20-1714 ORIGINAL

No. _____

In the Supreme Court of the United States

FILED
MAY 29 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

William Joseph Mooney
And
Joni Therese Mooney,

Petitioners,

v.

UNITED STATES,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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Questions Presented For Review

Question 1. Who has Standing against the Mooneys as the Plaintiff and being the as the Real Party of Interest in the "Courts of the United States" arising under Article III Sections 1 and 2—is the "United States of America;" or, is it the "United States?"

Question 2. In the "District of Minnesota" is the tribunal "United States District Court" created under Article I Section 8 Clause 9 of the Constitution of the United States as codified in 28 U.S.C. § 132 exercising the "judicial power of a district court . . . may be exercised by a single judge" (28 U.S.C. § 132(c))?

Question 3. In the "District of Minnesota" is the tribunal "United States District Court" a bona fide Article III "Court of the United States" arising under Article III of the Constitution of the United States exercising the "judicial Power of the United States" in Section 1 and in Section 2 exercising "The judicial Power shall extend to all Cases, in Law and Equity, arising under the Constitution, the Laws of the United States?"

Question 4. Aren't all agencies and federal agencies required to publish in the "Federal Register" all documents, being their Rules and Regulations, having a "general applicability and legal effect" if they have any application to the Mooneys and the People of the several States?

Question 5. Aren't all "Courts of the United States" Arising under Article III Sections 1 and 2 exercising the "judicial Power of the United States;" and, all tribunals established under Article I Section 8 Clause 9; and, all administrative courts, commissions, agencies, federal agencies, independent establishments and other similar "administrative entities" bound that "The contents of the Federal Register shall be judicially noticed" if so published in the Federal Register?

Question 6. Isn't the Internal Revenue Service ("IRS") bound by the Administrative Procedure Act of 1946 that only "substantive regulations," *i.e.*, "legislative rules" having the "force and effect of law" can "create a private right of action" against "People of the several States" domiciled in one of the several States if IRS complies with all of the procedures of the "Predicate of Formal Rule Making;" or, if the IRS complies with all of the procedures of the "Predicate of Informal Rulemaking" codified in 5 U.S.C. § 553?"

Question 7. Doesn't all of the Part 301 regulations in the Code of Federal Regulations ("CFR") of Title 26 that was held to be limited to only "housekeeping regulations" preclude all "obligations" of the Mooneys to the IRS?

Question 8. Isn't it unconstitutional for the IRS to send collection letters including alleged financial obligation to the IRS with threats of Liens and Levies to the Mooneys without disclosing and identifying the specific regulations that comply with "general applicability and legal effect" that are published in the "Federal Register" to support the IRS's claim?

Question 9. Aren't the Mooneys absolved legally of all alleged financial obligations to the IRS if there are no "Substantive Regulations" published in the Federal Register as mandated to support the IRS's claim is true, *i.e.*, "**No document required under 5(a) of the Federal Register Act of 1935 ["general applicability and legal effect"] to be published in the Federal Register shall be valid as against any person who has not had actual knowledge thereof.**"

Question 10. Isn't it unconstitutional or illegal for the IRS to send collection letters including alleged financial obligation to the IRS with threats of Liens and Levies letters to the Mooneys citing only United States Code ("U.S.C.") sections which has not been authorized by Congress for the IRS to use?

Question 11. How can the Mooneys or any of the People of the several States have "Notice" of what specific Rules and Regulations published in the Federal Register has the "force and effect of law" if the IRS does NOT identify each rule and regulation as being either a "substantive regulation, *i.e.*, legislative rule" having the "force and effect of law;" or, being a "housekeeping regulation;" or, being an "interpretative regulation;" or, a "procedural regulation?"

PARTIES TO THE PROCEEDINGS

The parties to the past proceedings are as follows:

(1) "**United States of America**" *Plaintiff* in the "United States District Court" in the "District of Minnesota."

(2) "**The United States**," *Defendant* "In the United States Court of Federal

Claims."

(3) "**United States**," *Defendant-Appellee* in the "United States Court of Appeals for the Federal Circuit."

RELATED PROCEEDINGS

(1) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2016 WL 11214265] Not Reported (November 7th, 2016); and,

(2) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2017 WL 2799935] Not Reported (May 1st, 2017); and,

(3) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2017 WL 8219106] Not Reported (November 2nd, 2017); and,

(4) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2018 WL 902267] Not Reported (February 15th, 2018); and,

(5) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2018 WL 902267] Not Reported (February 15th, 2018); and,

(6) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2018 WL 2455433] Not Reported (April 19th, 2018); and,

(7) William J. Mooney, Petitioner v. ***Commissioner of the Internal Revenue Service,*** Respondent, United States Tax Court, Docket No. 2429-18, (July 20th, 2018); and,

(8) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2018 WL 6133771] Not Reported (September 28th, 2018); and,

(9) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv2547 [2018 WL 5669315] Not Reported (November 1st, 2018)—**Dismissed with Prejudice**; and,

(10) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv2547 [2019 WL 858704] Not Reported (February 5th, 2019)—**Vacates Order Dismissed with Prejudice of November 1st, 2018**; and,

(11) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2019 WL 467984] Not Reported (February 6th, 2019); and,

(12) "***United States of America",*** Plaintiff-Appellee v. *William J. Mooney & Joni T. Mooney*, Defendants-Appellants, 8th Circuit Court of Appeals, No. 19-1533 [2019 WL 4296301] (May 15th, 2019]—Not Reported in Fed. Rptr. (2019)–Mooneys Dismissed; and,

(13) "***The United States,"*** Defendant v. *William J. Mooney & Joni T.*

Mooney, Plaintiffs, United States Court of Federal Claims, No. 19-987C [2019 WL 4052488] (August 27th, 2019) Unpublished; and,

(14) "***The United States,"*** Defendant v. *William J. Mooney & Joni T. Mooney*, Plaintiffs, United States Court of Federal Claims, No. 19-987C [2019 WL 4861104] (October 2nd, 2019) Reconsideration Not Reported in Fed.Cl. (2019); and,

(15) "***United States of America,***" Plaintiff v. *William J. Mooney & Joni T. Mooney*, Defendants, United States District Court, District of Minnesota, 16-cv-2547 [2020 WL 362800] Slip Copy (January 22nd, 2020); and,

(16) ***"United States,"*** *Defendant-Appellee v. William J. Mooney & Joni T. Mooney*, Plaintiffs-Appellants, United States Court of Appeals for the Federal Circuit, No. 2020-1075 [829 Fed.Appx. 520] (October 7th, 2020) Not published.

CORPORATE DISCLOSURE STATEMENT

In Accordance with Supreme Court Rule 29, this has no application in this instant Case Unless the "**United States of America**" that was the original "Plaintiff" in the "United States District Court" in the "District of Minnesota" initially in Case No. 16-cv-2547 that was operating on "behalf"[1] of "**United States**" according to the Attorney Michael R. Pahl who claimed to be an "attorney for the government" that is defined in 28 U.S.C. § 530B(c), "the term "attorney for the Government" . . . described in section 77.2(a)" where "77.2(a) is found published in

In *United States v. Payne*, 30 F.2d 960, 961-962 (W.D.Northern Div.Wash. 1929), to wit:

The phrase, '**except when on behalf of the United States,**' was significantly used, and has a restricted application, **but has no application in a proceeding where the United States is a party.** It has application to actions **prosecuted or defended by instrumentalities of the United States, or others, on its behalf.** Suit may be brought **by one in authority for the benefit or advantage of the United States**, and, so brought, **would be in its behalf.** See *Georgia v. Brailsford*, Dall. 402, (1792); *State v. Eggerman*, 81 Tex. 569, 16 S.W. 1067 (1891); *Hill County v. Atchison* (Tex.Civ.App.) 49 S.W. 141. **For suit when instrumentality was a party**, see *United States v. Clallam County* (W.D.Wash.) 283 F. 645 (1922) (affirmed 263 U.S. 341) (1923), **which was an action in which an agency or instrumentality of the United States defended**. See, also, *Weeks, Secretary of War, et al. v. Goltra* 7 F.2d 838 (8th Cir. 1925).

There are **corporate entities** used by the United States as its instrumentalities and officers who prosecute and defend actions. **Such actions would be on its behalf.** The provision, 'except when on behalf of the United States,' **refers not to suits by the United States, but on its behalf by instrumentalities or officers**, the object being not to do the idle thing of collecting fees for the United States from its instrumentalities or officers, etc. The law must be construed, if possible, with a consistency to accomplish its purpose. *In re Ayers,* 123 U.S. 443, 8 S.Ct. 164, 31 L.Ed. 216 (1887).

64 FR 19273, 19275 "The Department is implementing this interim final rule to provide an interpretation . . .", being merely an "interpretative" regulations not in compliance with 5 U.S.C. § 553(b) for a "substantive regulation." Attorney Michael R. Pahl refused to disclose if he was the "Counsel for the "United States of America"" or "Counsel for the "United States"" where (Congress) under Article 1 Section 8 Clause 9 tribunal of the "United States District Court" uses "United States of America" as the "Plaintiff" disclosing in 110 Cases that are filed in the public record that the "United States of America is a sovereign body politic," App. 285a-310a, BUT, this changed to the "**The United States**" in the "United States Federal Court of Claims" and then to the **"United States**" in the "United States Court of Appeals for the Federal Circuit." The Mooneys have no idea who the "true" "Plaintiff" is and has found no authority for changing the name of the "Plaintiff" in different Courts in the exact same Case; or, for the "United States of America" to be "Plaintiff" as the Constitution of the United States established the "Government of the United States," where the "Plaintiff" of the Government should be "United States" as it was from 1789 until 1913. The "Government of the United States "is found in Article I Sec. 8 Clause 17 and 18; and, Article II Sec. 1 Clause 3; and, Amendment Twelve).

The Mooneys found that the "United States of America" can be sued under the Administrative Procedure in Title 5 as found *State of Texas v. United States of America, et al,* 6-21-cv-3, (S.D.Tex. 2021) in the Complaint in Docket 1, Pg. 3

"Defendant the United States of America is sued under 5 U.S.C. section 702-703 and 28 U.S.C. 1346. There were no objections in the Case to this using 5 U.S.C.

§§ 702-703

The Mooneys have repeatedly raised the issue of who and what is the "**United States of America**" ("USA") versus the "**United States**" as the "Plaintiff' that changed from the USA in the USDC to the "**United States**" in the Fed. Ct. Claims and the "**United States**" in the Fed. Cir. to no avail.

In the USDC in Minnesota it was the "United States of America" as "Plaintiff' on behalf of "**United States**," App. 004a, App. 020a, App. 024a, App. 057a, App. 059a-060a, App. 063a-064a, App. 074a; and, in the Fed. Ct. Claims it was the "**United States**" Defendant , App. 067a; and in the Fed. Cir., App. 076a078a, that issue was just ignored and gave no response or protected/advocated by the courts. See *Beach TV Properties Inc. v. Solomon*, 383 F.Supp.3d 25, 33 (D.D.C. 2019) "See generally *United States v. Real Prop. Identified as: Parcel 03179-005R*, 287 F.Supp.2d 45, 61 (D.D.C. 2003) ("It is not this 'Court's role . . . to act as an advocate for [the parties] and construct legal arguments on [their] behalf . . .' " (alterations and first omission in original) (quoting *Stephenson v. Cox*, 223 F.Supp.2d 119, 122 (D.D.C. 2002)). See also *Stephenson v. Cox*, 223 F.Supp.2d 119, 121 (D.D.C. 2002) "Furthermore, when a plaintiff files a response to a motion to dismiss but fails to address certain arguments made by the defendant, the court may treat those arguments as conceded, even when the result is dismissal of the entire case." The Mooneys found no authority to "change" the name of the "Plaintiff' as the SAME Case proceeds from one court to another court.

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INTRODUCTION

The "United States of America" ("USA") (not the Government of the United States, *i.e.*. "United States") took the Mooneys to court in the District of Minnesota in a "United States District Court" ("USDC") fueling the research for the "Court's" Jurisdiction to be on the Record according the Supreme Court of the United States decisions, which never happened; and, how could the "judicial Power of a district Court" in 28 U.S.C. § 132(c) is the same as the "judicial Power of the United States" arising in Article III Sections 1 and 2. Of course they aren't but the Mooneys were lied to by consistently by the Judges and Attorneys of the USA and the "United States" using purposeful sophistry and more in the USDC was an "Article III" court in the United States Court of Federal Claims ("Claims Court") and then in the United States Court of Appeals for the Federal Circuit ("Federal Circuit") by omission.

The Mooneys were advised to go the United States Tax Court ("Tax Court") while in the USDC in Minnesota, where the "Docket" was dismissed for Lack of Jurisdiction being no "Notice of Deficiency" from the agency known as the "Internal Revenue Service" ("IRS").

The Mooneys research found that all agencies are authorized by Congress to ONLY use regulations published in the Federal Register and if not so published then the Mooneys would not have "Notice." Also all regulations had to be "judicially Noticed" by all entities that are published in the Federal Register.

The Mooneys' research verified that only "Statutes" were used against the them by the IRS in the USDC, the Claims Court and the Federal Circuit: and in the decisions of all of those courts.

The Mooneys further research verified that every United States Code ("U.S.C.") used in the Tax Court had a regulation that was mandated to be used by the IRS and wasn't and that every one of those federal registration publication complied in the Code of Federal Regulations ("CFR')s were Part 301 Regulations, *i.e.*, 26 CFR § 301.xxxx regulations were "housekeeping" regulations for internal use on for the IRS and having no "force and effect of law" against Mooneys.

This "essential elements" of the only authority of the IRS being the 26 CFR § 301.xxxx regulations were NOT disclosed or used by the Tax Court; and, were not disclosed or used the USDC; and, where not disclosed or used by the Claims Court; and, were not disclosed or used by the Federal Circuit in their Decisions. This should have been the END of prosecution of the Mooneys from the very beginning.

The Mooneys research continued in that "substantive regulations," *i.e.* "legislative rules" having the "force and effect of law" using the "Predicate of the Formal Rulemaking" or the Predicate of the Informal Rule Making" was never complied with by the IRS being also another absolute estoppel. This was not used by the Tax Court, the USDC, the Claims Court or the Federal Circuit in their decision, keeping "hidden" from the Mooneys.

The Mooneys researched out that bona fide "Courts of the United States" arising under "Article III Sections 1 and 2" exercising the "judicial Power of the

United States" in the extensively researched how to deal with regulations and Article III Courts was succinctly stated in the *"Final Report of the Attorney General's Committee on Administrative Procedure"* (1941), pg. 12, to wit:

> In other situations, however, no such choice under the Constitution is open to Congress. Federal courts created under Article III can be authorized **only to decide "cases and controversies,"** to use the constitutional phrase; and from important one, **to be scrupulously observed. "Cases and controversies,"** broadly speaking, are matters in **which a court can determine with finality the rights of adverse parties by applying the law to the facts as found. Thus the whole field of rule-making (with the exception of rules of judicial procedure) is outside the constitutional competence of the courts, for rules do not determine the rights of specific litigants but, like statutes, are addressed to people generally.**

The Mooneys also researched out that the bona fide Article III Section 1 and 2 "Courts of the United States" can't be removed by Congress and have to be easily available to the Mooneys, wherein there are no bona fide Article III Sections 1 and 2 Courts of the United States If exercising the "judicial Power of the United States" that "shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States" in the Courts of the United States since 1949 available to the Mooneys except the Supreme Court of the United States, wherein the "District Court of the United States" was not repealed in 1948—Just hidden away and not used.

We have the Tax Court (Article I [not even listed as a Court in 28 U.S.C. § 610), the USDC (Article I established under Article I Section 8 Clause 9), the Claims Court (Article I in 1982) and the Federal Circuit (just discovered is an allegedly "specialized Article III" Court, whatever that means and established in 1982). To cover up and hide the jurisdictional issues of the Court, that there is no

bona fide Article III court available to the Moonyes; and, the only authority of the IRS is regulations published in the Federal Register, therein, the courts have settled on using that the Mooneys are using a "collateral attack" and that the Mooneys were seeking a "tort" action, of which both are patently FALSE.

The Mooneys are left with NO remedy available arising under Article III that is mandated to exist in the first instance and only the Appellate Court the Supreme Court of the United States exists as bona fide Article III Court. The Mooneys fully aware that all of these sensitive and expansive issues will not be ruled upon the Supreme Court of the United States but there is very small chance that a narrowly crafted decision can grant the Mooneys a win to reclaim their property and granting "due process of law," *i.e.*, the "law of the land" to Mooneys.

OPINIONS BELOW

The United States Court of Appeals for the Federal Circuit ("Federal Circuit") **Judgment** (Appendix (App. 076a-079a)) No. 2020-1075 [829 Fed.Appx. 520] (**October 7th, 2020**), which was Not published is the Final Judgment for the this Court being appealed.

The Other related Proceedings including Tax Court Docket No. 2429-18, App. 037a-055a (**July 20, 2018).**

Also related Published in Westlaw in the Case No. 16-cv-2547 in the United States District Court ("USDC") App. 001a-006a (Nov. 7th, 2016), App. 007a-012a (May 1st, 2017), 013a-016a (May 31st, 2017), App. 017a-022a (Nov. 2nd, 2017), App.

023a-026a (Feb. 15th, 2018), App. 027a-036a (Apr. 19th, 2018).

A related Proceedings including **Tax Court** Docket No. 2429-18, App. 037a-055a (**July 20, 2018)** filed during the Case No. 16-cv-2547 and dismissed.

USDC Case No. 16-cv-2547 continuing: App. 056a-058a (Sept. 28, 2018), App. 059a-061a (Nov. 1st, 2018)—**Dismissed with Prejudice**, App. 062a (Feb. 6th, 2019)—**Vacated Dismissal**, App. 063a-065a (Feb. 6th, 2019).

App. 066a, **8th Cir.** (May 15th, 2019) filed and voluntarily dismissed by Mooneys.

App. 067a-069a, **Federal Claims Ct.** (Aug. 27, 2019), App. 070a-071a, **Federal Claims Ct.** Reconsideration unpublished.

USDC Case No. 16-cv-2547, App. 072a-075a (January 22nd, 2020) Slip Copy.

JURISDICTION

The Judgment Federal Circuit was entered on October 20th, 2020m and En Banc Rehearing was denied on December 30th, 2020. Upon calling the Clerk of Court in the Supreme Court of the United States under the COVID-19 conditions it was disclosed that the Mooneys have until May 31st, 2021 to Petition for a Writ of Certiorari. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY AND REGULATORY PROVISIONS INVOLVED

The Statutory and Regulatory provisions involved in this Cases are the Judiciary Act of 1789 establishing the Article III Courts of the United States including the "District Court of the United States;" and, the Federal Register Act of 1935 (49 Stat. 500-503); and, the publishing the complete Fed. Reg. Act in total in 2

FR 2454-2456; the publishing the Fed. Reg. Act in total in 3 FR 965-967; 11 FR 9833-9840; the APA—60 Stat. 237-244 (1946) especially Sections 3 and 4), 5 U.S.C. §§ 1001-1011 (1946 Code), 80 Stat. 381-388 (1966); 5 U.S.C. §§ 551-559 and especially 5 U.S.C. § 553(b); 5 U.S.C. § 701-706; 5 U.S.C. § 301; Senate Rep. 752, 79th Congress 1st Session, November 19, 1945 on APA of 1946; Senate Rep. No. 96-304 (08-03-79) on Creating the new Fed. Cir. Ct. of Appeals that the Mooneys have recently discovered allegedly is a "specialized Article III court" and the new Article I Fed. Ct. of Claims.

STATEMENT OF THE CASE

William Joseph Mooney and Joni Therese Mooney, *in propria persona*, ("Mooneys") have been in this battle with the IRS for over six (6) years in an extensive quest for the truth and the elusive "Rule of Law" in a "Court of the United States" arising under Article III Sections 1 and 2 exercising the "judicial Power of the United States" in to no avail with many essential elements that can't be addressed in the Petition. See the Complaint (Docket 36) and 998 page Appendix (Docket 37) in the Federal Circuit, Case 20-1075.

A. IRS's Authority is Limited to ONLY Using Regulations Published in the Federal Register.

a. Required Step 1 - "General Applicability and Legal Effect."

All "Agencies" and "Federal Agencies" are limited exclusively to promulgate and publish their rules and regulations in the "Federal Register" that have **"general applicability and legal effect"** to the people. See 49 Stat. 501 Sec. 5(a),

App. 080a; 2 FR 2455, Sec. 5(a) (1937), App. 084a; 3 FR 966 Sec. 4 (1938), App. 087a; 11 FR 9833-9840, 9835—Meanings of terms § 2.1(c) (1946), App. 145a; 44 U.S.C. § 304 (1940 Code), App. 140a.

b. Required Step 2 - "No document required under 5(a) ["general applicability and legal effect"] to be published in the Federal Register shall be valid as against any person who has not had actual knowledge thereof"

All "Agencies" and "Federal Agencies" are bound if there is no regulation published in the Federal Register, then it has no Application and there is no obligation of the Mooneys to the IRS, *i.e.* "**No document required under 5(a) ["general applicability and legal effect"] to be published in the Federal Register shall be valid as against any person who has not had actual knowledge thereof.**" See 49 Stat. 502 Sec. 7, App. 081a; 2 FR 2455, Sec. 7 (1937), App. 084a; 3 FR 967. Sec. 7 (1938), App. 088a; 44 U.S.C. § 307 (1946 Code), App. 141a; 82 Stat. 1276 (1968) § 1507.

c. Step 3 - "The contents of the Federal Register shall be judicially noticed and, without prejudice to any other mode of citation, may be cited by volume and page number"

If documents of "general applicability and legal effect" are published in the Federal Register then all courts and entities are to take judicial Notice thereof, *i.e.* "**The contents of the Federal Register shall be judicially noticed and, without prejudice to any other mode of citation, may be cited by volume and page number.**" See 49 Stat. 502 Sec. 7, App. 081a; 2 FR 2455, Sec. 7 (1937), 084a; 3 FR 967. Sec. 7 (1938), App. 088a.

B. IRS in All of the Courts Starting with The Tax Court, the USDC, the Federal Claims, and the Federal Circuit Only Used U.S.C. Cites and Not One Regulations

Only U.S.C. cites were used in the Tax Court, App. 037a-055a and it was NOT disclosed that IRS had promulgated regulations in the Federal Register as its only authority for each of the Statutes cited and they are ALL Part 301 regulations *i.e.*, "housekeeping" regulations[2] that were published and do NOT have any "force and effect of law," *i.e.* using the general statutory authority of 26 U.S.C. § 7805[3] to promulgate "all regulations" (a totally legislative power from Congress that is unconstitutional; which limits the regulations as being only on "interpretative."[4] Here are regulations not disclosed in the Tax Court, to wit;

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[2] Held in *Chrysler v. Brown*, 441 U.S. 281, 283, 288. 301, 308-312, 317 (1979); *Sebastian v. United States*, 185 F.3d 1368, 1371 (Fed.Cir. 1999); *Hartman v. Nicholson*, 483 F.3d 1311, 1315-1316 (Fed.Cir. 2007); *Schism v. United States*, 316 F.3d 1259, 1279-1282 (Fed.Cir. 2002); *Tunik v. Merit Systems Protection Bd.*, 407 F.3d 1326, 1344-1345 (Fed.Cir. 2005); *Mead Corp v. United States*, 185 F.3d 1304, 1307-1308 (Fed.Cir. 1999); *Killip v. Office of Personnel Management*, 991 F.2d 1564, 1569-1570 (Fed.Cir. 1993); *Animal Legal Defense Fund v. Quigg*, 932 F.2d 920, 927 (Fed.Cir. 1991); *Paralyzed Veterans of America v. West*, 138 F.3d 1434, 1436 (Fed.Cir. 1998).

[3] *Boeing Company v. United States*, 537 U.S. 437, 448 (2003) "[R]egulation as interpretive because it was promulgated under § 7805(a)'s general rulemaking grant rather than pursuant to a specific grant of authority . . ."

[4] *Drake* is *United States v. American Production Industries, Inc.*, 58 F.3d 404, 407 (9th Cir. 1995), to wit: **Only regulations having the "force and effect of law" can create a private right of action.** *Chrysler Corp. v. Brown,* 441 U.S. 281, 295-303, 99 S.Ct. 1705, 1714-18, 60 L.Ed.2d 208 (1979). In contrast, "rules of agency organization, procedure, or practice"-sometimes called **"interpretive rules"-do not create enforceable rights. 5 U.S.C. §§ 553(b), 553(d);** *Chrysler,* 441 U.S. at 315, 99 S.Ct. at 1724; *see also Guadamuz v. Bowen,* 859 F.2d 762, 771 (9th Cir.1988) ("**[I]nterpretive rules express** an agency's ... **internal house-keeping measures** organizing Agency activities."). *[Emphasis added]*

26 CFR § 301.6011-1—General requirement of return statement or list, App. 190a; and,

26 CFR § 301.6012-1—Persons required to make returns of income, App. 191a; and,

26 CFR § 301.6201-1—Assessment authority, App. 192a-193a; and, **26 CFR § 6203-1**—Method of Assessment, App. 194a; and,

26 CFR § 301.6211-1—Deficiency defined, App. 195a-197a; and,

26 CFR § 301.6212-1—Notice of Deficiency, App. 198a-199a; and,

26 CFR § 301.6213-1—Restrictions applicable to deficiencies petition to Tax Court, App. 200a-202a,

26 CFR § 301.6320-1—Notice and opportunity for hearing upon filing of notice of Federal tax lien, App. 203a-222a; and,

26 CFR § 301.6323-1—Place for filing notice form, App. 223a-226a,

26 CFR § 301.6330-1—Notice and opportunity for hearing prior to levy, App. 227a-247a; and,

26 CFR § 301.6502-1—Collection after assessment, App. 248a-249a; and,

26 CFR § 301.6673-1—Damages assessable for instituting proceedings before the Tax Court merely for delay, App. 250a; and,

26 CFR § 301.7403-1—Action to enforce lien or to subject property to payment of tax, App. 251a; and,

26 CFR § 301.7502-1—Timely mailing of documents and payments treated as timely filing and paying, App. 252a.

The USDC filings, App. 001a-036a, App. 056a-065a, App.072a-075a; and, the Federal Court of Claims, App. 067a-069a, App. 070a-071a; and, the Federal Circuit App. 076a-079a judgment all only cited U.S.C. sections with NO mention of the any regulations that is the ONLY authority authorized by Congress for the IRS to use against the Mooneys. The Mooneys over and over plead the regulations and the federal Register in every court but if the courts don't mention it, then it does not exist evidently as a rule of law and the rogue IRS is protected leaving the Mooneys with NO REMEDY.

C. Administrative Procedure Act of 1946 To Identify "Substantive Regulations."

a. Senate Congressional Record for March 12, 1946 Pg. 2155

Clearly explained in the Congressional Record of the Senate for March 12, 1946, page 2144 "The pending bill [60 Stat. 237-244], therefore applies procedures only to the making of so called **substantive rules**, that is, though the administrative legislation under the authority of Congress, App. 430a.

D. The Administration Procedure Act of 1946 mandates that All "Agencies" and "Federal Agencies" to have the "force and effect of law" have TWO options: (1) Comply with the Procedure of the Predicate for the "Formal Procedure of Rulemaking;" OR, (2) Comply with the Predicate for the "Informal Procedure Rulemaking."

There are only two Options for "substantive regulations" and they are the Predicate for the Formal Rulemaking or the Predicate for the Informal Rulemaking.

None of the regulations that are cited are all precluded as being Part 301 Regulations but as an additional verification checking the individual Federal Register Publication of 26 CFR § 301.xxxx, *infra*, none are in compliance as "substantive regulations.

The IRS admits this in the Title 26 - Internal Revenue 2019 Subtitle A - Income Tax CFRs - Part 1 - Sections 1.0-1.60 citing 19 FR 5167, App. 261a, leaving out the last paragraph that states compliance with the APA sections 3 and 4. This is evidenced in 19 FR 5167 (1954), App. 267a.

a. OPTION 1—The Predicate for the "Formal Procedure" for "Agencies" and "Federal Agencies" to have "substantive rule ("substantive regulation," *i.e.*, a "legislative rule") to have the "force and effect of law."

(1) The "**Proposed Rule**" shall be published in the Federal Register identifying that the "**Proposed Rule**" is in compliance with **5 U.S.C. § 553(b)**, 60 Stat. 238-239 Sec. 3-4, App. 152a-153a, 5 U.S.C. § 1003(a), App. 161a; 80 Stat. 383-384, App. 172a-173a with Comments stated in the Federal Register; **AND**,

(2) The "**Final Rule**" shall be published in the Federal Register identifying that the "**Final Rule**" is in compliance with **5 U.S.C. § 553(b),** 60 Stat. 238-239 Sec. 3-4, App. 152a-153a, 5 U.S.C. § 1003(a), App. 161a; 80 Stat. 384, App. 172a with Comments stated in the Federal Register; **AND**

(3) In 5 U.S.C. § 553(d)(1), 60 Stat. 239 Sec. 4, App. 153a, 5 U.S.C. § 1003(a), App. 161a; 80 Stat. 384, App. 172a published as a "substantive rule shall be made not less than 30 days before its effective date;" **OR**,

(4) If no 30 day notice is invoked as provided as codified in 5 U.S.C. §

553(d)(3), 60 Stat. 239 Sec. 4, App. 153a, 5 U.S.C. § 1003(a), App. 161a; 80 Stat. 384, App. 172a, "provided by the agency for **good cause** found and published with the rule;" wherein, the **"good cause"** exception mandates the publishing of the "**legitimate grounds supported in law and fact**" be published in the Federal Register with the "Final Rule" as required in **Senate Report No.752 [Pg. 15 in the Senate Report No. 752 Document],** App. 107a, is a ***sine qua non*** of an "**substantive regulation,**" *i.e.* "**legislative rule"** that has the "**force and effect of law**"[5] creating any appearance of an obligation or duty with the "subject to," requirements devolving upon the People being met.

b. OPTION 2—The Predicate of the "Informal Procedure" Required for "Agencies" and "Federal Agencies" to have "substantive rule ("substantive regulation," *i.e.*, a "legislative rule") to have the "force and effect of law."

(1) The "**Proposed Rule**" shall be published in the Federal Register identifying that the "**Proposed Rule**" using 5 U.S.C. § 553(b)(3)(B) "**(B)** when the agency for **good cause** finds (**and incorporates the finding and a brief statement of reasons therefor in the rules issued** that notice and public procedure thereon are **impracticable, unnecessary**, or **contrary to the public interest,**" 60 Stat. 239 Sec. 4, App. 153a, 5 U.S.C. § 1003(a), App. 161a; 80 Stat. 384, App. 172a, requires also as stated in **Senate Report No. 752, [Pg. 14 in Senate Report No. 752],** App. 106a, "The exemption of situations of emergency or

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[5] Held in *Chrysler v. Brown*, 441 U.S. 281, 295-303 (1979).

necessity is not an "**escape clause" in the sense that any agency has discretion to disregard its terms or facts. A true and supported or supportable finding of necessity or emergency must be made and published"** in the Federal Register with the "**Proposed Rule;" AND,**

(2) The "**Final Rule**" shall be published in the Federal Register identifying that the "**Final Rule**" using 5 U.S.C. § 553(b)(3)(B), 60 Stat. 239 Sec. 4, App. 153a, 5 U.S.C. § 1003(a), App. 161a; 80 Stat. 384, App. 172a "**(B)** when the agency for **good cause** finds (**and incorporates the finding and a brief statement of reasons therefor in the rules issued** that notice and public procedure thereon are **impracticable, unnecessary**, or **contrary to the public interest**" requires also as stated in **Senate Report No. 752, [Pg. 14 in Senate Report No. 752]**, App. 106a, "The exemption of situations of emergency or necessity is not an "**escape clause" in the sense that any agency has discretion to disregard its terms or facts. A true and supported or supportable finding of necessity or emergency must be made and published"** in the Federal Register with the "**Final Rule;" AND,**

(3) In 5 U.S.C. § 553(d)(1), 60 Stat. 239 Sec. 4, App. 153a, 5 U.S.C. § 1003(a), App. 161a; 80 Stat. 384, App. 172a, published as a "substantive rule shall be made not less than 30 days before its effective date;" **OR**,

(4) If no 30 day notice is invoked as provided as codified in 5 U.S.C. § 553(d)(3) "provided by the agency for **good cause** found and published with the rule;" 60 Stat. 239 Sec. 4, App. 153a, 5 U.S.C. § 1003(a), App. 161a; 80 Stat. 384,

App. 172a, wherein, the **"good cause"** exception mandates the publishing of the **"legitimate grounds supported in law and fact"** be published in the Federal Register with the "**Final Rule**" as required in **Senate Report No. 752 [Pg. 15 in Document],** 107a , is a ***sine qua non*** of an "substantive regulation," *i.e.* "legislative rule" that has the "**force and effect of law**" creating any appearance of an obligation or duty with the "subject to," requirements devolving upon the People being met.

> **c. Substantive Rules adopted as authorized by law shall be published in the Federal Register. No person shall in any manner be required to resort to organization or procedure not so published.** Substantive Rules adopted as authorized by law shall be published in the Federal Register. No person shall in any manner be required to resort to organization or procedure not so published, 60 Stat. 238, App. 152a.

E. The "United States District Court" is an Legislative Tribunal Established under Article I Section 8 Clause 9 Codified in 28 U.S.C. § 132.

The USDC, App. 020a, App. 060a, App.064a, claiming to be an "Article III" but clearly it is only an Article I Section 8 Clause 9 tribunal (Legislative Court) that was **refused be acknowledged** by the Federal Circuit Judgment, 829 Fed.Appx. 520, 522 (2020), App. 077a, by discounting the cases that the Mooneys finally found with "[I]ncluding a citation of two "[o]n-[p]oint cases." Decided decades before they filed their complaint in the Claims Court. *Id. at* 43-44" being *Eastern Metals Corporation v. Martin*, 191 F.Supp. 245, 248 (S.D.N.Y. 1960), to wit:

> A **United States District Court** is an 'inferior' court, i.e., inferior to the United States Supreme Court. The **District Court is a tribunal created by Congress under the power given to Congress by**

> **Article 1, Section 8, Clause 9,** of the United States Constitution, which provides that Congress shall have power '**To constitute Tribunals inferior to the supreme Court**'. *Romero v. International Terminal Operating Co.*, 358 U.S. 354, 79 S.Ct. 468, 3 L.Ed. 368. **The creation and composition of the United States District Courts is presently set forth in T. 28 U.S.C. § 132. A United States District Court has only such jurisdiction as the Congress confers upon the court.**
>
> **The general jurisdiction of United States District Courts is set forth in T. 28 U.S.C. Chap. 85 (§§ 1331 to 1360).**

And in *United States v. Roberts*, 618 F.2d 530, 546 (9th Cir. 1980), to wit:

> There shall be in each judicial district a district court . . ." and "**the judicial power of a district court . . . may be exercised by a single judge . . .**". This last provision **should be noticed; it is fundamental that a district judge has no judicial power individually; his judicial power is exercised as the representative of a court. "(J)urisdiction is lodged in a court, not in a person. The judge, exercising the jurisdiction, acts for the court".** *In re Brown*, 346 F.2d 903, 910 (5th Cir. 1965), quoted with approval in *United States v. Teresi*, 484 F.2d 894, 898 (7th Cir. 1973). * * * The Supreme Court has said: "**District Courts are solely the creation of statute, and the place in which a judge thereof may exercise jurisdiction is subject absolutely to the control of Congress".** *McDowell v. United State*s, 159 U.S. 596, 598-9, 16 S.Ct. 111, 111-112, 40 L.Ed. 271 (1895)

"Judicial Power" is reserved only for governments and in the Constitution of the United States the government is the "Government of the United States" (Article I Sec. 8 Clause 17 and 18; and, Article II Sec. 1 Clause 3; and, Amendment Twelve).

Clearly as pronounced in *United States v. Roberts*, 618 F.2d 530, 546 (9th Cir. 1980) the Judge "exercising the judicial power of a district court" was **representing the Court** and that the **Court was under the Plenary Power of Congress**, the Federal Court of Claims off-point sophistry and then the Federal Circuit Court of Appeals continued off-point sophistry and obfuscations.

Also in Federal Circuit Judgment, 829 Fed.Appx. 520, 522 (2020) judgment, App. 76a-78a, there is disclosure of the jurisdiction of the USDC, no mention of "judicial power of the district court," no mention of the "judicial Power of the United States," no disclosure of the what court is an Article III Court and if the USDC is an bona fide Article III Sections 1 and 2 but only that the Mooneys raised the issue, App. 077a.

This is further evidenced in *Cochran, et al. v. St. Paul & Tacoma Lumber Co. Crawford et all*, 73 F.Supp. 288 (W.D. Wash. 1947) to wit:

> When we go to the other side of this question we begin first with the statement that is not subject to dispute or contradiction; **which is that a United States District Court is purely a creature of the legislative branch of the government, generally provided for by the Constitution, but not, in a stricter sense, a constitutional court.**

This is further evidenced that the USDC does not arise under Article III and is not exercising the "judicial Power of the United States" and **this Court** does not Arise under Article III Section 1 and 2 exercising the judicial Power of the United States in all Cases in Law and Equity, but the United States District Court ("USDC") is operating with the codified authority of as evidenced by the Public Record of ***Title 28, United States Code Congressional Service, New Title 28—and Judicial Procedure Pages 1487-2174, 80th Congress—2nd Session, Epochal Legislation, West Publishing 1948*—pg. I —"augmented by expert revisers and consultants"—*New Title 28, United States Code, Judiciary and Judicial Procedure With Official Legislative History and Reviser's Notes. Page 1521—28*** **U.S.C § 132. Creation and composition of district courts,** App. 268a-284a.

This is an excerpt of the public record clearly identified that the USDC copying the Territorial Court of Hawaii and "merely recognizes established practice," to wit:

> (a) There shall be in each judicial district a district court which shall be a court of record known as the **United States District Court for the district.**
>
> (b) Each district court shall consist of the district judge or judges for the district in regular active service. Justices or judges designated or assigned shall be competent to sit as judges of the court.
>
> (c) Except as otherwise provided **by law, or rule or order of court,** **the judicial power of a district court** with **respect to any action, suit or proceeding may be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges**, App.283a.
>
> ***Page 1732*—Section 132—Revised [Reviser's Notes]**—Section 132-Section Revised, App. 284a.
>
> Based on title 28, U.S.C., 1940 ed., § 1, and section 641 of title **48, U.S.C., 1940 ed., Territories and Insular Possessions** (Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, § 1, 36 Stat. 1087; July 30, 1914, ch. 216, 38 Stat. 580; July 19, 1921, ch. 42, § 313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 19).
>
> Section consolidates section 1 of title 28, U.S.C., 1940 ed., and section 641 of title 48, U.S.C., 1940 ed., with changes in phraseology necessary to effect the consolidation.
>
> **Subsection (c) is derived from section 641 of title 48, U.S.C., 1940 ed. [Territories and Insular Possessions], which applied only to the Territory of Hawaii. The revised section, by extending it to all districts, merely recognizes established practice.**
>
> Other portions of section 1 of title 28, U.S.C., 1940 ed., are incorporated in sections 133 and 134 of this title. The remainder of section 641 of title 48, U.S.C., 1940 ed., is incorporated in sections 91 and 133 of this title.

It is well settled that the reviser's notes are authoritative in interpreting the Code. See *United States v. National City Lines,* 337 U.S. 78, 81 (1949); *Stainback v. Mo Hock Ke Lok* Po, 336 U.S. 368 n. 12 (1949); *Aberdeen & Rockfish R. Co. v. Students Challenging Regulatory Agency,* 422 U.S. 289, 309 (1975); *Western Pac. R. Corp. v. Western Pac. R. Co.,* 345 U.S. 247, 254-255 (1953); *Pope v. Atlantic Coast Line R.Co.,* 345 U.S. 379, 384 (1953); *Tivoli Realty v. Paramount Pictures,* 80 F.Supp. 278, 280 (D. Del. 1950); *United States v. Thompson,* 319 F.2d 665, 669 (1963) (2nd Cir. 1963).

F. Congress can't Withdraw Article III Courts of the United States.

Congress **may not withdraw judicial cognizance** any matter which, from its nature, is subject of a suit at the common law, or in equity, or admiralty or transfer this Article III sections 1 and 2 to any Tribunal in Article I Section 8 Clause 9 Tribunal. Therefore the Mooneys have as their ONLY solution which is the unassailable fact that 28 U.S.C. § 2515 is the **ONLY COURT available for rules common law and equity that they have to date found as a remedy. Evidence of requirement of Cases in Common law and Equity must exist under Article III Sections 1 and 2 and can't exist in a Tribunal in Article I Section 8 Clause 9 for the Mooneys is found** in *Stern v. Marshall,* 564 U.S. 462, 482-483, 484 (2014), to wit:

> As its text and our precedent confirm, Article III is "**an inseparable element of the constitutional system of checks and balances**" that "**both defines the power and protects the independence of the Judicial Branch.**" *Northern Pipeline,* 458 U.S., at 58, 102 S.Ct. 2858 (plurality opinion). Under "the basic concept of separation of

powers ... that flow[s] from the scheme of a tripartite government" adopted in the Constitution, "the '**judicial Power of the United States**' ... **can no more be shared" with another branch** than "the Chief Executive, for example, can share with the Judiciary the veto power, or the Congress share with the Judiciary the power to override a Presidential veto." *United States v. Nixon,* 418 U.S. 683, 704, 94 S.Ct. 3090, 41 L.Ed.2d 1039 (1974) (quoting U.S. Const., Art. III, § 1).

* * *

The Framers undertook in Article III to protect citizens subject to the judicial power of the new Federal Government from a repeat of those abuses.

* * *

Article III could neither serve its purpose in the system of checks and balances nor preserve the integrity of judicial decisionmaking if the other branches of the Federal Government **could confer the Government's "judicial power" on entities outside Article III.** That is why we have long recognized that, in general, **Congress may not "withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty."** *Murray's Lessee v. Hoboken Land & Improvement Co.,* 59 U.S. 272, 18 How. 272, 284, 15 L.Ed. 372 (1856). When a suit is made of "**the stuff of the traditional actions at common law tried by the courts at Westminster in 1789**," *Northern Pipeline,* 458 U.S., at 90, 102 S.Ct. 2858 (Rehnquist, J., concurring in judgment), and **is brought within the bounds of federal jurisdiction, the responsibility for deciding that suit rests with Article III judges in Article III courts. The Constitution assigns that job—resolution of "the mundane as well as the glamorous, matters of common law and statute as well as constitutional law, issues of fact as well as issues of law"—to the Judiciary.** *Id.,* at 86–87, n. 39, 102 S.Ct. 2858 (plurality opinion).

G. What is the Jurisdiction of the Federal Circuit:

The Federal Circuit was also established in 1982 in 96 Stat. 25-58 wherein in Senate Report 96-304, and in the Senate Report 96-304 on pg. 8, "*Courts of Appeals for the Federal Circuit.*—The bill creates an **article III court** that is similar in structure to the other eleven other courts of appeals." Remembering though that being a bona fide "Article III" Court of the United States is NOT

established in 96 Stat. 25-58 like it was in 67 Stat. 226-227, therein raising an essential element of the Federal Circuit' veracity of being a bona fide Court of the United States arising under Article III Sections 1 and 2 "exercising the judicial Power of the United States" and "The judicial Power shall extend to all Cases, in Law and Equity," wherein the Mooneys will take this as true based upon the Senate Report 96-304.

Continuing on Senate Report 96-304 - 96th Congress 1st Session pg. 9 "The Court of Appeals for the Federal Circuit differs from other Federal courts of appeal, in that **its jurisdiction is defined in term of subject matter** rather than **geography**." Continuing on Senate Report 96-304—96th Congress 1st Session pg. 9 "A decision in any one of the **eleven regional circuits is not binding on any of the others**. As a result, **our Federal judicial system lacks the capacity**, short of the Supreme Court, to provide reasonably quick and definitive answers to legal question of a **nationwide significance**."

96 Stat. 39 (1984) was codified in § 1296, to wit:

> **"§ 1296 Precedence of cases in the United States Court of Appeals for the Federal Circuit** "Civil actions in the United States Court of Appeals for the Federal Circuit shall be **given precedence**, in accordance with the law applicable to such actions, in such order as the court may by rule establish." (b) The section analysis of chapter 83 of title 28, United Stats Code is amended by adding at the end thereof the following new items: "1295. Jurisdiction of the United States Court of Appeals for the Federal Circuit." "**Precedence of cases in the United States Court of Appeals for the Federal Circuit.**""

But the codified 28 U.S.C. § 1296 was repealed in 1984 in 98 Stat. 3335-3368 in Section 402 Page 3359(29)(C) "Section 1296 of title 28, United States Code, and

the item relating to that section in the section analysis of chapter 83 of that title, are repealed" in total and replaced; therein, so much for "National Precedence" of cases giving the "appearance" of a bona fid Article III Court of the United States—a ruse.

In *Dickinson v. Zurko*, 527 U.S. 150, 171 (1999) "but to the Court of Appeals for the Federal Circuit, the **specialized Article III court**" leaving the Mooneys totally confused as they find no authority for this type of "specialized" Article III Court.

H. The Mooneys Political Status, Citizen Status and Allegiance as "citizens of Minnesota

The Mooneys have filed into the Public Record their Political Status, Citizen Status and Allegiance as "citizens of Minnesota" domiciled in Minnesota, being one of the several States being self-authenticating under the evidence rule 901(7) for "William Joseph Mooney" at App. 353a-371a and for Joni Therese Mooney at App. 372a-390a. Both App. 353a-371a and App. 372a-390a have NOT been challenged in the USDC in Minnesota; or, challenged in the Fed. Ct. of Claims; or, challenged in the Fed. Cir. Ct. of Appeals. See also 8 U.S.C. § 1101(a)(22)(B) "(22) The term "national of the United States" means (A) a citizen of the United States, or (B) **a person who, though not a citizen of the United States, owes permanent allegiance to the United States.**" The Mooneys can assume the "character of a citizen of the United States, App. 417a.

From 1789 until 1913 the "Government of the United States," (Article I Sec. 8 Clause 17 and 18; and, Article II Sec. 1 Clause 3; and, Amendment Twelve), *i.e.*, the

"United States" was the "Plaintiff" in the "District Court of the United States." After the passage of the Seventeenth Amendment[6] the "Plaintiff" changed to the "United States of America," wherein there were no "real" parties (citizens/People of the several States and legislatures several States selecting either the Representative or the Senators) to the Constitution of the United States as only the "citizens of the United States" were voting since then that have no "political rights," wherein the right of the elective franchise and right of suffrage remained lodged still in the People of several States as "citizens of the one of the several States," *i.e.*, "citizens of Minnesota." See *Ex parte Commonwealth of Virginia*, 100 U.S. 339, 367-368 (1879), to wit:

> *It secures to all persons their* civil rights upon the same terms; but it **leaves political rights**, or such as arise from the form of government and its administration, as **they stood previous to its adoption** * * * The political rights which he may enjoy, such as holding office and discharging a public trust, are qualified because their possession depends on his fitness, to be adjudged by those whom society has clothed with the elective authority. The **Thirteenth and Fourteenth** Amendments were designed to **secure the civil rights of all persons,** of every race, color, and condition; but they left to the States to determine to whom the possession of political powers should be intrusted.

The "USDC's are prohibited from declaring your status as "citizen of the United States" in 28 U.S.C. § 2201 for the "Federal Income Taxes" as of course it is

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[6] *Adams v. Clinton*, 90 F.Supp.2d, 50 (D.D.C. 2000) "In 1913, the Seventeenth Amendment granted the people of "each State", rather than their legislatures the right to choose senators . . . providing that senator shall be elected by people of "each State" rather than "of the several States" as in the provision for representation in Article I, section 2, clause 1"

voluntary as filed a court Case of the House of Representatives suing President Trump in attempt to get his tax returns in Case No. 1-19-cv-1974, USDC in D.C., Docket 1, page 1 "Defendants have mounted an extraordinary attack on the authority of Congress to obtain information needed to conduct oversight of Treasury, the IRS, and the tax laws on behalf of the **American people who participate in the Nation's voluntary tax system**."

A "citizen of the United States" has no "political rights" but they are posited in "citizens of the several States"— *United States v. Anthony*, 24 F.Cas. 829, 829, 830 (Cir.Ct. N.D.N.Y. 1873); *Kineen v. Wells*, 11 N.E. 916, 918, 919 (Sup.Jud.Ct.Mass. 1887); and, the Fourteenth Amendment does not apply to the "citizens of the United States"—*Neild v. District of Columbia*, 110 F.2d 246, 250 FN10 (1940) citing the holding of *Wright v. Davidson*, 181 US. 371, 384 (D.C. Cir. 1940) and has the same rights as a "white person"—14 Stat. 27, 42 U.S.C. § 1981, 42 U.S.C. § 1982; and, has NO rights of suffrage or the elective franchise under the Fifteenth Amendment— *Le Grand v. United States*, 12 F. 577, 578, 579 (Cir.Ct. E.D.Tx. 1882); and, there are no protections under the Tenth Amendment as under the National Voter Registration Act of 1993 as there are no Elections for public Officers of the several States and only elections for those in a "federal office" (52 U.S.C. § 20502(2); and, 52 U.S.C. § 30101(4)). See also 185 A.L.R. 155 on the Fourteenth Amendment trumps the Tenth Amendment.

I. The Sovereign Power is vested On in the People of the United States.

As the sovereign Power is vested ONLY in the People of these United States as also confirmed in In *Martin v. Hunter's Lessee*, 14 U.S. 304, 324-325 (1816),

Appx060-061; Appx082, to wit:

> The **constitution of the United States was ordained and established,** not by the states in their **sovereign capacities**, but emphatically, as the preamble of the constitution declares, by **'the people of the United States.'** There can be no doubt that it was competent to the people to invest the general with all the powers which they might deem proper and necessary; to extend or restrain these powers according to their own good pleasure, and to give them a paramount and supreme authority. As little doubt can there be, that the people had a right to prohibit to the states the exercise of any powers which were, in their judgment, incompatible with the objects of the general compact; to make the powers of the state governments, in given cases, **subordinate to those of the nation, or to reserve to themselves those sovereign authorities which they might not choose to delegate to either**. The constitution was not, therefore, necessarily carved out of existing state sovereignties, **nor a surrender of powers already existing in state institutions, for the powers of the states depend upon their own constitutions;** and the people of every state had the right to modify and restrain them, according to their own views of the policy or principle. On the other hand, **it is perfectly clear that the sovereign powers vested in the state governments, by their respective constitutions, remained unaltered and unimpaired, except so far as they were granted to the government of the United States.**

This "United States of America is a sovereign body politic" is 110 documented Cases in the United States that filed in into the Public Record, App. 285a-310a; and, this is totally foreign to the Constitution of the United States and Congress under the guise or CON how can the "United States of America" claim to be a "sovereign body politic" and then to only use this in the current "United States

District Courts" (Article I Section 8 Clause 9)[7] legislative courts under the control of Congress.

In *Martin v. Hunter's Lessee*, 14 U.S. 304, 325-326 (1816), Appx060-061; Appx082, to wit:

> They have been positively recognized by one of the articles in amendment of the constitution, which declares, that '**the powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the *states* respectively, or *to the people.*'** The government, then, of the **United States, can claim no powers which are not granted to it by the constitution**, and the **powers actually granted, must be such as are expressly given, or given by necessary implication.**

REASONS FOR GRANTING THE PETITION

A. Reason One

The IRS should reined in and mandated cease and desist using U.S.C. cites to the People in all correspondence and this has National effect to all of the People in these United States.

B. Reason Two.

The IRS should be mandated by this Court to disclose all of the regulations published in the Federal Register complied in the CFRs so that the People have actual "Notice" and this has National effect to all of the People in these United States.

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[7] *Eastern Metals Corporation v. Martin*, 191 F.Supp. 245, 248 (S.D.N.Y. 1960); *United States v. Roberts*, 618 F.2d 530, 546 (9th Cir. 1980).

C. Reason Three

The IRS should be mandated to disclose if their regulations are "substantive" or "interpretative" or merely "housekeeping" where if the IRS was mandated to disclose the regulations to the People, all of them used to establish bogus claims would be reined in and this has National effect to all of the People in these United States.

D. Reason Four.

The IRs should be mandated to disclose if any their regulations are "substantive" so that the People and the Mooneys have "notice" if they have the "force and effect of law" as this should be disclosed so that the People and the Mooneys have to go to Court or spend tens of hours attempting to see if they are subject to the regulation having the "force and effect of law" and this has National effect to all of the People in these United States.

E. Reason Five.

The IRS is not exempt from APA of 1946 (60 Stat.237-244) or the Federal Register Act of 1935 (49 Stat. 500-503). See *Mayo Found. For Med. Educ. & Research v. United States*, 562 U.S. 44, 55 (2011), to wit:

> We have repeatedly held that "[a]gency inconsistency is not a basis for declining to analyze the agency's interpretation under the *Chevron* framework." *National Cable & Telecommunications Assn. v. Brand X Internet Services,* 545 U.S. 967, 981, 125 S.Ct. 2688, 162 L.Ed.2d 820 (2005); accord, *Eurodif S. A., supra,* at 316, 129 S.Ct., at 887. We have instructed that "neither antiquity nor contemporaneity with [a] statute is a condition of [a regulation's] validity." *Smiley v. Citibank (South Dakota), N. A.,* 517 U.S. 735, 740, 116 S.Ct. 1730, 135 L.Ed.2d 25 (1996). And we have found it immaterial to our analysis that a "regulation was prompted by litigation." *Id.,* at 741, 116 S.Ct. 1730.

> Indeed, in ***713** *United Dominion Industries, Inc. v. United States,* 532 U.S. 822, 838, 121 S.Ct. 1934, 150 L.Ed.2d 45 (2001), we expressly invited the Treasury Department to "amend its regulations" if troubled by the consequences of our resolution of the case.

F. Reason Six

Statutes passed by Congress do not have to be researched to see if valid or not; therein, the "regulations" that the IRS is limited there should be no doubt if they have the "force and effect of law" and currently this is a morass of confusion that even the courts are not in agreement on. How can the Mooneys be law abiding if the regulations are not easily discernable if they have the "force and effect of law" and this has National effect to all of the People in these United States.

G. Reason Seven

The "United States of America" should be mandated to Disclose who or what it is being a "sovereign body politic" and how the Plaintiff or Defendant can change from "United States of America" to the "United States" and this has National effect to all of the People in these United States.

H. Reason Eight

The bona fide "Courts of the United States" arising under Article III sections 1 and 2 exercising the "judicial Power of the United States" in all "Cases in Law and Equity" should be identified so that the People have access as mandated by the Constitution of the United States to exist and this has National effect to all of the People in these United States.

I. Reason Nine.

The USDC Courts Should be mandated to cease and desist pretending to be bona fide ""Courts of the United States" arising under Article III sections 1 and 2 exercising the "judicial Power of the United States" in all "Cases in Law and Equity" should be identified so that the People have access as mandated by the Constitution of the United States to exist and this has National effect to all of the People in these United States.

CONCLUSION

The Mooneys have been six years in this battle to have the Rule of Law restored and therein the Petition for a Writ of Certiorari should be granted.

Signature, William Joseph Mooney

Signature, Jan Therese Mooney