

## **APPENDIX**

## APPENDIX A

### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

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**Civil Action No.**  
**19-cv-421 (DCN-CWD)**

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**UNITED STATES OF AMERICA**  
*Plaintiff,*

v.

**EBENEZER K. HOWE IV, et al**  
*Defendants,*

#### **ORDER** **(August 9, 2021)**

Pending before the Court are Defendant Howe's "Emergency Motion to Recuse Magistrate C.W. Dale" (Dkt. 76), and "Emergency Motion to Strike Mag. Order to Enter Default [Doc. 75]," (Dkt. 77). Howe filed the instant motions in response to Judge Dale's Order that Defendants file an answer to the complaint on or before August 20, 2021. Dkt. 75.

Judge Dale's Order warned Howe that any motion, pleading, document, or other paper filed which was not an answer, and which again raised arguments that have been repeatedly rejected by this Court and by the United States Court of Appeals for the Ninth Circuit, would be considered a failure to answer or otherwise appear.

Howe's Emergency Motion to Recuse (Dkt. 76) is **DENIED** for the reasons previously set forth in the Court's March 31, 2020 Order. Dkt. 45. The grounds upon which Howe requests recusal now are frivolous and unsupported by any evidence. The Court previously rejected these same arguments. *Id.*

Howe's Emergency Motion to Strike is also **DENIED**. Howe again raises arguments that the IRS operates pursuant to a record falsification program, and that the Federal Judiciary supports such

misconduct. Howe requests that the Court compel the IRS to provide documents. These arguments have been rejected repeatedly by the Court and by the Ninth Circuit. Dkts. 43, 44, 45, 47, 50, 59, 64, 70, 71. Further, the filing is in violation of the Court's Order directing Howe to file an answer to the complaint, and warning Howe that any filing that was not an answer to the complaint would be considered a failure to answer. Dkt. 75. The motion is, therefore, **DENIED**.

Any further motions, documents, or other papers filed by Defendants that do not comply with the Court's Order and with Fed. R. Civ. P. 8(b), (c), and (d) will be summarily denied. Dkt. 75<sup>1</sup>

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<sup>1</sup> The only reason the Court is addressing these two motions at all is that the first (Dkt. 76) calls into question Judge Dale's authority to preside over this case and the second (Dkt. 77) calls into question the underlying order itself. The undersigned reaffirms the referral to Judge Dale in this case (Dkt. 27) and reaffirms the validity of Judge Dale's recent Order (Dkt. 75). With that, the Court notes it will not—consistent with Judge Dale's Order—address or acknowledge any other filings submitted by Howe unless it is an Answer to the Complaint.

IT IS HEREBY ORDERED THAT:

1. Howe's Motions (Dkts. 76, 77) are **DENIED**.
2. Judge Dale's August 2, 2021 Order is in full force and effect. Defendants are **ORDERED** to comply with said Order (Dkt. 75) and file an answer on or before August 20, 2021.

Dated: August 9, 2021

/s/ David C. Nye  
David C. Nye  
Chief U.S. District Judge

## APPENDIX B

### UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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Appeal No. 21-70662

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District Court Civil Action No.  
19-cv-421 (DCN-CWD)  
District of Idaho, Boise

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EBENEZER K. HOWE IV, et al  
*Plaintiffs,*

v.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO, BOISE  
*Respondent,*

UNITED STATES OF AMERICA,  
*Real Party in Interest,*

ORDER  
(April 15, 2021)

Before: CLIFTON, MURGUIA, and BRESS,  
Circuit Judges.

Petitioners have not demonstrated that this  
case warrants the intervention of this court by  
means of the extraordinary remedy of mandamus.

*See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

No further filings will be accepted in this closed case.

**DENIED.**

## APPENDIX C

### UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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**Appeal No. 21-35125**

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**District Court Civil Action No.  
19-cv-421 (DCN-CWD)  
District of Idaho, Boise**

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**UNITED STATES OF AMERICA,  
*Plaintiff, Appellee,***

**v.**

**EBENEZER K. HOWE IV, et al  
*Defendant, Appellant,***

**PHI DEVELOPMENT LLC,  
*Defendant,***

**ORDER  
(March 11, 2021)**

Before: M. SMITH, BADE, and BUMATAY,  
Circuit Judges.

Appellee's motion to dismiss this appeal for  
lack of jurisdiction is granted (Docket Entry No. 7).

*See* 28 U.S.C. § 1291; *McCright v. Santoki*, 976 F.2d 568, 569-70 (9th Cir. 1992) (order denying plaintiff's motion for Rule 11 sanctions against opposing counsel can be effectively reviewed on appeal from final judgment in underlying action); *see also* *Branson v. City of Los Angeles*, 912 F.2d 334, 336 (9th Cir. 1990) (denial of reconsideration of non-appealable order is itself not appealable).

**DISMISSED.**