a "triable issue of fact arises over whether IRS has authority under 6020(b) to create such documents"). Thus, defendant's actual arguments do not support her contention that disputed issues of material fact which she has established preclude the granting of summary judgment. Rather, the crux of defendant's argument, as the court confirmed with defendant Ford at the hearing in this matter, is that the Commissioner of the IRS has disclaimed the IRS's authority under 26 U.S.C. § 6020(b) to create tax returns for taxpayers who fail to file returns. (*See* Doc. No. 52 at 12.) As discussed in this order, the court rejects this argument as finding no support in the law.

prepared a Form 8278 to demonstrate written supervisory approval of the frivolous filing penalty assessed against defendant with respect to her Form 1040 for the 1993 tax year. (*Id.* at ¶ 15.)

In 2010, defendant submitted a signed Form 1040 to the IRS for her 2001 income tax year. (Doc. No. 35-2 at ¶¶ 16–17.) In 2014, she again provided a copy of the 2001 Form 1040 to the IRS. (*Id.*) Defendant also submitted a corrected Form 1099 regarding her income from Hakkoh Development ("Hakkoh") and a disclosure statement. (*Id.* at ¶¶ 17–18.) Defendant's Form 1040 for 2001 was also deemed to be frivolous by the IRS, and the IRS prepared a Form 8278 to demonstrate written supervisory approval. (*Id.* at ¶¶ 20–21.)

In 2010, defendant submitted a signed Form 1040 to the IRS for her 2002 income tax year. (*Id.* at ¶¶ 22–23.) Defendant also submitted a corrected Form 1099 regarding her income from Hakkoh. (*Id.* at ¶ 24.) Defendant's Form 1040 for 2002 was also deemed to be frivolous by the IRS, and the IRS prepared a Form 8278 to demonstrate written supervisory approval. (*Id.* at ¶¶ 25–26.)

In 2010, defendant submitted a signed form 1040 to the IRS for her 2003 income tax year. (*Id.* at ¶¶ 27–28.) Defendant also submitted a corrected 1099 regarding her income from Hakkoh. (*Id.* at ¶ 29.) Defendant's Form 1040 for 2003 was also deemed to be frivolous by the IRS, and the IRS prepared a Form 8278 to demonstrate written supervisory approval. (*Id.* at ¶¶ 30–31.)

In 2010, defendant submitted a signed Form 1040 to the IRS for her 2005 income tax year. (*Id.* at ¶¶ 32–33.) Defendant also submitted a corrected Form 1099. (*Id.* at ¶ 34.) Defendant's Form 1040 for 2005 was also deemed to be frivolous by the IRS, and the IRS prepared a Form 8278 to demonstrate written supervisory approval. (*Id.* at ¶¶ 35–36.)

The IRS received information return processing ("IRP") information from several parties indicating that defendant in fact had taxable income during the 2003 tax year. (*Id.* at ¶ 37.) IRP information is maintained by the IRS and reflects data reported by third parties on various IRS forms. (*Id.* at ¶ 38.) The IRS can obtain IRP transcripts for individuals by running searches for an individual's social security number. (*Id.*) Because defendant had not timely filed a Form 1040, in 2006 the IRS computed her federal income tax liability for the 2003 tax year using IRP information. (*Id.* at ¶ 43.)

In July 2006, the IRS sent defendant a Letter 2566, stating that the IRS had not received her Form 1040 for 2003, the IRS's calculation of her taxes owed based on IRP information, and a request that she respond to the letter within thirty days. (*Id.* at ¶ 44.) The IRS did not receive a response from defendant to the Letter 2566. (*Id.* at ¶ 45.) On September 11, 2006, the IRS sent defendant a statutory notice of deficiency by certified mail, to which she also did not respond. (*Id.* at ¶ 46.) Further, IRS records do not reflect that defendant filed a petition with the United States Tax Court within ninety days of the letter being sent. (*Id.* at ¶ 47.) As a result, the IRS made an assessment of defendant's tax liability for 2003 of $58,485.00 based on the amount reflected in the deficiency letter. (*Id.*) The following assessments against defendant were made by an authorized delegate of the Secretary of the Treasury, representing individual federal income taxes, penalties, interest, and other statutory additions for each of the tax years below. (*Id.* at ¶ 48.)

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Type of Tax	Tax Period	Assessment Date	Assessment Amount[3]	Total Balance as of February 22, 2018 (including accruals)
Income (Forms 1040)	2003	02/26/2007 10/06/2008 10/19/2015 08/15/2016 10/17/2016	T $ 59,485.00 P1 $ 1,534.88 P2 $ 13,384.12 I $ 14,421.49 P3 $ 10,409.87 P3 $ 4,461.38 I $44,092.09 F $ 62.00 I $ 5,312.86	$159,625.66
26 U.S.C. § 6702 - Civil Penalty	1993	06/06/2011 10/19/2015 10/17/2016	P $ 5,000.00 I $ 718.51 I $ 205.55	$6,252.76
26 U.S.C. § 6702 - Civil Penalty	2001	05/30/2011 05/19/2014 10/19/2015 10/17/2016	P $ 5,000.00 F $ 20.00 I $ 723.75 I $ 206.46	$6,280.37
26 U.S.C. § 6702 - Civil Penalty	2002	08/01/2011 10/19/2015 10/17/2016	P $ 5,000.00 I $ 683.52 I $ 204.30	$6,214.52
26 U.S.C. § 6702 - Civil Penalty	2003	05/30/2011 10/19/2015 10/17/2016	P $ 5,000.00 I $ 722.88 I $ 205.71	$6,257.55
26 U.S.C. § 6702 - Civil Penalty	2005	07/18/2011 10/19/2015 10/17/2016	P $ 5,000.00 I $ 692.24 I $ 204.62	$6,224.05
				$ 190,854.91

[3] T—tax; P1—estimated tax penalty, 26 U.S.C. § 6654; P2—late filing penalty, 26 U.S.C. § 6651(a)(1); P3—failure to pay tax penalty, 26 U.S.C. § 6651(a)(2); I—interest; F—fees and collection costs.

Plaintiff filed a motion for summary judgment in this action on February 16, 2018, seeking to reduce its tax assessments to judgment for defendant's 2003 income tax liability, which totals $159,625.66 as of February 22, 2018, and for frivolous tax return penalties pursuant to 26 U.S.C. § 6702(a) for defendant's Form 1040 for tax years 1993, 2001, 2002, 2003, and 2005, which total $31,229.25 as of February 22, 2018. (Doc. No. 35 at 2.) The total judgment requested by plaintiff against defendant Ford is $190,854.91. (*Id.*) Defendant filed a motion to recuse the undersigned and to stay determination of the summary judgment motion on February 20, 2018. (Doc. No. 36.) On March 2, 2018, the court denied defendant's motions. (Doc. No. 42.) Defendant filed an opposition to the motion for summary judgment on March 5, 2018. (Doc. No. 44.) Plaintiff filed a reply on March 13, 2018. (Doc. No. 46.)

On March 14, 2018, defendant filed an 83–page addendum to her opposition to the motion for summary judgment without seeking the leave of the court. (Doc. No. 47.) On March 27, 2018, defendant filed a submission styled as a "motion to clarify facts precluding summary judgment." (Doc. Nos 53, 54.) Additionally, on April 25, 2018, defendant filed a renewed motion to dismiss and a motion to sanction plaintiff's counsel. (Doc. No. 55.) On May 15, 2018, defendant filed a motion to judicially notice the filing of a petition for writ of mandamus filed with the Supreme Court. (Doc. No. 57.)[4]

LEGAL STANDARD

Summary judgment is appropriate when the moving party "shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

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[4] On May 22, 2018, defendant filed still more motions: a renewed motion to clarify facts precluding summary judgment (Doc. No. 59) and a renewed motion to dismiss and sanction plaintiff's counsel (Doc. No. 60), both of which were noticed for hearing on June 5, 2018. Both of these motions were stricken by the court because the filings did not comply with Local Rule 230, which provides that a motion is to be heard not less than twenty-eight days after service and filing of the motion. (Doc. No. 66.) Defendant did not refile these motions in a manner that complied with Local Rule 230. The government filed oppositions to these motions on May 30, 2018, and defendant filed replies on June 6 and June 12, 2018, notwithstanding the fact that the motions had been stricken. (Doc. Nos. 64, 65, 68, 69.)

In summary judgment practice, the moving party "initially bears the burden of proving the absence of a genuine issue of material fact." *In re Oracle Corp. Sec. Litig.*, 627 F.3d 376, 387 (9th Cir. 2010) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). The moving party may accomplish this by "citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials" or by showing that such materials "do not establish the absence or presence of a genuine dispute, or that the adverse party cannot produce admissible evidence to support the fact." Fed. R. Civ. P. 56(c)(1)(A), (B). If the moving party meets its initial responsibility, the burden then shifts to the opposing party to establish that a genuine issue as to any material fact actually does exist. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). In attempting to establish the existence of this factual dispute, the opposing party may not rely upon the allegations or denials of its pleadings but is required to tender evidence of specific facts in the form of affidavits, and/or admissible discovery material, in support of its contention that the dispute exists. *See* Fed. R. Civ. P. 56(c)(1); *Matsushita*, 475 U.S. at 586 n.11; *Orr v. Bank of Am., NT & SA*, 285 F.3d 764, 773 (9th Cir. 2002) ("A trial court can only consider admissible evidence in ruling on a motion for summary judgment."). The opposing party must demonstrate that the fact in contention is material, i.e., a fact that might affect the outcome of the suit under the governing law, *see Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630 (9th Cir. 1987), and that the dispute is genuine, i.e., the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *See Wool v. Tandem Computs., Inc.*, 818 F.2d 1433, 1436 (9th Cir. 1987).

In the endeavor to establish the existence of a factual dispute, the opposing party need not establish a material issue of fact conclusively in its favor. It is sufficient that "the claimed factual dispute be shown to require a jury or judge to resolve the parties' differing versions of the truth at trial." *T.W. Elec. Serv.*, 809 F.2d at 631. Thus, the "purpose of summary judgment is to 'pierce the pleadings and to assess the proof in order to see whether there is a genuine need for trial.'" *Matsushita*, 475 U.S. at 587 (citations omitted).

"In evaluating the evidence to determine whether there is a genuine issue of fact," the court draws "all reasonable inferences supported by the evidence in favor of the non-moving party." *Walls v. Cent. Contra Costa Cty. Transit Auth.*, 653 F.3d 963, 966 (9th Cir. 2011). It is the opposing party's obligation to produce a factual predicate from which the inference may be drawn. *See Richards v. Nielsen Freight Lines*, 602 F. Supp. 1224, 1244–45 (E.D. Cal. 1985), *aff'd*, 810 F.2d 898, 902 (9th Cir. 1987). Undisputed facts are taken as true for purposes of a motion for summary judgment. *Anthoine v. N. Cent. Counties Consortium*, 605 F.3d 740, 745 (9th Cir. 2010). Finally, to demonstrate a genuine issue, the opposing party "must do more than simply show that there is some metaphysical doubt as to the material facts. . .. Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no 'genuine issue for trial.'" *Matsushita*, 475 U.S. at 587 (citation omitted).

DISCUSSION

"The district courts of the United States . . . shall have such jurisdiction . . . to render . . . judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws." 26 U.S.C. § 7402(a). As explained below, the Ninth Circuit has adopted a burden-shifting framework for reducing tax liabilities involving unreported income to judgment. The government bears the initial burden of proof in an action to collect federal taxes. *In re Olshan*, 356 F.3d 1078, 1084 (9th Cir.2004) (*quoting Palmer v. I.R.S.*, 116 F.3d 1309, 1312 (9th Cir.1997)). "The government can usually carry its initial burden, however, merely by introducing its assessment of tax due. Normally, a presumption of correctness attaches to the assessment, and its introduction establishes a prima facie case." *United States v. Stonehill*, 702 F.2d 1288, 1293 (9th Cir. 1983) (citing *Welch v. Helvering*, 290 U.S. 111, 115 (1933) and *United States v. Molitor*, 337 F.2d 917, 922 (9th Cir. 1964)); *see also Huff v. United States*, 10 F.3d 1440, 1445 (9th Cir. 1993) ("IRS Form 4340 provides at least presumptive evidence that a tax has been validly assessed."); *United States v. Vacante*, 717 F. Supp. 2d 992, 1004 (E.D. Cal. 2010) (Form 4340s are highly probative and can establish that "tax assessment was properly made and notice and demand for payment were sent."). The assessment of tax liability is presumed to be correct if it is supported by a minimal evidentiary foundation linking the taxpayer with income-producing

activity. *See Edwards v. Commissioner,* 680 F.2d 1268, 1270 (9th Cir. 1982); *Weimerskirch v. Comm'r*, 596 F.2d 358, 361 (9th Cir. 1979); *United States v. Cowan*, 535 F. Supp. 2d 1135, 1143 (D. Hawaii 2008).

"Once the Government has carried its initial burden of introducing some evidence linking the taxpayer with income-producing activity, the burden shifts to the taxpayer to rebut the presumption by establishing by a preponderance of the evidence that the deficiency determination is arbitrary or erroneous." *Rapp v. Comm'r*, 774 F.2d 932, 935 (9th Cir. 1985) (citing *Adamson v. Commissioner*, 745 F.2d 541, 547 (9th Cir. 1984) and *Delaney v. Commissioner*, 743 F.2d 670, 671 (9th Cir.1984)); *see also Hardy v. C.I.R.*, 181 F.3d 1002, 1004–05 (9th Cir. 1999). Finally, if a taxpayer is successful in overcoming the presumption that the initial determination of tax liability is correct, the burden of proving the deficiency then falls again to the government. *Hardy v. C.I.R.*, 181 F.3d at 1005; *Stonehill*, 702 F.2d at 1293; *Keogh v. C.I.R.*, 713 F.2d 496, 501 (9th Cir. 1983); *Weimerskirch*, 596 F.2d at 360.

A. Defendant Ford's 2003 Income Tax Liability

Here, the United States has submitted an IRS Certificate of Assessments and Payments ("Forms 4340") calculating the amount of tax due from defendant Ford for the 2003 tax year (Doc. No. 35-8), which provides "presumptive evidence that a tax has been validly assessed . . .." *Huff*, 10 F.3d at 1445; *Hughes v. United States*, 953 F.2d 531, 535 (9th Cir. 1992) (finding that the Government's submission of a Form 4340 was sufficient to establish that a valid assessment had been made, in light of no contrary evidence from defendants); *Cowan*, 535 F. Supp. 2d at 1144 ("The Certificates of Assessments and Payments, Forms 4340, are, in the absence of contrary evidence, sufficient to establish that the tax assessments were correctly made, and that notices and demand for payment were sent."); *United States v. Wright*, Civ. No. 2:94-1183 EJG GGH, 1994 WL 715870, at *7-8 (E.D. Cal. Oct. 25, 1994) (finding that a Form 4340 satisfied the government's burden at summary judgment of the defendant's tax liability amount).

Further, the United States has presented other IRS forms and deposition testimony to corroborate the Form 4340 and to create an evidentiary foundation, thereby establishing a *prima facie* case. *See Stonehill*, 702 F.2d at 1293 ("The factual foundation for the assessment is laid

'once some substantive evidence is introduced demonstrating that the taxpayer received unreported income.'"); *Weimerskirch*, 596 F.2d at 362 (holding that the Tax Court "erred in finding that the presumption of correctness attached to the deficiency determination" because it was not supported by any "evidentiary foundation linking the taxpayer to the alleged income-producing activity").

In this case, the United States has presented evidence on summary judgment linking defendant Ford with income-producing behavior by submitting a Letter 2566 dated July 24, 2006. (*See* Doc. No. 35-7 at 7.) The letter notified defendant that the IRS had not received her income tax return for the 2003 tax year.[5] (*Id.*) Further, both the Form 4340 and the Letter 2566 are corroborated by testimony given by defendant at her deposition, in which she admitted to engaging in a variety of income-producing activities. (*See* Doc. No. 35-3.) For instance, at her August 9, 2017 deposition, defendant testified that she had worked as a real estate broker in 2003 for Hakkoh (*id.* at 7, 24), invested money with National Commodities Corporation (*id.* at 22), received rent payments from the United States Department of Housing and Urban Development (*id.* at 18), and received rent payments from rental properties (*id.* at 16–17).

Having presented this evidence on summary judgment, the United States has met its initial burden, and "the burden shifts to the taxpayer to rebut the presumption by establishing by a preponderance of the evidence that the deficiency determination is arbitrary or erroneous." *See Rapp*, 774 F.2d at 935. Though defendant filed an opposition to the pending motion for summary judgment, she has failed to present any evidence that the government's tax deficiency determination at issue is arbitrary or erroneous. Instead, defendant merely asserts that there are fourteen "triable issues of material fact, or mixed questions of fact and law. . . in contention between the parties, preventing summary judgment." (Doc. No. 44 at 1.) In summary, the court construes defendant's assertions as advancing the following three arguments: 1) whether 26 U.S.C. § 6020 applies to income tax; 2) whether the IRS's Automated Substitute for Return

[5] The tax calculation in the Letter 2566 (*id.* at 9–12) is consistent with the IRP transcript for 2003. (Doc. No. 35-1 at 5.) The IRP transcript uses data reported by third parties to compute income tax liability for individuals who do not file individual income tax returns. (*Id.*)

("ASFR") process is legal; and 3) whether the Forms 4340 or other IRS documents or testimony were falsified in relation to this action. None of these arguments satisfy defendant's burden of rebutting the presumption of correctness attached to plaintiff's determination of her tax liability. Nonetheless, the court will briefly discuss each of defendant Ford's arguments below.

First, defendant asserts that based on prior statements by the IRS, 26 U.S.C. § 6020, which authorizes the IRS to prepare returns for taxpayers who do not file a tax return, does not apply to the income tax. (Doc. Nos. 44 at 3–4; 54.)[6] Defendant points to four different statements attributable to the IRS Commissioner in support of this contention: (1) the Internal Revenue Manual § 5.1.11.6.7; (2) the Privacy Impact Assessment; (3) the Revenue Officer's Training Manual; and (4) a memorandum dated July 29, 1998 authored by an assistant chief counsel of the IRS. (Doc. No. 44 at 3–4.)

Defendant's argument is unpersuasive for various reasons. First, defendant has made no showing that any of the cited documents have the force and effect of law. *See United States v. Mead Corp.*, 533 U.S. 218, 229 (2001) (explaining that deference under *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984) is required where Congress has delegated the agency the authority to speak with the force of law on a matter, and that "the overwhelming number of our cases applying *Chevron* deference have reviewed the fruits of notice-and-comment rulemaking or formal adjudication"). Indeed, courts have specifically held that the Internal Revenue Manual does not have the force and effect of law and imbues no rights on taxpayers. *See Kimdun Inc. v. United States*, 202 F. Supp. 3d 1136, 1147 (C.D. Cal. 2016) (citing *Fargo v. Commissioner*, 447 F.3d 706, 713 (9th Cir. 2006)); *see also Fargo v. C.I.R.*, 447 F.3d 706, 713 (9th Cir. 2006) ("The Internal Revenue Manual does not have the force of law and does not confer rights on taxpayers. This view is shared among many of our sister circuits."); *Dickow v. United States*, 654 F.3d 144, 153 n. 8 (1st Cir. 2011); *Marks v. C.I.R.*, 947 F.2d 983, 986 n. 1. (D.C. Cir. 1991).

[6] Following the hearing on the pending motion for summary judgment, defendant filed additional motions advancing similar arguments to those included in her opposition to plaintiff's motion for summary judgment. On March 27, 2018, defendant also filed a "motion to clarify facts precluding summary judgment." (Doc. No. 54.)

Additionally, defendant has inaccurately summarized the documents upon which she relies and then draws erroneous conclusions therefrom. As an example, the July 29, 1998 memorandum authored by the IRS's assistant chief counsel does not opine about the validity of applying 28 U.S.C. § 6020 to income tax, as argued by defendant. Instead, the memorandum analyzes steps to take when Forms 1040 are returned by taxpayers with additions indicating that the taxpayer protest the payment of taxes. (*See* Doc. No. 44 at 30–33.) Specifically, the memorandum states that if "a taxpayer's addition [to the Form 1040] denies tax liability (and, therefore, negates an otherwise effective penalties of perjury statement), the form is not a valid return, and penalties, such as the failure to file penalty, and interest would apply." (*Id.* at 33.) Though tangentially relevant to this case in that it discusses filings by taxpayers protesting the payment of taxes, this memorandum does not establish that the United States' deficiency determination of defendant's tax liability is arbitrary or erroneous. Further, it does not establish that 26 U.S.C. § 6020 does not apply to the income tax.

Defendant's contention about the lack of statutory authority allowing the IRS to create substituted returns in the event that a taxpayer does not file a tax return is also unpersuasive and without support. The relevant statute notes exactly to the contrary, and specifically authorizes the creation of a return absent any filing from the taxpayer:

> If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor . . . the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

26 U.S.C. § 6020(b). Moreover, a tax liability is owed regardless of whether plaintiff filed a tax return. *See* 26 C.F.R. § 301.6211-1(a) ("If no return is made . . . [the taxes paid] shall be considered as zero. Accordingly, in any such case, . . . the deficiency is the amount of the income tax imposed by subtitle A."). Finally, courts have repeatedly recognized the authority of the IRS to prepare substitute income tax returns for taxpayers who do not file a Form 1040. *See, e.g.*, *Roat v. Comm'r*, 847 F.2d 1379, 1381 (9th Cir. 1988) (recognizing that "section 6020(b)(1) simply endows the Secretary with '[a]uthority' to execute a return" on behalf of a taxpayer who does not file one himself); *Rapp v. Commissioner*, 774 F.2d 932, 935 (9th Cir.1985); *In re Smith*,

527 B.R. 14, 18 (N.D. Cal. 2014), *aff'd*, 828 F.3d 1094 (9th Cir. 2016) ("Section 6020(b) refers to a return prepared by the IRS when the taxpayer fails to prepare a timely return or makes a false or fraudulent return, and the IRS must prepare the return based upon such information as it obtains itself."); *In re Ashe*, 228 B.R. 457, 460 (C.D. Cal. 1998) ("When a party fails to file a return, or willfully files a false or fraudulent return, the IRS shall prepare the return from its own information.").

Next, defendant questions whether the determination of her income tax liability through the ASFR program is legal. (Doc. No. 44 at 5–11.) Using the ASFR program, the IRS assesses tax liabilities by securing valid voluntary delinquent tax returns and computing tax, interest, and penalties based on income information submitted by payers when no return is filed. *See* I.R.M. § 5.18.1. Any issue defendant has regarding the legality of the ASFR program is one that challenges 26 U.S.C. § 6020(b), which is the statute authorizing the ASFR program. These challenges are baseless and do not preclude the granting of plaintiff's motion for summary judgment. *See Rivas v. Comm'r of Internal Revenue*, 113 T.C.M. (CCH) 1268 (T.C. 2017), *appeal dismissed* (Mar. 30, 2018) (notice of deficiency determining the liability in a substitute for return generated by the ASFR computer system was valid); *Bilyeu v. C.I.R.*, 103 T.C.M. (CCH) 1859 (T.C. 2012) (upholding tax assessments based upon the ASFR program and finding that petitioner's uncorroborated testimony fails to meet the taxpayer's burden to refute the assessment).

Finally, defendant alleges that the government has falsified digital and paper records throughout the course of this civil action. (Doc. No. 44 at 5–11.) Defendant's conclusory allegations in this regard are wholly unsupported by specific facts or any evidence and are therefore insufficient to create a triable issue of fact precluding summary judgment. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) ("A summary judgment motion cannot be defeated by relying solely on conclusory allegations unsupported by factual data.").

Defendant has been unable to rebut the presumption of correctness of the Forms 4340 by establishing, by a preponderance of the evidence, that the deficiency assessment is arbitrary or erroneous. Therefore, the court must enter judgment in favor of the United States as to

defendant's 2003 income tax liability. Defendant is consequently also liable for interest and penalties accruing on tax liabilities. *See* 26 U.S.C. §§ 6601(a), 6621, 6622(a), 5554; 28 U.S.C. § 1961(c); *Purer v. United States*, 872 F.2d 277, 277 (9th Cir. 1989) ("[A]fter December 31, 1982, interest on tax deficiencies was to be determined by reference to a floating rate and compounded daily.").

B. Frivolous Filing Penalties

26 U.S.C. § 6702 states that an individual may be subject to a penalty of $5,000 for tax filings reflecting positions that the IRS has deemed to be frivolous. *See* 26 U.S.C. § 6702(c) ("The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection.")

Here, the government has presented on summary judgment the Forms 1040 and respective attachments that defendant submitted to the IRS. (*See* Doc. Nos. 35-5, 35-6, 35-7, 35-8, 35-9.) Defendant's tax filings include various assertions and arguments that are clearly frivolous. Plaintiff has chosen to highlight two particular frivolous assertions and arguments made by defendant in moving for summary judgment. (*See* Doc. No. 35-1 at 8–9.) First, in each of her Forms 1040, defendant reported no taxable income and zero tax liability, which are frivolous positions. *See* Notice 2008-14(1)(e) (categorizing the position that a "taxpayer has an option under the law to file a document or set of documents in lieu of a return or elect to file a tax return reporting zero taxable income and zero tax liability even if the taxpayer received taxable income during the taxable period for which the return is filed" as frivolous). Additionally, plaintiff notes that defendant testified that she attached a disclosure statement with a disclaimer of liability to each of her Forms 1040 at issue, in an attempt to reduce her federal tax liability. (*See* Doc. No. 35-1 at 9.) This is also a frivolous position pursuant to § 6702. *See* Notice 2008-14(19).

For these reasons, each submission by defendant Ford of a Form 1040 from years 1993, 2001, 2002, 2003, and 2005 contains at least one frivolous position pursuant to § 6702(c), and in granting summary judgment in favor of plaintiff, a $5,000 penalty for each Form 1040 will be assessed to defendant.

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CONCLUSION

Accordingly,

1. Plaintiff's motion for summary judgment (Doc. No. 35) is granted in its entirety;
2. Judgment is entered against defendant for $190,854.91, which represents her 2003 federal income tax liability including interest and penalties assessed pursuant to 26 U.S.C. § 6702 for the years of 1993, 2001, 2002, 2003, and 2005;
3. Defendant's pending motions (Doc. Nos. 54, 55, 57) are denied as moot;
4. All currently scheduled dates for further proceedings in this action are vacated; and;
5. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: **September 28, 2018**

Dale A. Drozd
UNITED STATES DISTRICT JUDGE

Exh. B

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

17-cv-00187 [Doc. 72]

U.S. Department of Justice

Abstract of Judgment

November 6, 2018

ISSUED

Please Return to: Department of Justice | Tax Division
Financial Litigation Unit | Office of Review
P.O. Box 310 (Ben Franklin Station)
Washington, DC 20044

ABSTRACT OF JUDGMENT
NOTICE

Pursuant to Title 28, United States Code, Section 3201, this judgment, upon the filing of this abstract in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of 26 U.S.C. §6323(f), creates a lien on all real property of the defendant(s) and has priority over all other liens or encumbrances which are perfected later in time. The lien created by this section is effective, unless satisfied, for a period of 20 years and may be renewed by filing a notice of renewal. If such notice of renewal is filed before the expiration of the 20-year period to prevent the expiration of the lien and the court approves the renewal, the lien shall relate back to the date the judgment is filed.

Names and Addresses of Parties against whom judgments have been obtained	**Names of Parties in whose favor judgments have been obtained**
Melba L. Ford 905 Ross Way Hanford, CA 93230 Kings County	United States of America

Amount of Judgment	**Names of Creditor's Attorneys**	**Docketed**
$190,854.91, including interest and penalties assessed pursuant to 26 U.S.C. § 6702.	United States Department of Justice Tax Division, TaxFLU OOR P.O. Box 310 Ben Franklin Station Washington, D.C. 20044 (202) 307-6567 taxflu.taxcivil@usdoj.gov	September 28, 2018 CIV No. 1:17-CV-00187-DAD-EPG

UNITED STATES OF AMERICA CLERK'S OFFICE U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SS

I CERTIFY that the foregoing is a correct Abstract of the Judgment entered or registered by this Court.

Dated: November 6, 2018

By: **Marianne Matherly, Clerk**, Deputy Clerk

Exh. C

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Robert A. McNeil

in Support

AFFIDAVIT

Comes now Robert A. McNeil, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me and 2006, to make it appear IRS properly prepared a substitute income tax return on August 11, 2008 concerning me and 2006, when no such thing occurred or exists.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

Using the scheme, based on falsified digital records (IMF), IRS stole more than $18,000 from me, filed a fraudulent Notice of Federal Tax Lien into the public record, which ruined my credit, and is currently garnishing $357.15 from my Social Security check each month.

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. *14-CV-0471, Ellis v. Commissioner of Internal Revenue, et al.,*
2. *15-CV-2039, DePolo v. Ciraolo-Klepper, et al.,*

3. *16-CV-0420, Dwaileebe v. Martineau, et al,*
4. *16-CV-1053, Crumpacker v. Ciraolo-Klepper, et al,*
5. *16-CV-1768, Podgorny v. Ciraolo-Klepper, et al,*
6. *16-CV-1458, McGarvin v. McMonagle, et al,*
7. *16-CV-2089, Norma DeOrio v. Ciraolo-Klepper, et al,*
8. *17-CV-0034, Ford v. Ciraolo-Klepper, et al,*
9. *16-CV-2313, Ellis, et al, v. Jackson, et al, and*
10. *17-CV-0022, Stanley, et al, v. Lynch, et al.*

But, in response, judges uniformly falsified the record of more than 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek, thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421)

Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE KNOWS no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments) on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But in none of the cases filed by the unrepresented litigants seeking to end the institutionalized IRS record falsification program did any victim claim any amount of taxes as the subject of the litigation. Hence the Anti-Injunction Act had no application whatsoever to those cases. And all the public servant attorneys involved KNOW that.

Thus, by falsifying the record of TEN Cases (pretending the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

Adding insult, when EIGHT fully paid appeals of the dismissals of Class cases were brought to the U.S. Circuit Court of Appeals for the District of Columbia, the Clerk issued eight unsigned, almost carbon copy two-page dismissal orders which addressed no issue raised on appeal, and failed to state the standard of review upon which the cases supposedly justified dismissal.

Those cases include:

1. 15-5035 *Ellis v. Commissioner, et al*
2. 16-5233 *McNeil v. Commissioner, et al*
3. 16-5308 *DePolo v. Commissioner, et al*
4. 17-5054 *Crumpacker v. Ciraolo-Klepper et al*
5. 17-5055 *McGarvin v. McMonagle et al*
6. 17-5056 *Podgorny v. McMonagle et al*
7. 17-5057 *DeOrio v. Ciraolo-Klepper et al*
8. 17-5058 *Dwaileebe v. Martineau et al*

By committing fraud to prevent litigants from adjudicating the record falsification program which has so damaged Americans, and by which the income tax is enforced, the public servants in the judicial branch have provided irrefragable proof they have destroyed the separation of powers and the independence of the judiciary, upon which this Nation will rise or fall.

Restated, in regard to the income tax, our government-paid attorneys have welded themselves into a single unified whole, enforcing that tax on Americans using and concealing exquisite layered computer, document and testimonial fraud by the lawyers and their proxies.

No more important case will ever arise in our nation, since the fraud, in regard to the income tax, affects every single American.

Further Affiant says not.

/s/ *Robert A. McNeil*
Robert A. McNeil

Exh. D

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Michael B. Ellis

in Support

Affidavit

Comes now Michael Ellis, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all-controlling, actionable "Individual Master File" annual module concerning me and 2007, to make it appear IRS properly prepared a substitute income tax return on January 13th, 2010 concerning me and 2007 when no such thing occurred or exists.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

Using the falsified records, IRS levied my commission from the Company I was working for in the amount totaling $45,000, and caused me to be fired from that Company.

Since 2014, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. *14-CV-0471, Ellis v. Commissioner of Internal Revenue, et al.,*
2. *15-CV-2039, DePolo v. Ciraolo-Klepper, et al.,*
3. *16-CV-0420, Dwaileebe v. Martineau, et al,*

4. *16-CV-1053, Crumpacker v. Ciraolo-Klepper, et al,*
5. *16-CV-1768, Podgorny v. Ciraolo-Klepper, et al,*
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But, in response, judges uniformly falsified the record of those 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek. Thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421)

Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE involved KNOWS IRS never prepares substitute income tax returns, so no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments), on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and* ***collect taxes alleged to be due*** *without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But in none of the cases filed by the unrepresented litigants listed above, seeking to end the institutionalized IRS record falsification program, did any victim claim any amount of taxes as the subject of the litigation. Hence the Anti-Injunction Act had no application whatsoever to those cases. And all the public servant attorneys involved KNOW it.

Thus, by falsifying the record of TEN Cases (pretending the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

Adding insult, when EIGHT fully paid appeals of the dismissals of Class cases were brought to the U.S. Circuit Court of Appeals for the District of Columbia, the Clerk issued eight unsigned, almost carbon copy two-page dismissal orders which addressed no issue raised on appeal, and failed to state the standard of review upon which the cases supposedly justified dismissal.

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Further Affiant says not.

/s/ *Michael Ellis*

Exh. E

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Mark Crumpacker

in Support

AFFIDAVIT

Comes now Mark Lynn Crumpacker, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically, IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me and, to make it appear IRS properly prepared a substitute income tax return on June 28, 2004 concerning me and 2002, when no such thing occurred or exists.

Using these falsified records, the IRS has stolen from me at my last place of private sector employment earnings totaling $63,202.30 using fraudulent "NOTICE OF LEIN/S" from a sum total of 142 of my paychecks that were dated February 17, 2005 through July 31, 2008.

Compensation that was to be paid from these pay checks was private non-taxable, non-Federal Corporation earnings and was derived from the sweat equity of my private common labor.

This unlawful taking culminated in my being fired from a position that I had loved.

Pursuant to this, also using the fraudulent IMF files, a fruit of that poisoned tree these aforementioned fraudulent "NOTICE OF LEIN/S" had exceeded the 10-year limit of THE STATUTE OF LIMITATIONS, but, were also used to falsely encumber my property.

These unsworn documents allegedly allowed the IRS and the DOJ to steal my completely paid for property with its contents worth more than $500,000.00, paid for by my private sweat equity labor.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of

authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. 14-CV-0471, *Ellis v. Commissioner of Internal Revenue, et al.,*
2. 15-CV-2039, *DePolo v. Ciraolo-Klepper, et al.,*
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But, in response, judges uniformly falsified the record of more than 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek, thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421)

Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE KNOWS no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments) on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But, in none of the cases filed by the unrepresented litigants seeking to end the institutionalized IRS record falsification program did any victim claim any amount of taxes as the subject of the litigation. Hence, the Anti-Injunction Act had no application whatsoever to those cases. And, all the public servant attorneys involved KNOW that.

Thus, by falsifying the record of TEN Cases (pretending the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

Adding insult, when EIGHT fully paid appeals of the dismissals of Class cases were brought to the U.S. Circuit Court of Appeals for the District of Columbia, the Clerk issued eight unsigned, almost carbon copy two-page dismissal orders which addressed no issue raised on appeal, and failed to state the standard of review upon which the cases supposedly justified dismissal.

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By committing fraud to prevent litigants from adjudicating the record falsification program which has so damaged Americans, and by which the income tax is enforced, the public servants in the judicial branch have provided irrefragable proof they have destroyed the separation of powers and the independence of the judiciary, upon which this Nation will rise or fall.

Restated, in regard to the income tax, our government-paid attorneys have welded themselves into a single unified whole, enforcing that tax on Americans using and concealing exquisite layered computer, document and testimonial fraud by the lawyers and their proxies.

No more important case will ever arise in our nation, since the fraud, in regard to the income tax, affects every single American.

Further Affiant says not.

/s/ *Mark Crumpacker*

Exh. F

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

William B. McGarvin

in Support

AFFIDAVIT

Comes now William B. McGarvin declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me and 2009, to make it appear IRS properly prepared a substitute income tax return on 10-10-2011, concerning me and 2009, when no such thing occurred or exists.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

The IRS agents and wayward government attorneys used the above referenced institutionalized record falsification program to steal property from me at various times.

In the year 1999, IRS initiated a forfeiture action and based on those IRS-falsified records concerning this writer and in 1999, seized property belonging to William B. McGarvin amounting to $16,031.66.

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. 14-CV-0471, *Ellis v. Commissioner of Internal Revenue, et al.,*
2. 15-CV-2039, *DePolo v. Ciraolo-Klepper, et al.,*
3. 16-CV-0420, *Dwaileebe v. Martineau, et al,*

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But, in response, judges uniformly falsified the record of more than 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek, thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421)

Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE KNOWS no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments) on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

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Adding insult, when EIGHT fully paid appeals of the dismissals of Class cases were brought to the U.S. Circuit Court of Appeals for the District of Columbia, the Clerk issued eight unsigned, almost carbon copy two-page dismissal orders which addressed no issue raised on appeal, and failed to state the standard of review upon which the cases supposedly justified dismissal.

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Further Affiant says not.

/s/ *William B McGarvin*

Exh. G

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Barry E. Brooks

in Support

AFFIDAVIT

Comes now Barry Eugene Brooks declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me and 1987 to make it appear IRS properly prepared a substitute income tax return for 1987 when no such thing occurred or exists.

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See 'ORDER' of U.S. Tax Court Docket No. 11890-18 Motion to Dismiss for Lack of Jurisdiction filed by Respondent (COMMISSIONER OF INTERNAL REVENUE) on August 3, 2018, and Motion to Dismiss FOR LACK OF JURISDICTION by Respondent's Motion in same case.

Prosecution of Case 6:01-cr-00054-TJW-1 *USA v. Brooks* in U.S. District Court, EASTERN DISTRICT of TEXAS, Tyler.

The IRS seized auto, home and office of Dr. Barry Eugene Brooks in Jacksonville, Texas of value over $213,000.00 and Liens and Levies in the amounts totaling over $1,038,978.00 without jurisdiction, as admitted in above U.S. Tax Court case.

Dr. Brooks also was falsely imprisoned for two years with damage of $2,000,000.00.

The IRS and DOJ secured a criminal conviction of me based on falsified digital records (IMF) concealed by falsified paper records (Form 4340 or similar) and admitted without jurisdiction.

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. 14-CV-0471, *Ellis v. Commissioner of Internal Revenue, et al.,*
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7. 17-5057 *DeOrio v. Ciraolo-Klepper et al*
8. 17-5058 *Dwaileebe v. Martineau et al*

By committing fraud to prevent litigants from adjudicating the record falsification program which has so damaged Americans, and by which the income tax is enforced, the public servants in the judicial branch have provided irrefragable proof they have destroyed the separation of powers and the independence of the judiciary, upon which this Nation will rise or fall.

Restated, in regard to the income tax, our government-paid attorneys have welded themselves into a single unified whole, enforcing that tax on Americans using and concealing exquisite layered computer, document and testimonial fraud by the lawyers and their proxies.

No more important case will ever arise in our nation, since the fraud, in regard to the income tax, affects every single American.

Further Affiant says not.

/s/ *Barry Eugene Brooks*
On the 7th day of April, 2019

Exh. H

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Adele Podgorny

in Support

AFFIDAVIT

Comes now Adele Podgorny, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me from 2000-current, to make it appear IRS properly prepared a substitute income tax return in those years concerning me when no such thing occurred or exists.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

The IRS Committed SFR computer fraud against me from the year 2000-current. This fraud has caused serious issues for my personal and professional life.

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. *14-CV-0471, Ellis v. Commissioner of Internal Revenue, et al.,*
2. *15-CV-2039, DePolo v. Ciraolo-Klepper, et al.,*
3. *16-CV-0420, Dwaileebe v. Martineau, et al,*

4. *16-CV-1053, Crumpacker v. Ciraolo-Klepper, et al,*
5. *16-CV-1768, Podgorny v. Ciraolo-Klepper, et al,*
6. *16-CV-1458, McGarvin v. McMonagle, et al,*
7. *16-CV-2089, Norma DeOrio v. Ciraolo-Klepper, et al,*
8. *17-CV-0034, Ford v. Ciraolo-Klepper, et al,*
9. *16-CV-2313, Ellis, et al, v. Jackson, et al, and*
10. *17-CV-0022, Stanley, et al, v. Lynch, et al.*

But, in response, judges uniformly falsified the record of more than 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek, thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421)

Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE KNOWS no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments) on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But in none of the cases filed by the unrepresented litigants seeking to end the institutionalized IRS record falsification program did any victim claim any amount of taxes as the subject of the litigation. Hence the Anti-Injunction Act had no application whatsoever to those cases. And all the public servant attorneys involved KNOW that.

Thus, by falsifying the record of TEN Cases (pretending the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

Adding insult, when EIGHT fully paid appeals of the dismissals of Class cases were brought to the U.S. Circuit Court of Appeals for the District of Columbia, the Clerk issued eight unsigned, almost carbon copy two-page dismissal orders which addressed no issue raised on appeal, and failed to state the standard of review upon which the cases supposedly justified dismissal.

Those cases include:

1. 15-5035 *Ellis v. Commissioner, et al*
2. 16-5233 *McNeil v. Commissioner, et al*
3. 16-5308 *DePolo v. Commissioner, et al*
4. 17-5054 *Crumpacker v. Ciraolo-Klepper et al*
5. 17-5055 *McGarvin v. McMonagle et al*
6. 17-5056 *Podgorny v. McMonagle et al*
7. 17-5057 *DeOrio v. Ciraolo-Klepper et al*
8. 17-5058 *Dwaileebe v. Martineau et al*

By committing fraud to prevent litigants from adjudicating the record falsification program which has so damaged Americans, and by which the income tax is enforced, the public servants in the judicial branch have provided irrefragable proof they have destroyed the separation of powers and the independence of the judiciary, upon which this Nation will rise or fall.

Restated, in regard to the income tax, our government-paid attorneys have welded themselves into a single unified whole; enforcing that tax on Americans using and concealing exquisite layered computer, document and testimonial fraud by the lawyers and their proxies.

No more important case will ever arise in our nation, since the fraud, in regard to the income tax, affects every single American.

Further Affiant says not.

/s/ *Adele Podgorny*

Exh. I

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Norma DeOrio

in Support

AFFIDAVIT

Comes now Norma DeOrio, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me and the year 2000-current, to make it appear IRS properly prepared a substitute income tax return concerning me and those years when no such thing occurred or exists.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

This fraud has caused significant damage to my personal and professional life. It has caused severe stress in my life and has affected my health and wellbeing.

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. *14-CV-0471, Ellis v. Commissioner of Internal Revenue, et al.,*
2. *15-CV-2039, DePolo v. Ciraolo-Klepper, et al.,*
3. *16-CV-0420, Dwaileebe v. Martineau, et al,*

4. *16-CV-1053, Crumpacker v. Ciraolo-Klepper, et al,*
5. *16-CV-1768, Podgorny v. Ciraolo-Klepper, et al,*
6. *16-CV-1458, McGarvin v. McMonagle, et al,*
7. *16-CV-2089, Norma DeOrio v. Ciraolo-Klepper, et al,*
8. *17-CV-0034, Ford v. Ciraolo-Klepper, et al,*
9. *16-CV-2313, Ellis, et al, v. Jackson, et al, and*
10. *17-CV-0022, Stanley, et al, v. Lynch, et al.*

But, in response, judges uniformly falsified the record of more than 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek, thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421)

Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE KNOWS no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments) on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But in none of the cases filed by the unrepresented litigants seeking to end the institutionalized IRS record falsification program did any victim claim any amount of taxes as the subject of the litigation. Hence the Anti-Injunction Act had no application whatsoever to those cases. And all the public servant attorneys involved KNOW that.

Thus, by falsifying the record of TEN Cases (pretending the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

Adding insult, when EIGHT fully paid appeals of the dismissals of Class cases were brought to the U.S. Circuit Court of Appeals for the District of Columbia, the Clerk issued eight unsigned, almost carbon copy two-page dismissal orders which addressed no issue raised on appeal, and failed to state the standard of review upon which the cases supposedly justified dismissal.

Those cases include:

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7. 17-5057 *DeOrio v. Ciraolo-Klepper et al*
8. 17-5058 *Dwaileebe v. Martineau et al*

By committing fraud to prevent litigants from adjudicating the record falsification program which has so damaged Americans, and by which the income tax is enforced, the public servants in the judicial branch have provided irrefragable proof they have destroyed the separation of powers and the independence of the judiciary, upon which this Nation will rise or fall.

Restated, in regard to the income tax, our government-paid attorneys have welded themselves into a single unified whole, enforcing that tax on Americans using and concealing exquisite layered computer, document and testimonial fraud by the lawyers and their proxies.

No more important case will ever arise in our nation, since the fraud, in regard to the income tax, affects every single American.

Further Affiant says not.

/s/ *Norma DeOrio*

Exh. J

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Harold R. Stanley

in Support

AFFIDAVIT

Comes now Harold R. Stanley, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me and 2006, to make it appear IRS properly prepared a substitute income tax return on July 28, 2008 concerning me and 2006, when no such thing occurred or exists.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

Using the scheme, based on falsified digital records (IMF), I was indicted, tried and convicted of one count of tax evasion and one count of endeavoring to obstruct and impede the due administration of the internal revenue laws. On November 16, 2016, I was sentenced to eight (8) years in the penitentiary (5 years for tax evasion and 3 years for endeavoring to obstruct and impede the due administration of the internal revenue laws), to be served concurrently. During the sentencing hearing, U.S. District Judge Roseann Ketchmark was quoted as saying, "Mr. Stanley, I'm going to make an example of you!". I am currently serving my third year of incarceration at FCI El Reno.

Since 2016, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme.

Those cases include:

1. *14-CV-0471, Ellis v. Commissioner of Internal Revenue, et al.,*
2. *15-CV-2039, DePolo v. Ciraolo-Klepper, et al.,*
3. *16-CV-0420, Dwaileebe v. Martineau, et al,*
4. *16-CV-1053, Crumpacker v. Ciraolo-Klepper, et al,*
5. *16-CV-1768, Podgorny v. Ciraolo-Klepper, et al,*
6. *16-CV-1458, McGarvin v. McMonagle, et al,*
7. *16-CV-2089, Norma DeOrio v. Ciraolo-Klepper, et al,*
8. *17-CV-0034, Ford v. Ciraolo-Klepper, et al,*
9. *16-CV-2313, Ellis, et al, v. Jackson, et al, and*
10. *17-CV-0022, Stanley, et al, v. Lynch, et al.*

But, in response, judges uniformly falsified the record of more than 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek, thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421)

Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE KNOWS no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments) on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But in none of the cases filed by the unrepresented litigants seeking to end the institutionalized IRS record falsification program did any victim claim any amount of taxes as the subject of the litigation. Hence the Anti-Injunction Act had no application whatsoever to those cases. And all the public servant attorneys involved KNOW that.

Thus, by falsifying the record of TEN Cases (pretending the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

Adding insult, when EIGHT fully paid appeals of the dismissals of Class cases were brought to the U.S. Circuit Court of Appeals for the District of Columbia, the Clerk issued eight unsigned, almost carbon copy two-page dismissal orders which addressed no issue raised on appeal, and failed to state the standard of review upon which the cases supposedly justified dismissal.

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8. 17-5058 *Dwaileebe v. Martineau et al*

By committing fraud to prevent litigants from adjudicating the record falsification program which has so damaged Americans, and by which the income tax is enforced, the public servants in the judicial branch have provided irrefragable proof they have destroyed the separation of powers and the independence of the judiciary, upon which this Nation will rise or fall.

Restated, in regard to the income tax, our government-paid attorneys have welded themselves into a single unified whole, enforcing that tax on Americans using and concealing exquisite layered computer, document and testimonial fraud by the lawyers and their proxies.

No more important case will ever arise in our nation, since the fraud, in regard to the income tax, affects every single American.

Further Affiant says not.

/s/ *Ellen L. Stanley*
on behalf of Harold R. Stanley

Exh. K

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Lee C. Prymmer

in Support

AFFIDAVIT

"Comes now Lee C. Prymmer, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD."

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.

More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me and 2012, to make it appear IRS properly prepared a substitute income tax return on May 11, 2012 concerning me and 2012, when no such thing occurred or exists.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

Using the scheme,
The IRS created Notices of Liens and Levy and stole from me my investment IRA in excess of $23,000.00, concealed by falsified paper documents (Form 4340 or similar).

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. *14-CV-0471, Ellis v. Commissioner of Internal Revenue, et al.,*
2. *15-CV-2039, DePolo v. Ciraolo-Klepper, et al.,*
3. *16-CV-0420, Dwaileebe v. Martineau, et al,*

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5. *16-CV-1768, Podgorny v. Ciraolo-Klepper, et al,*
6. *16-CV-1458, McGarvin v. McMonagle, et al,*
7. *16-CV-2089, Norma DeOrio v. Ciraolo-Klepper, et al,*
8. *17-CV-0034, Ford v. Ciraolo-Klepper, et al,*
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Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE KNOWS no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments) on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs** v. **Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But in none of the cases filed by the unrepresented litigants seeking to end the institutionalized IRS record falsification program did any victim claim any amount of taxes as the subject of the litigation. Hence the Anti-Injunction Act had no application whatsoever to those cases. And all the public servant attorneys involved KNOW that.

Thus, by falsifying the record of TEN Cases (pretending the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

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Those cases include:

1. 15-5035 *Ellis v. Commissioner, et al*
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4. 17-5054 *Crumpacker v. Ciraolo-Klepper et al*
5. 17-5055 *McGarvin v. McMonagle et al*
6. 17-5056 *Podgorny v. McMonagle et al*
7. 17-5057 *DeOrio v. Ciraolo-Klepper et al*
8. 17-5058 *Dwaileebe v. Martineau et al*

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No more important case will ever arise in our nation, since the fraud, in regard to the income tax, affects every single American.

Further Affiant says not.

/s/ Lee C. Prymmer

Exh. L

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Gregory A. Darst

in Support

AFFIDAVIT

Comes now Gregory Albert Darst, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD.

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which IRS and DoJ enforce the income tax on those they label "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified Forms 4340 Certifications to justify their presumptions that duly authorized IRS personnel prepare and sign substitute income tax returns and summary records of assessment, when no such things exist.
More specifically IRS has provided Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module concerning me and the years 1993 thru 1998, to make it appear IRS properly prepared a substitute income tax return on, 1993 (6/8/1998): 1994 (6/8/1998): 1995 (6/8/1998): 1996 (6/8/1998): 1997 (11/15/1999): 1998 (11/15/1999) concerning me and years 1993 thru 1998, when no such thing occurred or exists.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

My testimony: Back in 1975 I realized that something was seriously amiss with the IRS and the imposition of the "income tax." By 1988 my research into the law had revealed that I was not one legally obligated to file Form 1040, so I stopped "volunteering." During the 1990's I began getting a barrage of threatening, but unsigned IRS computer form letters.

Though I responded to each of them, the IRS never responded to the questions raised and the objections given, all contrary to the IRS's responsibility under the Taxpayers Bill of Rights. The IRS continued its unrelenting march through the various letters, forms and notices, all addressed to a legal fiction bearing a similarity to my name, and all containing undefined, legalese "words of art" and mis-identified columns of numbers having no reference to any "tax owed."

It was during the years 1993 to 1998 that the computer fraud referenced above was used to claim Substitute For Returns (SFR's) were generated on a date certain so that further illegal IRS prosecution could commence. The IRS's actions resulted in multiple Liens and Levies, all containing undefined, legalese "words of art" and mis-identified columns of numbers having no reference to any "tax owed." The IRS has even gone so far as to not record 26 USC 6331(a) on the back of its lien notice, which section reveals who can be legally liened (federal employees only). Once again, all these forms were responded to, but the IRS never provided answers to any of the questions raised, contrary to the IRS's responsibility under the Taxpayers Bill of Rights.

In regard to these liens and levies, my wife was next included as an "alter ego/nominee" of the legal fiction, based on an IRS "theory." Of course, this "theory" has certain steps to "confirm" it, which the IRS did not bother to adhere to.

In 2001, I filed a motion with the Tax Court, since this seemed to be the only route granted by the IRS to fight the illegal actions of the IRS. Of course, the IRS wants people to use Tax Court, where the IRS rarely loses. At the "last minute", I was advised by a tax attorney not to submit to the jurisdiction of the Tax Court. A motion was prepared, mailed and denied by the judge, resulting in a "judgment." for the IRS

This "judgment" and the mis-applied "alter ego/nominee" "theory," all based on the SFR computer fraud referenced above, was then used by the IRS to petition the Court for a judgment to take my wife's house. I and my wife were again advised by a tax attorney not to submit to the jurisdiction of this court.

February 19, 2013, an IRS agent, two armed U.S. Marshalls and two local sheriff deputies appeared at 8:30 A.M. The local deputies were there because the IRS and Marshalls knew good and well they had no jurisdiction on my wife's private property. They were informed of same, but they had the guns! She told us we had one hour to get out despite the fact that the "sale" was not until after noon. So two elderly people (my wife and I) were forced to drag our personal belongings out to the curb to the astonishment of our neighbors. Every ten minutes, the IRS agent would say "You have so many minutes to go!" That this could happen in America is a complete disregard for the rights of the people! We were now completely homeless! And, all our personal belongings, which we could not move in the one hour time frame were taken by the IRS to be sold with the house, the rest lay at the curb.

On April 13, 2011, I was indicted for "Corrupt Interference with Internal Revenue Laws" (26 USC 7212(a)), which consisted of me exercising my First Amendment rights to free speech by writing to the IRS, congressmen and the TIGTA concerning agents' illegal and unprofessional activities. The second count was "Failure to File a Tax Return," which carries no penalty under 26 USC, and was based on the SFR computer fraud referenced above against a "Non-taxpayer" as defined by the Supreme Court, and because there is no statute making anyone liable for the income tax.

My trial was held in October 2013. IRS and DoJ secured a criminal conviction of me, based on falsified digital records (IMF) and concealed by falsified paper documents (Form 4340 or similar), and I was deprived of my freedom for one year and one day. Now, my wife was

homeless! She was forced, because of poor options, to live with a relative. During January of 2014 my wife was diagnosed with terminal rectal cancer, which ultimately took her life.

At the trial sentencing, the judge ordered me to "cooperate with the IRS." So, on advice of my Enrolled Agent, I filed, under written protest, 1040's for the years 1993 to 1998, and 2006 to 2010. Within the month, I also filed 1040Xs to correct the IRS's records, for all the listed years. Against all IRS policies, the 1040Xs were proclaimed as frivolous and a $5,000.00 fine was imposed for each filing. In December of 2014, the IRS levied my complete Social Security "benefit," leaving me penniless. This action is also reserved for federal employees.

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. *14-CV-0471, Ellis v. Commissioner of Internal Revenue, et al.,*
2. *15-CV-2039, DePolo v. Ciraolo-Klepper, et al.,*
3. *16-CV-0420, Dwaileebe v. Martineau, et al,*
4. *16-CV-1053, Crumpacker v. Ciraolo-Klepper, et al,*
5. *16-CV-1768, Podgorny v. Ciraolo-Klepper, et al,*
6. *16-CV-1458, McGarvin v. McMonagle, et al,*
7. *16-CV-2089, Norma DeOrio v. Ciraolo-Klepper, et al,*
8. *17-CV-0034, Ford v. Ciraolo-Klepper, et al,*
9. *16-CV-2313, Ellis, et al, v. Jackson, et al, and*
10. *17-CV-0022, Stanley, et al, v. Lynch, et al.*

But, in response, judges uniformly falsified the record of more than 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek, thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421)

Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns, when EVERYONE KNOWS no such relief was requested. Instead, since victims and all government-paid attorneys involved KNOW IRS falsifies records to create the illusion duly authorized IRS staff supposedly prepares substitute income tax returns (and summary records of assessments) on claimed dates, when no such thing happened, litigants simply asked the courts to enjoin IRS' falsification of federal records concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But in none of the cases filed by the unrepresented litigants seeking to end the institutionalized IRS record falsification program did any victim claim any amount of taxes as the subject of the litigation. Hence the Anti-Injunction Act had no application whatsoever to those cases. And all the public servant attorneys involved KNOW that.

Thus, by falsifying the record of TEN Cases (pretending the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

Adding insult, when EIGHT fully paid appeals of the dismissals of Class cases were brought to the U.S. Circuit Court of Appeals for the District of Columbia, the Clerk issued eight unsigned, almost carbon copy two-page dismissal orders which addressed no issue raised on appeal, and failed to state the standard of review upon which the cases supposedly justified dismissal.

Those cases include:

1. 15-5035 *Ellis v. Commissioner, et al*
2. 16-5233 *McNeil v. Commissioner, et al*
3. 16-5308 *DePolo v. Commissioner, et al*
4. 17-5054 *Crumpacker v. Ciraolo-Klepper et al*
5. 17-5055 *McGarvin v. McMonagle et al*
6. 17-5056 *Podgorny v. McMonagle et al*
7. 17-5057 *DeOrio v. Ciraolo-Klepper et al*
8. 17-5058 *Dwaileebe v. Martineau et al*

By committing fraud to prevent litigants from adjudicating the record falsification program which has so damaged Americans, and by which the income tax is enforced, the public servants in the judicial branch have provided irrefragable proof they have destroyed the separation of powers and the independence of the judiciary, upon which this Nation will rise or fall.

Restated, in regard to the income tax, our government-paid attorneys have welded themselves into a single unified whole, enforcing that tax on Americans using and concealing exquisite layered computer, document and testimonial fraud by the lawyers and their proxies.

No more important case will ever arise in our nation, since the fraud, in regard to the income tax, affects every single American.

Further Affiant says not.

/s/ *Gregory Albert Darst*

Exh. M

to

Melba Ford Application

to the

Supreme Court for Stay of Judgment

Affidavit

of

Gary Dwaileebe

in Support

AFFIDAVIT

"Comes now Gary Dwaileebe, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746 (1), that I have personal knowledge of the facts stated in the following affidavit/declaration. Those facts mentioned herein are material, I am competent to testify to them, and they are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD."

As shown in more detail below, I have been involved with my Co-Plaintiffs for many years challenging the institutionalized, layered executive branch (IRS) record falsification program by which Internal Revenue Service employees (hereinafter IRS) and DoJ representatives enforce a federal income tax on private sector Sentients for non-federal activities outside federal jurisdiction they label said Sentients "non-filers".

The judiciary is fully aware of the program and deliberately uses falsified and fraudulent Form 4340 Certifications to justify their presumptions that duly authorized IRS prepare and affirm substitute income tax returns and summary records of assessments on private sector Sentients outside federal jurisdiction, when no such things exist.

More specifically IRS has provided private sector Americans irrefutable evidence that the Service used either its "Sun Microsystems Computer" or its "Audit Information Management System" software to falsify its underlying, all controlling "Individual Master File" annual module which is kept on and concerning me to make it appear IRS properly prepared a substitute income tax return for an alleged federally taxable activity. These fraudulently created returns are for the years 1996, 1998 through 2007 and since include 2009 through 2016, when no such federally taxable activities existed.

(See for exemplar details, Melba Ford's explicit Combined Rule 59/60 Motion [17-00187, Doc. 71] in the forfeiture case being run by the Principal Deputy Assistant Attorney General Richard E. Zuckerman, head of the DoJ's complicit Tax Division, with full personal knowledge of the underlying IRS record falsification program.)

IRS' Commissioner has publicly claimed (four times) he has NO authority to prepare substitute tax returns ***in income tax matters***, (cites on request) which explains IRS' institutionalized record falsification program, i.e., his creation and use of layered falsified digital and paper records to conceal his lack of authority to attack those he labels "non-filers". His lack of authority is further concealed by patently false, or deliberate misrepresentations of ALL lawyers in ALL income tax-related litigation concerning "non-filers", whether civil or criminal.

IRS, based upon fraudulent data, created substitute for returns from data received and coerced from private sector entities. IRS threatened and demanded that the private sector entities I was working for in the aforementioned years or 1996, 1998 through 2007 change the filing status provided by me to the private sector entity in order to create a false federal status claim (copy provided upon request). Original filing status was NRF as I was never involved in a federally taxable activity in or out of their jurisdiction.

IRS ignored all correspondences by me and without authority fabricated false returns and created fraudulent Notices of Lien and Levy, submitting them to private banking institutions and businesses. IRS created false associations between myself and private sector Sentients and businesses in order to create a fraudulent 'laundering' association scheme so they could justify creation of these Notices of Lien and Levy.
Through false reporting IRS deceived these institutions and took nearly $100,000.00 which did not belong to me. IRS continues to falsify documents they have created and hold about me such as the IMF, BMF and all other documents.

To date, IRS has refuse to timely or complete responses to my FOIA's and 4506-T requests.

Since 2015, I and other victims of the executive branch fraud have been patiently, but repeatedly, petitioning U.S. courts for relief from the IRS/DoJ scheme. Those cases include:

1. *14-CV-0471, Ellis v. Commissioner of Internal Revenue, et al.,*
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But, in response, judges uniformly falsified the record of more than 10 fully paid court cases, to make it look like the unrepresented plaintiffs sought injunctive relief they did NOT seek, thereby the judges brought the cases within the prohibitions of the Anti-Injunction Act (26 U.S.C. §7421) Specifically, the judges held that litigants seeking relief from the IRS/DoJ fraud supposedly sought to enjoin IRS from preparing substitute income tax returns on those to which the federal income tax applies, when those involved know **no such relief** was requested. Instead, since the victims and all federal government-paid attorneys involved either KNEW or now KNOW IRS falsifies records to create the illusion that duly authorized IRS supposedly prepared substitute income tax returns on purported federally taxable activities (and summary records of assessments) on the dates claimed. To the contrary, no such thing happened, litigants simply asked the courts to enjoin Internal Revenue Services' falsification of federal records outside of the jurisdiction of IRS concerning them.

Further and VERY importantly, I am aware that the Supreme Court taught in **Enochs v. Williams Packing** & Nav. Co., 370 U.S. 1 (1962) that:

> *"The manifest purpose of 7421 (a), (a.k.a the "Anti-Injunction Act"), is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right* ***to the disputed sums*** *be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue."*

But in none of the cases filed by the unrepresented litigants seeking to end the institutionalized Internal Revenue Services' record falsification program did any victim claim any amount of federal income taxes as the subject of the litigation. Hence the Anti-Injunction Act had no application whatsoever to those cases and it is my belief all the federal attorneys involved KNOW that.

Thus, by falsifying the record of TEN Cases (claiming the AIA barred victims from litigating the institutionalized IRS record falsification program, even when no amount of federal income taxes were in dispute), the judges obstructed the jurisdiction of their courts, acting as deliberate accomplices to the most heinous record falsification program ever run against the American people.

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Restated, in regard to the federal income tax, our federal government-paid attorneys have welded themselves into a single unified whole, enforcing that federal income tax outside the jurisdiction of the District of Columbia, its territories and enclaves, on Americans in the private sector using and concealing exquisite layered computer, document and testimonial fraud by the lawyers and their proxies.

No more important case will ever arise in our nation, since the fraud, in regard to the federal income tax, affects every single American in the private sector and outside the jurisdiction of the federal United States.

Further Affiant saith naught.

/s/ Gary Dwaileebe /s/