

20-1726

ORIGINAL

In The  
Supreme Court of the United States

No.

Supreme Court, U.S.  
FILED

JUN 09 2021

OFFICE OF THE CLERK

ROY J. MEIDINGER,  
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,  
Respondent

On Petition For Writ Of Certiorari  
To the United States Court of Appeals for the Federal Circuit  
and  
On Petition for Writ of Certiorari  
To the United States Court of Appeals for the District of Columbia Circuit

PETITION FOR WRIT OF CERTIORARI

Roy J. Meidinger  
14893 American Eagle Ct.  
Fort Myers, Fl. 33912  
Tel No. 239-694-5597  
Email RoyJMeidinger@comcast.net

Signature Roy J. Meidinger  
Date 6/9/2021

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6/9/2021

## **QUESTIONS PRESENTED**

The questions presented for review, deal with aspects of a single subject matter reference, The Tax Relief and Health Care Act of 2006, Pub. L. 109–432, div. A, title IV, §406(a)(1), Dec. 20, 2006, 120 Stat. 2958. (26 USC § 7623(b))

(1) What are each courts' jurisdiction authority and limitations of Whistleblower contracts of the Tax Court, and the Federal Claims Court, created under 26 USC § 7623(b)?

(2) What are each courts' jurisdiction authority and limitations of Whistleblower Office administrative procedures by the Tax Court, and the Federal Claims Court, created under The Tax Relief and Healthcare Act of 2006?

(3) Whether, under 26 USC § 7623(b), can a Whistleblower have a contractual relationship with the IRS Whistleblower Office without an express contract?

(4) When is the contract formed between the Whistleblower and the IRS Whistleblower Office?

## LIST OF PARTIES

The caption of the case contains the names of all the parties.

ROY J. MEIDINGER, SR.  
Plaintiff - Appellant

Roy J. Meidinger, Sr., -  
Direct: 239-694-5597  
Email: royjmeidinger@comcast.net  
[NTC Pro Se]  
14893 American Eagle Court  
Fort Myers, FL 33912

v.

UNITED STATES  
Defendant - Appellee

Antonia Ramos Soares, Esq., -  
Direct: (202) 305-7405  
Email: antonia.soares@usdoj.gov  
[LD NTC Government]  
Department of Justice  
Commercial Litigation Branch, Civil Division  
PO Box 480  
Ben Franklin Station  
Washington, DC 20044  
Patricia M. McCarthy, Assistant Director  
Email: patricia.mccarthy@usdoj.gov  
[COR Government]  
Department of Justice  
Commercial Litigation Branch, Civil Division  
PO Box 480  
Ben Franklin Station  
Washington, DC 20044

## **Corporate Disclosure Statement**

There are no Corporations involved in this case.

**List of all proceedings in state and federal trial and appellate courts**

- 1. United States Court of Appeals for the Federal Circuit – Meidinger v. USA – Case No. 2020-1518
- 2. United States Court of Appeals for the District of Columbia Circuit – Meidinger v. CIR – Case No. 19-1021
- 3. United States Court of Federal Claims – Meidinger v. United States - Case No. 1:19-cv-01521

## Table of cited Authorities

- A. Amendment One of the Constitution of the United States
- B. The Tax Relief and Healthcare Act of 2006
- C. 26 USC § 7623
- D. 26 USC § 7623(b)
- E. 26 USC § 7623(b)(4)
- F. 26 USC § 7623(b)(6)(a)
- G. The Tucker Act - 28 U.S. Code § 1491
- H. IRM 25.2.1
- I. IRM 25.2.2

IRM 25.2.2.4 – Initial Review of the Form 211 by the  
Whistleblower Office

IRM 25.2.2.7 – Processing of the form 211 7623(b) Claim of Award

IRM 25.2.2-3 – Acknowledgement Letter

**Citations of the official and unofficial reports of the opinions and orders entered in the case by courts or administrative agencies.**

The U.S. Appeals Court for the Federal Circuit says that only the Tax Court can handle contractual disputes, due to 26 USC § 7623(b)(4) Appeal of award determination

“Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).”

The U.S. Appels Court for the Federal Circuit stated, 26 USC § 7623(b)(6)Additional rules, (A)No contract necessary

“No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.”,  
(Doc 24 pg 8) “...as demonstrated in the new version of § 7623(b)(6)(A) making clear that no contract is needed to support an award. This provision supports jurisdiction in the Tax Court to grant an award absent a contract; it does not enlarge the jurisdiction of the Court of Federal Claims.”

(Doc 24, pg 6) The D.C. Circuit affirmed the decision of the Tax Court. In its opinion the Circuit stated that “[i]nsofar as [Mr. Meidinger] seeks to pursue a breach of contract claim against the Internal Revenue Service, such a claim is properly filed in the U.S. Court of Federal Claims.” Meidinger v. Comm’r of I.R.S., 771 F. App’x. 11, 12 (D.C. Cir. 2019).

## TABLE OF CONTENTS

Questions Presented	i
List of Parties	ii
Corporate Disclosure Statement	iii
List of all proceedings in State and Federal Trial Appellate Courts	iv
Table of Cited Authorities	v
The Citations of Opinions and Orders Entered in the case by Courts	vi
Table of Contents	vii
Jurisdiction	1
Statement of the case	1
Argument	2
Introduction	2
Background of Dispute with IRS	2
Whistleblower Internal Revenue Manuals	2

Negotiations and specification of award amounts are no longer done because they are now mandated by law	3
Bilateral contracts involve equal obligation from the offeror and the offeree	5
Why the Writ should be approved	7
Appendix	vii
Order from U.S. Court of Appeals for the Federal Circuit	
Order From the U.S. Court of Appeals for the District of Columbia	

## **Jurisdiction**

JURISDICTION ON WRIT OF CERTIORARI Rule 10(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter.

U.S. Court of Appeals for the Federal Circuit Case No. 2020 – 1518

### Docket Filings

03/08/2021  
25

JUDGMENT. AFFIRMED.  
Terminated on the merits after submission on the briefs.  
COSTS: Costs taxed against Appellant(s). Mandate to issue in due course. For information regarding costs, petitions for rehearing, and petitions for writs of certiorari click [here](#). [760617] [JCP] [Entered: 03/08/2021 09:28 AM]

05/14/2021  
32

ORDER filed. Roy J. Meidinger's motion [30] is construed as a second combined petition for rehearing and denied. The motion [31] to supplement is denied. By: Per Curiam. Service as of this date by the Clerk of Court. [774933] [MJL] [Entered: 05/14/2021 08:38 AM]

<https://ecf.cafc.uscourts.gov/docs1/01301781452>

05/21/2021  
35

Mandate issued to the United States Court of Federal Claims. Service as of this date by the Clerk of Court. [776516] [JCP] [Entered: 05/21/2021 03:42 PM]

## **Statement of the Case**

The U.S. Appeals Court for the Federal Circuit says the Tax Court is the only Court that can arbitrate contractual whistleblower disputes created under 26 USC §

7623(b); the U.S. Court of Appeals for the District of Columbia says the Federal Claims Court is the only Court that can arbitrate contractual whistleblower disputes created under 26 USC § 7623(b).

The Court of Federal Claims says there can only be a contractual relationship between the Whistleblower and the IRS Whistleblower Office if there exists a written contract that specifies the amount of the reward.

The Appellant believes the Court of Federal Claims is authorized to settle contractual disputes and the new IRS Whistleblower law requires no written contract to get an award and the new law specifies the method of determining the amount of the reward.

## **Argument**

### **Introduction**

It is evident the U.S. Appeals Court for the Federal Circuit made a legal error in their review. The Court continually referenced the old informant reward program of 26 USC § 7623 and cases prior to the Tax Relief and Healthcare Act of 2006 and not the new Whistleblower reward program that created 26 USC § 7623(b); § 7623 was done away with and redesignated as § 7623(a). The new law took away the discretionary authority of the Internal Revenue Service of determining award amounts, removed the requirement of a written contract and gave greater rightd to Whistlblowers.

### **Background of Dispute with Internal Revenue Service**

The IRS believed that a private contract between the healthcare providers and the healthcare insurance companies overrode the tax code. (See Docket 34 for discussion of Healthcare Industry)

## **Whistleblower Internal Revenue Manuals**

- IRM 25.2.1, General Operating Division Guidance for Working Whistleblower Claims — This chapter provides procedures and guidance for all Service personnel to follow when dealing with whistleblowers' claims for award.
- IRM 25.2.2, Whistleblower Awards — This chapter provides procedures and guidance for all Service personnel to follow when dealing with payment of whistleblowers' claims for award.

**Negotiations and specification of award amounts are no longer done because they are now mandated by law.**

The Tax Relief and Healthcare Act of 2006 created a new section of 26 USC § 7623 - Expenses of detection of underpayments and fraud, now includes 26 USC § 7623(b), wherein the old whistleblower law is redesignated as 26 USC § 7623(a). The designation of either (a) or (b) claim is determined by the tax revenues the Whistleblower says is lost. If the Whistleblower states the tax revenues meet or exceed the requirements of § 7623(b)(5), the claim is handled as a § 7623(b) claim.

The new section created a unilateral contract whereby the Whistleblower supplies information about a credible tax evasion scheme and the IRS collects taxes. The new section eliminated the discretionary authority of the IRS of determining award amounts, it created contributing factors that determine the award, see 26 USC § 7623(b)(1 – 3).

The contract is formed when the Whistleblower accepts the conditions, submits the 211 claim form that identifies a credible tax evasion scheme, and includes supporting documentation. The IRS Whistleblower Office accepts the 211 claim and assigns a claim number.

The Whistleblower is subject to fines and imprisonment; the Whistleblower must sign the 211 forms under penalty of perjury.

26 USC § 7623(b)(6)(c), Submission of Information:

“No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.”

This legal requirement places a greater responsibility on the Whistleblower; therefore, the Whistleblower has a stronger contractual claim.

In the Tax Relief and Healthcare Act of 2006, section 406, Congress established the IRS Whistleblower Office and mandated the IRS create administrative procedures for handling claims. The primary methods of establishing a legal relationship between the Whistleblower Office are stated in IRM 25.2.1 and IRM 25.2.2.:

- A. IRS claim form must be submitted and certified under penalty of perjury by Whistleblower,
- B. The IRS Whistleblower Office evaluates it and either reject it or accepts it.
- C. Upon acceptance, the IRS Whistleblower Office posts the information and assigns a claim number.
- D. The claim number and a notice of acceptance is sent to the Whistleblower.

E. The claim number and date establishes the Whistleblower's right to the award and places him before other similar claims come in.

The IRS Whistleblower Office did send a notice of acceptance and issued a claim number.

The Tax Relief and Health Care Act of 2006, 26 USC § 7623(b)(6)(a) removed the requirement for a written contract to get an award. In the Internal Revenue Whistleblower Procedural Manuals, i.e., IRM 25.2.1 & IRM 25.2.2, for § 7623(b), there is no requirement for a written contract. The new law statute of § 7623(b) removed the discretionary authority of the IRS in determining the amount of a reward.

**Bilateral contracts involve equal obligation from the offeror and the offeree.**

An implied contract is a legally binding obligation that derives from the actions, conduct, or circumstances of one or more parties in an agreement. It has the same legal force as an express contract, a contract that is voluntarily entered into and agreed on verbally or in writing by two or more parties. The offer of an award by the IRS is an unambiguous offer. The submission of a 211 claim form by the Whistleblower is a straightforward acceptance. The submission of information by the Whistleblower and the issuance of an acceptance letter listing a 211 claim number by the IRS show by their conduct, they both wish to be bound by a contract.

The First Amendment guarantees the right of a citizen to "to petition their government." The right to petition the government for a redress of grievances

guarantees people the right to ask the government to provide relief for a wrong through litigation or other governmental action.

The Tucker Act gave citizens the right to bring actions about expressed or implied contracts in Federal Claims Court. 28 U.S. Code § 1491 - Claims against United States generally; actions involving Tennessee Valley Authority

(a)

(1)The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

The Tax Relief and Health Care Act of 2006 did not in any manner change the Tucker Act or take away the jurisdiction of the Court. There is no record of any amendment stating the Whistleblowers' contracts with the IRS Whistleblower Office must be handled by the Tax Court.

The Tax Court and D.C. Appeals Court have firmly stated the tax court is limited to reviewing the administrative procedures under the Administrative Procedures Act and has no authority to adjudicate IRS Whistleblower contractual disputes. The Tax Court also holds it has no authority to determine an award amount, or order the IRS to do an investigation. The Tax Court holds this belief under the separation of authority between the branches of government, that only the IRS can determine the taxes due. The Tax Court holds that it can only review the administrative procedures of the IRS, by proxy the IRS Whistleblower Office.

26 USC § 7623(b)(4) does not limit the Whistleblower to one Court, in its text Congress inserted the word “may”; in 28 USC § 1491(a)(1) the words “The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States...” limiting contractual disputes to Federal Claims Court.

The Federal Court of Claims has two authorities the Tax Court does not have. The Court can award damages and/or order specific performance of the contract. Specific performance is a contractual remedy in which the Court orders a party to actually perform its promise as closely as possible, because monetary damages are somehow inadequate to fix the harm.

### **Why the Writ should be approved**

The first amendment guarantees a citizen the right to sue the government. In order to sue the government concerning Whistleblower contractual dispute the Appellant needs a court that has jurisdiction over any contract dispute. The Supreme Court should answer the four questions and identify the rights of the Whistleblower.

/s/ Roy J. Meidinger

Dated 6/8/2021