No. 18-_____

IN THE

# Supreme Court of the United States

IN RE: MELBA L. FORD

*Petitioner,*

**On Petition for Writ of Mandamus/Prohibition**
**To the Ninth Circuit Court of Appeals**
**Judges FRIEDLAND, Clifton, et al.**

## PETITION FOR A WRIT OF MANDAMUS/PROHIBITION

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August 5, 2019

## QUESTIONS PRESENTED FOR REVIEW

I. When Circuits issue unsigned orders denying appellate relief to unrepresented litigants, which orders address no issue raised and provide no explanation, do they violate litigants' rights to substantive due process and to meaningful access to courts?

II. In regard to income tax causes, since district judges are aware that any order they issue denying relief to unrepresented litigants will be ratified on appeal, does such setting violate the separation of powers, litigants' rights to substantive due process, and is it such a departure from the accepted and usual course of judicial proceedings as to call for an exercise of the Supreme Court's supervisory power?

III. When credible, explicit allegations are presented by unrepresented litigants that government-paid attorneys are committing fraud in regard to the litigation, should courts be required to appoint counsel for the victims, fully paid by the government?

IV. Are so-called "General Rules" of Circuits void, which purport to authorize Circuit panel members to eliminate access by unrepresented litigants to the *en banc* circuit, when appeal is sought of panel members' acts or failures to act?

## PARTIES TO THE PROCEEDING

Melba L. Ford,

Petitioner *In Propria Persona*

*Respondents*

The Honorable Circuit Judges

Michelle Taryn Friedland

Richard R. Clifton, and

Any other 9th Circuit judge involved in

Appeal 18-17217

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## JURISDICTION

The Supreme Court has jurisdiction under 28 U.S.C. §1651(a) to issue Writs of Mandamus/Prohibition to protect its appellate jurisdiction over the largest government record falsification program in the history of the United States, as fully known, and supported, by every judicial branch officer involved in Class cases.

## STATEMENT OF THE CASE

Based **SOLELY** on Internal Revenue Service (IRS) procedural manuals, IRS published statements, IRS responses to FOIA requests and IRS mailings, Americans have discovered that IRS uses computer fraud to falsify its controlling digital records and paper certifications based thereon, in order to initiate property seizures from, and criminal prosecutions of, so-called "non-filers", "tax evaders", etc.

Shockingly, as shown below, every judicial branch officer involved in Class cases filed to date by unrepresented litigants to end the program has refused to address the IRS-provided evidence, thus fully supporting and prolonging the IRS/DoJ program.

In income tax cases, there is no separation of powers. Both branches act as one. And now, with all due respect, Judges of the 9th Circuit are defrauding me, an eighty-year-old woman, who loves her Country, her God and justice. This Court should be outraged, and it should intervene.

## PROLOGUE

IRS and DoJ initiated a forfeiture case against me, seeking to seize my home, while presenting to the Hon. Dist. Judge Dale A. Drozd (in *USA v. Ford*, 17-cv-00187-DAD, E.D. Cal., Fresno) a repeatedly falsified Form 4340 Certificate, since no signed summary record of assessment exists.

In response, I asked Mr. Drozd to judicially notice, per FRE 201, four segments of IRS' Internal Revenue Manual, ("IRM", Quoted, Pg. 8, *infra*,), provided by IRS during discovery. Those segments reveal how IRS used its Sun Microsystems computer to not only calculate the supposed deficiency I owe, but to also falsify the underlying IRS digital record concerning me and 2003, making it appear IRS both received a return and prepared a substitute for return on claimed dates, when no such thing exists or happened.

Then, as the IRM segments reveal, the computer automatically created two unsigned, "Letters" (a "30 day" and "90 day") with dates that don't match the 4340 Certificate, and an unsigned "6020(b) Certification", all over the names of humans. Those computer actions ALL occurred on July 11, 2007, and the records created that date are underpinning the seizure action of my home.

But, Judge Drozd point-blank refused to notice the IRM segments I presented, finding I had "failed to provide any specific facts or evidence" [1] to support my claim the Form 4340 Certificate had been falsified, even though the IRM segments reveal the precise sequence its Sun MicroSystems computer took to repeatedly falsify federal records concerning me and 2003, and which segments directly contradict his core fact holding that "a duly authorized delegate of the Secretary" "prepared an assessment" concerning me and 2003 on "Feb. 26th, 2007" (See **APPENDIX 2**, Drozd holding, 17-00187, Doc. 70, Order Granting Summary Judgment, Pg. 5, line 9, et seq.).

Thus, his summary judgment is based on his core findings that 1.) IRS' ASFR computer program is supposedly a duly authorized delegate of the Secretary, which 2.) supposedly prepared a signed summary record of assessment on February 26, 2007, though both fact holdings are controverted.

I appealed, filing on December 3, 2018 in the Circuit my extensively documented Emergency Rule 8 Motion, with supporting evidence, consisting of 21 pages plus 9 exhibits. [Please see 9th Circuit cause 18-17217, Doc. 11108326.] Therein, I sought stay of Mr. Drozd's judgment during the course of any appeals. But, the assigned 9th Circuit Panel, Judges Friedland and Clifton, hereinafter "Panel Friedland", refused to

[1] See APPENDIX 1, Drozd Order denying Rule 59/60 Relief, Doc. 87 pg. 4.

address my Motion. (I later learned, as shown below, the Panel surreptitiously blocked my access to the *en banc* Circuit, pursuant to "General Rule 6.11" when I sought to appeal the Panel's refusal/failure to rule on my ***Emergency*** Rule 8 Motion.)

On June 26, 2019, the Panel finally, derisively denied my detailed Emergency Motion as follows:

> "Appellant's motion to stay execution of the district court's judgment pending appeal is denied." [See Order, APPENDIX 3]

Not a word of explanation was provided.

## DEEP BACKGROUND

For over FOUR YEARS, judicial branch officers have either falsified the record of Class cases (dismissing TEN,[2] after attributing to Class plaintiffs complaining of the IRS/DoJ record fraud, forms of relief they never sought, over the plaintiffs' vociferous

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[2] The TEN cases include:
- D.C.D.C. 14-CV-0471, *Ellis v. Commissioner of Internal Revenue, et al*
- D.C.D.C. 15-CV-2039, *DePolo v. Ciraolo-Klepper, et al,*
- D.C.D.C. 16-CV-0420, *Dwaileebe v. Martineau, et al,*
- D.C.D.C. 16-CV-1053, *Crumpacker v. Ciraolo-Klepper, et al,*
- D.C.D.C. 16-CV-1458, *McGarvin v. McMonagle, et al,*
- D.C.D.C. 16-CV-1768, *Podgorny v. Ciraolo-Klepper, et al,*
- D.C.D.C. 16-CV-2089, *DeOrio v. Ciraolo-Klepper, et al,*
- D.C.D.C. 16-CV-2313, *Ellis, et al, v. Jackson, et al,* and
- E.D.C.A. 17-CV-0034, *Ford v. Ciraolo-Klepper, et al,*
- D.C.D.C. 17-CV-0022, *Stanley, et al, v. Lynch, et al.*

objection),[3] sanctioned original Co-Plaintiffs Ellis and McNeil based on the version of Class cases fabricated by the Hon. Judge Amy Berman Jackson to justify dismissals,[4] and held that the Anti-Injunction Act stripped courts of power to hear cases (despite the fact no underlying amount of tax was in controversy).[5]

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[3] See *Ellis v. Commissioner*, 14-471, Memorandum Opinion [28], dated September 16, 2014 and see Christopher Cooper's December 31, 2016 Opinion and Order, [Doc. 5] in D.C.D.C. 16-cv-2089, *DeOrio v. Ciraolo-Klepper, et al*, wherein he simultaneously dismissed six Class cases based on his reiteration of the Hon. Judge Jackson's fabrication in *Ellis* that victims/plaintiffs supposedly sought to enjoin IRS from preparing substitute income tax returns, when, contradictingly, and in fact, the victims discovered and complained IRS **never** prepares such returns, yet systematically falsifies digital and paper records to create the appearance it does.

[4] After Judges Cooper and Jackson colluded on September 27, 2016 to place on his docket six then-unadjudicated Class cases, in preparation for him to dismiss on the basis of Ms. Jackson's fraud (that Plaintiffs supposedly sought to enjoin IRS from preparing substitute income tax returns), Mr. Cooper dismissed the six cases on December 31, 2016. Then, on April 19, 2017, Mr. Cooper suddenly held that the version of Plaintiffs' cases which Jackson had fabricated, and he reiterated was sufficiently meritless, that he *sanctioned Plaintiffs Ellis and McNeil*(!) to prevent them from helping any other victims file suits to stop the IRS fraud. As always, on appeal, the Circuit issued its standard unsigned denial of appellate relief, addressing no issue raised. [See Circuit Cause 17-5141, Order, Doc. 1682950, dated July 7, 2017.]

[5] See, for example, in D.C.D.C. 16-CV-2313, a Memorandum Opinion, dated June 18, 2018. Beginning his "Analysis" concerning the AIA, [Doc. 26, Pg. 5, 2nd full ¶] The Hon. Judge Kelly first correctly quotes, in part, *Enochs v. Williams Packing and Navigation Co.*, 370 U.S. 1, (1962): "The manifest purpose of §7421(a) 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

During the course of eight fully paid Class appeals concerning the underlying IRS record falsification program, the D.C. Circuit Court denied all eight appeals [6] by issuing unsigned "orders" that addressed no issue raised on appeal, failed to identify the standard of review used, etc., simultaneously destroying the appellate jurisdiction of the Supreme Court over the program. The author(s) of the opaque rulings "left nothing to appeal."

We now see that same pattern being replicated in the 9th Circuit. So, with hindsight, we can precisely forecast the outcome of my appeal in 18-17217. With all due respect to the Panel, it is likely my appeal will be dismissed via unsigned order, without addressing any issue raised on appeal, or, at best, a holding that I failed some technical evidentiary burden, (while the Panel refuses to provide standby counsel necessary to battle the intense government-paid attorney fraud).

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determined in a suit for refund." But then, Mr. Kelly, as have all other judges before him, ignored the fact that neither the Plaintiffs nor the Government allege that any "disputed sums" existed or were in controversy between the parties.

[6] Per FRE 201, the Court is requested to notice the dismissal orders in

- D.C. COA 15-5035, *Ellis v. Commissioner*,
- D.C. COA 16-5233, *McNeil v. Commissioner*,
- D.C. COA 16-5308, *DePolo v. Ciraolo-Klepper*,
- D.C. COA 17-5054, *Crumpacker v. Ciraolo-Klepper*,
- D.C. COA 17-5055, *McGarvin v. Ryan O. McMonagle*,
- D.C. COA 17-5056, *Podgorny v. Ciraolo-Klepper*,
- D.C. COA 17-5057, *DeOrio v. Ciraolo-Klepper* and
- D.C. COA 17-5058, *Dwaileebe v. Martineau*.

Then, afterward, my effort to secure *en banc* relief will be quietly obstructed *by the Panel.*

Aside from the issue of the Panel's questionable use of General Rule 6.11 to block my access to the *en banc* Circuit, (See Issue 4, Pg. 18, infra), I contend the bald, incomprehensible order issued on June 26, 2019 violated my rights to substantive due process and to meaningful access to courts. And, it will be replicated in the upcoming dismissal of my appeal, thus destroying this Court's appellate jurisdiction once again over the IRS/DoJ/judicial branch record falsification program ruining my life.

I further contend the Justices of this Court have both "supervisory jurisdiction" and a moral duty to come to my aid, thereby avoiding personal involvement in the scheme while reestablishing the independence of the judiciary, the separation of powers and the Rule of Law.

## UNDERLYING IRS PROGRAM EXPLAINED

The core of the executive branch program, which systematically falsifies federal records to enforce the income tax, is computer fraud used to circumvent the Commissioner's claimed lack of authority to prepare substitute income tax returns.[7]

[7] The authority to perform substitutes for return is discussed by IRS in IRM 5.1.11.6.7 and other places, unequivocally stating that said authority is limited to "**employment, excise and**

The program is presented briefly here for the benefit of the Court, in the next four (4) pages. (Since this is not an evidentiary setting, the evidence I have is available on request.)

During discovery, the DoJ provided me four Internal Revenue Manual segments that explain how the IRS used a certain computer platform upon which it ran the "Automated Substitute For Return" program (ASFR), before it was suspended. (The ASFR program was suspended in September 2017, but its effect on me is still being felt.)

Just as I requested, pursuant to FRE 201, that Mr. Drozd judicially notice the following four IRM segments, I now request this Court judicially notice the same four segments, easily available on IRS' website, a source the accuracy of which cannot be reasonably be questioned:

**1. IRM Section 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)."

**2. IRM Section 5.18.1.1.2 (12-13-2017) Authority** "The ASFR program (i.e., the SUN Microsystems computer) assesses tax by authority of Internal Revenue Code (IRC)

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**partnership taxes**". This is precisely confirmed in the Privacy Impact Assessment (PIA) IRS issues concerning 6020(b). [Link here: http://www.irs.gov/pub/irs-pia/auto_6020b-pia.pdf ]

6020(b). IRC 6020(b) provides the authority to assess tax based on reported income information when a person fails to submit a required return."

**3. IRM Section 5.18.1.6:** "When ASFR processing is initiated on a module, the ASFR system (which is the SUN Microsystems computer) will calculate the proposed tax assessment, and generate both the 30-day and 90-day letters."

**4. IRM Section 5.18.1.6.1. 'ASFR Dummy TC 150'**: "When an ASFR 30-Day Letter ('2566') is generated, ASFR (i.e., the SUN Microsystems computer) requests a TC 971 with Action Code 141 be posted to the Individual Master File module under consideration. The TC 971 triggers a dummy return to then post. The dummy return posts as a TC 150 for '$0.00' to the module. An ASFR dummy return can be identified by the literal 'SFR' to the right of the TC 150 on TXMODA. Additionally, the Document Locator Number (DLN) will (contain) a Julian date of 887. The Julian date for an SFR computed by the IRS Examinations Division is '888."

Since one of the documents IRS provided during discovery concerning me and 2003, the "TXMODA", shows a literal 'SFR' to the right of the "TC 150", and a Julian date of 887 in the Document Locator Code ("DLN"), IRS used the ASFR program

running on the SUN Microsystems computer to (a.) calculate the alleged deficiency I supposedly owed for 2003, to (b.) generate unsigned, wrongly-dated Letters ("30-day Letter" and a "90-day Letter") over the names of humans, and to (c.) falsify the underlying Individual Master File record for 2003 to reflect that 1.) a "dummy return" was supposedly received by IRS on the "Return Received Date" of July 11, 2006 and that 2.) a "Substitute tax return (was) prepared by IRS" on "08-14-2006".

Incredibly, IRS defines the phrase "Substitute for Return" *as an action*, not a thing. That is, the phrase does NOT refer to a document prepared on a given date, but to *the procedure of establishing an account concerning a "non-filer" on IRS computers.* IRS' definition of the phrase "Substitute for Return" is:

> "A procedure by which Examination (Division) is able to establish an account by posting a computer-generated TC150, when the taxpayer refuses or is unable to file"[8]

This definition means two things.

**First**, there is no such thing as a substitute income tax return. IRS does not "receive a return" nor does IRS "prepare a substitute income tax return" concerning any so-called "non-filer" on any

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[8] Link: https://www.irs.gov/irm/part4/irm_04-004-001#
Scroll to AIMS Ref. Guide, then scroll further to the definition of "Substitute for Return".

date shown in IRS' falsified underlying digital records, (nor on the dates shown in IRS "certifications", derived from the falsified digital records).

The date shown in IRS' digital and paper records beside the entry "Return Received Date" is when the Sun Microsystems computer generated an unsigned "dummy return", a.k.a "30-day Letter" over the name of a human. And, the date shown in IRS records beside the phrase "Substitute for Return prepared by IRS", is merely referencing the computer procedure used to create the 30-Day Letter.

To clarify, on July 11, 2006, the SMS computer sequentially calculated the deficiency I supposedly owe for 2003, then simultaneously generated both an unsigned 30-day and 90-day letter over the names of humans, with dates that don't match any shown in IRS digital records or Certifications.

No document was received by IRS on the "Return Received Date", nor was a "Substitute for return" prepared by IRS on the date shown in IRS summary documentation: "150 Substitute tax return prepared by IRS 08-14-2006". That does not exist.

Those dates reflect only computer entries by the SUN Microsystems platform occurring on a single date, weeks before the dates shown on the computer-generated, unsigned Letters over the names of humans.

**Second**, despite the IRM evidence proving it was IRS' SUN Microsystems (SMS) computer which simultaneously authored all documents being used to attack me, all government-employed attorneys are claiming that said computer is "a duly authorized delegate of the Secretary". And, despite the evidence showing that IRS merely entered on February 26, 2007 the alleged deficiency amount assessed by the SMS computer on June 11, 2006, Judge Drozd held a "duly authorized delegate of the Secretary" "prepared an assessment" concerning me and 2003 on "Feb. 26th, 2007" (See Drozd holding, APPENDIX 1, 17-00187, Doc. 70, Order Granting Summary Judgment, Pg. 5, line 9, et seq).

No such thing exists, but all the government-employed public servants want me to prove it does not exist, using complicated evidentiary rules attorneys enforce on each other. No unlearned 80-year old will be able to prove the non-existence of a fact, unless counsel is provided.

## CURRENT PENDING LITIGATION

I filed my Brief on Appeal in 18-17217 on July 26, 2019. However, and with all due respect to their offices, if the Panel Friedland does not deviate from its course, the Circuit clerk will soon issue an unsigned "order" addressing no issue raised on appeal, denying appellate relief, and if citing any reason at all, will claim I failed some technical legal burden, (e.g. supposed failure to correctly present evidence, to build

evidentiary foundation, to preserve issues on appeal, etc.).

Thus, the Panel will also destroy the appellate jurisdiction of this Court over the underlying executive branch record falsification program, as fully supported by Dale A. Drozd and all involved judicial officers to date.

So, by filing this petition for mandamus and prohibition, I forthrightly seek to secure substantive due process and meaningful access to appellate relief, by compelling Circuit Panels to cease issuing unsigned orders addressing no issue raised, to actually address each issue raised on appeal, and to transparently apply relevant law to each specific fact issue raised.

## ISSUES & ARGUMENTS

**Questions:**

**I. When Circuits issue unsigned orders denying appellate relief to unrepresented litigants, which orders address no issue raised and provide no explanation, do they violate litigants' rights to substantive due process and to meaningful access to courts?**

As mentioned above, (on Pg. 4, first sentence), the Panel Friedland of the 9th Circuit issued on June 26, 2019, an Order [APPENDIX 3] denying my detailed Emergency Rule 8 Motion without a scintilla of explanation.

I contend the denial was purposefully unexplained to prevent me from understanding the legal basis for it, and to obstruct the appellate jurisdiction of this Court. By so doing, the Panel Friedland violated my right to substantive due process and to 'meaningful access to courts".

Ominously, this is the same conduct that occurred when eight Class appeals were dismissed in the U.S. Circuit Court of Appeals for the D.C. Circuit. [Please see cases listed in Footnote 1., and the Court is requested, per FRE 201, to judicially notice the reason-free dismissal orders of those EIGHT cases.]

The pattern is clear. We can reasonably foresee that the ultimate dismissal of my appeal in 9th Circuit cause 18-17217 will consist of an unsigned "'order" denying relief without addressing any issue I raised, and without provision of any government-paid counsel to help me fight the countless government-paid attorneys supporting the IRS/DoJ fraud outlined above. Here is what is wrong with that picture.

My "right to sue and defend in the courts is the alternative to force. In an organized society, it is the right conservative of all other rights, and lies at the foundation of orderly government." *Chambers v. Baltimore & Ohio R. Co.*, 207 U.S. 142 (1907).

Obviously, my right to sue includes "*meaningful* access to courts", not merely physical

access.[9] Although access to the Supreme Court is purely discretionary, I have a statutory RIGHT to access appellate courts for meaningful adjudication, especially in the extraordinary circumstances facing me.

My home is about to be stolen on the basis of falsified federal digital and paper records, used to conceal the facts that 1.) no summary record of assessment was signed and prepared on February 26, 2007 by an authorized human exercising duly delegated authority from the Commissioner,[10] and 2.) all involved attorneys, executive branch and judicial, contend a computer has duly delegated authority to prepare and issue substitute income tax returns and summary records of assessment, (even though no such thing exists).

Thus, when servants deny appellate relief in cases such as mine that are clearly NOT frivolous, but without explanation, (in the same manner as this Court denies petitions, i.e., explanation-free), my

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[9] The constitutional right of adequate, effective, meaningful access to courts has been firmly established in Supreme Court case law. See, e.g., *Bounds v. Smith*, 430 U.S. 817, 97 S.Ct. 1491, 52 L.Ed.2d 72 (1977); *Wolff v. McDonnell*, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974); *Johnson v. Avery*, 393 U.S. 483, 89 S.Ct. 747, 21 L.Ed.2d 718 (1969).

[10] That claimed "fact" is obviously "material" since quoted by every single involved attorney, and resolution of that controversy will change the outcome of my case, thus meeting the criteria established by this Court in *Anderson v. Liberty Lobby, Inc.* 477 U.S. 232.

right to access courts is trivialized, reduced to platitude.

Accordingly, I request that this Court protect its appellate jurisdiction over the executive branch program, and my rights, by terminating the practice in cases filed by unrepresented litigants concerning the income tax and attorney fraud, whereby Circuit clerks issue incomprehensible orders on Circuit letterhead addressing no issue raised on appeal, nor providing any application of relevant law to the specific fact allegations raised in the complaint.

**II. In regard to income tax causes, since district judges are aware that any order they issue denying relief to unrepresented litigants will be ratified on appeal, does such setting violate the separation of powers, the litigants' rights to substantive due process, and is it such a departure from the accepted and usual course of judicial proceedings as to call for an exercise of the Supreme Court's supervisory power?**

It is common knowledge that, in cases raised by unrepresented litigants concerning the income tax, Circuit panels will ratify any and every denial of relief by trial courts, no matter how manifestly unjust.

Restated, the record of litigation in this nation shows that not one case filed by unrepresented litigants setting forth the details of IRS' institutionalized, invariable record falsification

program, (which records are used with the knowledge of all government-paid attorneys), has ever been adjudicated on the merits. [See U.S. litigation history, Footnotes 2 and 6]

Every district judge KNOWS that, in income tax cases, they deny relief to victims, confident the Circuit "has their back" and will protect their appellate records to a 100% certainty, upholding any district court determination, no matter how fraudulent, or manifestly unjust.

I contend that the very climate of our courts, in the context of income tax matters, i.e., the setting itself, is a violation of the separation of powers and my right to due process, calling for exercise of the Supreme Court's supervisory power to re-establish the judicial integrity rationale and the independence of the judiciary to end outrageous executive branch overreaching in matters involving income tax.

**III. When credible, explicit allegations are presented by unrepresented litigants that government-paid attorneys are committing fraud in regard to the litigation, should courts be required to appoint counsel for the victims, fully paid by the government?**

In *Gideon v. Wainright*, 372 U.S. 375, (1963) the Supreme Court held that the Sixth Amendment's guarantee of counsel is a fundamental right essential to a fair criminal trial and, as such, applies to the

states through the Due Process Clause of the Fourteenth Amendment.

By overturning *Betts v. Brady*, 316 U.S. 455 (1942), in which the Court had previously held that the refusal to appoint counsel for an indigent defendant charged with a felony in state court did not necessarily violate the Due Process Clause of the Fourteenth Amendment, Justice Black stated that "reason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him." He further wrote that the "noble ideal" of "fair trials before impartial tribunals in which every defendant stands equal before the law . . . cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him."

I contend the same rationale applies with equal force to civil actions initiated by government-paid attorneys to justify seizure of private property. I fully agree with Justice Black, that a fair trial before an impartial tribunal, where every civil defendant stands equal before the law with government attorneys... can NEVER be realized if the poor woman charged with failing a claimed duty she disputes, has to face her lawyer-accusers without a lawyer to assist her, especially when the outcome is the loss of her home, and even more so when her defense rests on presenting complex evidence proving

IRS and DoJ are running the most exquisite record falsification program in the history of the Nation.

Restated, a moral duty exists for courts to provide litigants representation, which applies in cases such as this, where explicit, non-conclusory, credible allegations are made that government-paid attorneys are using a computerized, layered record falsification program to justify the theft of property.

Every man and woman of goodwill would agree that the appointment of EFFECTIVE government-paid counsel to battle the government-paid lawyers seeking to steal property, would "level the playing field" and, *ipso facto*, terminate the egregious fraud now inundating our government courts in income tax matters.

This is so important, I reiterate: When unrepresented litigants explicitly allege that government-paid attorneys are involved in fraud, such as by using falsified IRS records, presenting false declarations, making false claims in their filings, etc., I contend that "fundamental fairness", a.k.a. substantive and procedural due process, REQUIRES courts to minimally provide unrepresented litigants "standby" counsel, of the finest available at the normal rate typically charged in private practice, *at the expense of the government.*

Since "The United States wins its point whenever justice is done its citizens in the courts", no expense is too great to be paid when credible

allegations are made that government-paid attorneys appear to be subverting the Rule of Law.

**IV. Are so-called "General Rules" of Circuits void, which purport to authorize Circuit panel members to eliminate access by unrepresented litigants to the *en banc* circuit, when appeal is sought of panel members' acts or failures to act?**

The Panel Friedland denied my petition to the *en banc* Circuit, (by which I sought to compel the Panel to adjudicate my Emergency Rule 8 Motion), in the following language:

> "Appellant's motion for initial *en banc* determination of her motion to stay the district court's judgment pending appeal (Docket Entry No. 10) is denied on behalf of the court. *Cf.* 9th Cir. Gen. Ord. 6.11." (See APPENDIX 3, Pg. 1, last sentence.)

That means, when I attempted to appeal to the *en banc* circuit the refusal of Judges Friedland and Clifton to rule for three (3) months on my EMERGENCY Rule 8 motion, she concedes she defeated my attempt to secure relief by surreptitiously ruling on behalf of her peers.

I contend this is an open admission she obstructed my access to the *en banc* Court to complain of her failure/refusal to adjudicate my Emergency Motion.

Never in the history of law has any man, woman or judge been authorized to sit in judgment of her actions. The following ruling states the principle clearly, (although not binding in a federal court): "[U]nder our system of jurisprudence no person, not even a judge, should sit in judgment in his own case." *State v. Lewis*, 80 So. 2d 685.

There is no need to multiply authority on the subject. If Judge Friedland shielded her actions from review by her peers on the *en banc* 9th Circuit, she violated a most basic, fundamental precept of law. And, if so, she has no idea what the Rule of Law is, let alone how her act violates my right to due process.

And, since she concedes she committed that act, it is obvious she may do so once again, after either improperly dismissing my appeal 18-17217 or committing some other improper act.

I move this Court ends the practice of Circuit judges obstructing access of unrepresented litigants to *en banc* Circuits to complain of the acts or failures to act of a panel.[11]

## FOUR REASONS FOR GRANTING PETITION

Supreme Court Rule 20.1 states the three showings necessary to grant a petition for writ of

[11] As a final note on the subject, the Panel Friedland's action proves that *en banc* relief for unrepresented litigants is a figment of imagination, a shibboleth, mere pious attorney platitude.

mandamus: 1.) It must be in aid of the Court's appellate jurisdiction, 2.) exceptional circumstances must be present, and 3.) adequate relief is not obtainable in any other form or from any other court. Additionally, Petitioner must demonstrate the right to issuance of the writ is "clear and indisputable," per *Kerr v. United States District Court*, 426 U.S. 394, (1976). Petitioner addresses each requirement in seriatim.

**A. Will Aid Courts' Appellate Jurisdiction**

As shown above, the Supreme Court's appellate jurisdiction to review the layered IRS record falsification program has been obstructed for many years by densely layered, judicial branch fraud in the courts below.

Now, when evidence of the IRS fraud was spread before the Court of Mr. Dale A. Drozd, he held that a computer is a duly authorized delegate of the Secretary which prepared and signed a summary record of assessment on February 26, 2007, and that IRS procedural manuals are not evidence he can review to resolve the procedural fact issues in controversy.

The assigned Circuit Panel Friedland has already issued an order denying emergency relief without addressing any issue raised in the motion, precisely as has the D.C. Circuit in dismissing EIGHT Class appeals. It is thus reasonable to foresee the Panel Friedland will dismiss my appeal without

addressing any issue raised, while also destroying (once again) the appellate jurisdiction of this Court over issues of nationwide significance

This Court should exercise its supervisory authority to ensure a just outcome of my appeal, thus vindicating its own appellate jurisdiction over the underlying executive branch record falsification program.

Every district judge knows that Circuits will support their decisions against unrepresented litigants raising issues concerning the income tax, no matter how outlandish. In the litigation history of this Nation, no case filed by unrepresented litigants involving the income tax record falsification program has even been adjudicated on its actual merits, at the district level. That perverse, unjust setting itself justifies an exercise of the supervisory power of this Court to ensure it ends.

Moreover, the Circuit should appoint standby counsel for me, to ensure the executive branch program arrives in this Court, fully litigated below, since the fraud is supported by every involved government-paid attorney, thus ensuring my substantive allegations affecting every American are not dismissed on mere procedural pretexts.

Finally, the Panel Friedland has already obstructed access to the en banc Circuit, thus relegating the appeal process to mere farce and mockery of justice. This Court should engage its

supervisory power to end the sham, in support of its own appellate jurisdiction.

### B. Exceptional Circumstances

There is no precedent to which reference can be cited concerning densely layered fraud government-paid attorneys use to enforce the income tax on those IRS labels "non-filers.

Never in the history of this Nation has a Government agency been credibly proven to be systematically using computer and document fraud to justify seizures, levies, liens, forfeitures and criminal prosecutions.

Never before have federal judges claimed IRS computers are duly-authorized delegates of the Secretary, capable of issuing unsigned, wrongly dated Letters over the names of humans, that a computer supposedly prepared and signed a summary record of assessment on February 26, 2007, and that IRS manuals are not evidence to resolve fact controversies concerning IRS enforcement acts.

Never before have appellate judges allowed clerks to deny appellate relief while refusing to mention or adjudicate any issue raised on appeal. And, never has the Supreme Court's appellate jurisdiction over such a dense, layered government-paid attorney fraud been obstructed by acts of judicial officers and clerks in the lower courts.

The rights of Americans to be free from baseless, fraudulent forfeiture actions and thefts of their property by public servants, based on wholly falsified federal records, is being daily violated by judicial officers supporting the underlying fraud. These are truly "extraordinary circumstances".

**C. No other adequate means to attain the Relief desired**

Everyone is aware, including judges, attorneys and laywomen, that no appellate relief is available when unrepresented litigants allege existence of government-paid attorney fraud, especially of the type being concealed from Supreme Court review by various fraudulent stratagems. The evidence from EIGHT fully paid appeals (and now my own) destroys any pretense that unrepresented litigants have access to meaningful appellate relief in courts of appeal.

That is, the Circuit Courts are fully involved in support of the executive branch record falsification program, just as are U.S. District judges. We have already seen the Panel issue an unsigned, unpublished "order" on Circuit letterhead denying emergency relief without explanation, thus leaving nothing to appeal to this Court.

Since Petitioner can thus PROVE that no ACTUAL, adequate, effective and meaningful judicial relief is available to unrepresented litigants seeking relief in the "normal" appellate channel, this

petition should be heard in the United States Supreme Court.

**D. Petitioner's right to mandamus relief is clear and indisputable.**

I have a RIGHT to have my appeal heard before an impartial panel, which will fully, transparently adjudicate every well-pled issue I raise.

I and all unrepresented litigants have a RIGHT to standby counsel, paid at the highest rate excellent lawyers command in private practice and paid by the government, since I have provided non-conclusory, explicit allegations and evidence tending to prove government-employed attorneys are engaged in fraud against the Rule of Law, our courts and me.

I also have a statutory RIGHT to access *en banc* appellate relief, in the manner established by law, and not to have my procedural due process right subverted by panel attorneys seeking to obstruct circuit examination of the endemic fraud perpetrated by judicial officers in support of the underlying executive branch record falsification program.

Thus, my RIGHT to the requested mandamus/ prohibition relief sought herein is clear and indisputable.

## RELIEF REQUESTED

I respectfully request the Court provide these four HOLDINGS:

1. When Circuits issuing unsigned orders denying emergency appellate relief to unrepresented litigants, while addressing no issue raised and providing no appealable explanation, they violate litigants' First and Fifth Amendment rights and obstruct the appellate jurisdiction of the Supreme Court over the subjects raised;

2. In regard to income tax causes, the issuance by Circuit judges of unsigned bald, incomprehensible denials of appellate relief violates the separation of powers and independence of the judiciary;

3. When explicit allegations are presented by unrepresented litigants that government-paid attorneys, whether behind the bench or before, are committing acts of misconduct, such allegations mandate appointment of (effective) *"standby"* counsel for the victims, fully paid by the government; and

4. So called General Rules such as 9th Circuit Gen. Rule 6.11 are void, in so far as the purport to authorize panel judges to block access of appellants to the *en banc* circuit when appeal is sought of panel members' acts or failures to act.

In accordance with the HOLDINGS requested, I move the Court issue four ORDERS, that

1. All Circuits, in all cases involving unrepresented litigants, cease issuing bald, incomprehensible orders denying appellate relief;

2. All Circuits, in all cases involving unrepresented litigants, address every intelligible issue raised on appeal, by applying relevant law to the specific facts of that case;

3. In any civil case wherein non-conclusory explicit allegations are raised that government-paid attorneys have engaged in fraud, misrepresentation or other misconduct, courts will appoint "standby counsel" for unrepresented litigants, wholly paid by government at the standard rate of top private attorneys; and ORDER

4. Circuit judges cease obstructing, impeding or otherwise preventing *en banc* appellate relief sought concerning their actions, whether citing General Rules or otherwise.

Respectfully submitted,

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*In Propria Persona*