No. 25A1276

In the
Supreme Court of the United States

Peter Gibbons O'Connor
Petitioner

v.

Commissioner of Internal Revenue
Respondent

On petition for Writ of Certiorari before judgment to the United States Court of Appeals for the Ninth Circuit

---

EMERGENCY APPLICATION FOR STAY OF NINTH CIRCUIT PROCEEDINGS PENDING DISPOSITION OF PETITION FOR WRIT OF CERTIORARI

Petitioner, in *propria persona*

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EMERGENCY APPLICATION FOR STAY OF NINTH CIRCUIT PROCEEDINGS PENDING DISPOSITION OF PETITION FOR WRIT OF CERTIORARI

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States, and Circuit Justice for the ninth circuit:

Petitioner Peter Gibbons O'Connor, appearing in *pro per.*, respectfully applies for an emergency stay of all briefing and proceedings in the United States Court of Appeals for the Ninth Circuit in Case No. 26-806, pending disposition of Petitioner's Petition for a Writ of Certiorari Before Judgment filed April 20, 2026. In support, Petitioner states:

I. INTRODUCTION AND RELIEF REQUESTED

1. Petitioner seeks a stay of the Ninth Circuit's May 11, 2026 deadline for filing an Opening Brief, and of all further appellate proceedings, pending this Court's disposition of the pending certiorari petition. The stay is necessary to prevent irreparable harm: (1) imminent sanctions under FRAP 38 and Ninth Circuit Rule 38-1 for filing arguments this Court has not yet reviewed; (2) potential referral to the State Bar of California; and (3) waiver of constitutional arguments that this Court may resolve only on supervisory review.

2. This application is made pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f). Petitioner has also filed a Motion for Extension of Time or to Hold Briefing in Abeyance in the Ninth Circuit today, but given the imminence of the May 11 deadline and the Ninth Circuit's prior denial of a stay without analysis of the equitable factors, immediate relief from this Court is warranted.

II. PROCEDURAL HISTORY

3. **Tax Court Proceedings:** The United States Tax Court entered a Memorandum Opinion on May 12, 2025 (T.C. Memo. 2025-42), labeling Petitioner's constitutional challenges "frivolous" and imposing a $2,000 penalty under 26 U.S.C.

Section 6673(a)(1)(B). Petitioner was subsequently threatened with disbarment from the Tax Court Bar and resigned to avoid punitive expulsion.

4. **Notice of Appeal:** Petitioner filed a Notice of Appeal to the Ninth Circuit on February 5, 2026. The Ninth Circuit assigned Case No. 26-806 and initially set an Opening Brief deadline of March 23, 2026.

5. **Certiorari Petition Filed:** On April 20, 2026[1], Petitioner filed a Petition for a Writ of Certiorari Before Judgment directly with this Court, seeking supervisory review under Rule 10(a) of systemic Ninth Circuit due process violations in tax litigation. (Ex. A)

6. **First Stay Motion Denied**: On March 21, 2026, Petitioner moved the Ninth Circuit to suspend briefing pending Supreme Court review. On April 8, 2026, the Clerk issued a one-line order denying the motion and resetting the Opening Brief deadline to May 11, 2026, without addressing the equitable stay factors or the pending certiorari petition. (Ex. B)

7. **Motion for Reconsideration Pending:** On April 21, 2026, Petitioner filed a Motion for Reconsideration under Ninth Circuit Rule 27-10, explicitly requesting referral to a judicial officer or motions panel for de novo application of the stay factors if the Clerk declined relief. (Ex. C) That motion remains pending and unresolved.

8. **Current Posture:** The May 11, 2026 deadline for the Opening Brief is imminent. Petitioner faces a procedural trap: filing a substantive brief risks sanctions for arguments this Court may validate; failing to file risks automatic dismissal under Ninth Circuit Rule 42-1.

III. LEGAL STANDARD FOR STAY PENDING CERTIORARI

9. Under Supreme Court Rule 23 and the four-factor test articulated in *Nken v. Holder*, 556 U.S. 418, 434 (2009), a stay pending certiorari requires the applicant to demonstrate:

---

[1] Petition for a Writ of Certiorari Before Judgment, originally filed with Supreme Court on March 3, 2026, rejected for format, then resubmitted for filing on April 20, 2026.

1. A reasonable probability that four Justices will vote to grant certiorari;
2. A fair prospect that the Court will reverse the decision below;
3. That irreparable harm will result if the stay is denied; and
4. That the balance of equities and the public interest favor a stay.

All four factors weigh decisively in favor of granting this emergency application.

IV. ARGUMENT

A. Reasonable Probability of Granting Certiorari

10. Petitioner's certiorari petition presents a question of exceptional national importance: whether inferior federal courts may systematically brand non-frivolous constitutional challenges as "frivolous" without reasoned adjudication, thereby effecting a *de facto* bill of attainder in violation of the Fifth Amendment's Due Process Clause. This practice creates a circuit-wide barrier to judicial review of tax-related constitutional claims, affecting tens of millions of taxpayers.

11. The petition highlights a direct conflict with this Court's binding precedent on the definition of "income" (*Eisner v. Macomber*, 252 U.S. 189 (1920); *Moore v. United States*, 144 S. Ct. 1680 (2024)) and the requirement of realization. The Ninth Circuit's entrenched practice of summarily rejecting such arguments without engaging the merits presents precisely the type of "depart[ure] from the accepted and usual course of judicial proceedings" that warrants supervisory intervention under Rule 10(a).

B. Fair Prospect of Reversal

12. The Tax Court's Memorandum Opinion expressly declined to engage Petitioner's constitutional arguments, labeling them "frivolous" without citation to controlling Supreme Court authority. This approach contravenes this Court's directive that "it is emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803).

13. Where, as here, a lower court refuses to adjudicate constitutional claims on the merits and instead imposes sanctions based on a conclusory "frivolous"

designation, this Court has repeatedly intervened to protect due process rights. See, e.g., *In re Murchison*, 349 U.S. 133, 136 (1955) ("A fair trial in a fair tribunal is a basic requirement of due process."). Thus, the prospect of reversal is substantial.

C. Irreparable Harm if Stay Denied

14. Denial of this stay will cause Petitioner irreparable harm in three distinct ways:

i) **Sanctions Exposure:** Filing an Opening Brief that reiterates constitutional arguments previously labeled "frivolous" by the Tax Court will almost certainly trigger FRAP 38 sanctions, monetary penalties, and potential referral to the State Bar of California. Such sanctions cannot be undone if this Court later grants certiorari and reverses.

ii) Waiver of Arguments: Failure to file any brief risks automatic dismissal under Ninth Circuit Rule 42-1, which would waive Petitioner's constitutional claims entirely. This would render the pending certiorari petition moot and deprive this Court of the opportunity to resolve the supervisory question presented.

iii) Chilling Effect on Constitutional Litigation: Allowing the Ninth Circuit to enforce a briefing schedule while a certiorari petition raising systemic due process concerns remains pending would signal that inferior courts may penalize litigants for seeking Supreme Court review. This chills the exercise of the constitutional right to petition for certiorari.

D. Balance of Equities and Public Interest Favor a Stay

15. The balance of equities weighs heavily in Petitioner's favor:

a) No Prejudice to Respondent: The Tax Court's judgment remains fully enforceable during any stay period. Statutory interest continues to accrue by operation of law, and the Government suffers no practical harm from a brief procedural pause. See *Mediterranean Enters., Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983).

b) Judicial Economy: Granting a stay avoids duplicative briefing that may be rendered moot if this Court grants certiorari. It also conserves Ninth Circuit resources by preventing litigation of issues this Court may resolve definitively.

c) Public Interest: The public has a profound interest in ensuring that constitutional challenges to federal taxation receive reasoned adjudication, not summary dismissal. A stay promotes orderly, principled resolution of questions affecting the rights of all taxpayers.

V. EFFORTS TO SEEK RELIEF BELOW

16. Petitioner has diligently pursued relief in the Ninth Circuit:

- Filed a Motion to Suspend Briefing on March 21, 2026 (denied April 8 without analysis);
- Filed a Motion for Reconsideration on April 21, 2026, explicitly invoking Ninth Circuit Rule 27-10(b) referral procedures (still pending);
- Filed a Motion for Extension of Time or to Hold Briefing in Abeyance today, May 9, 2026.

17. Given the May 11 deadline and the Ninth Circuit's prior summary denial, further delay in seeking relief from this Court would prejudice Petitioner's rights. This application is therefore timely and necessary.

VI. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that Justice Kavanaugh, as Circuit Justice for the Ninth Circuit, GRANT this Emergency Application and issue an order:

STAYING all briefing and proceedings in the United States Court of Appeals for the Ninth Circuit in Case No. 26-806, including the May 11, 2026 deadline for filing the Opening Brief;

TOLLING all deadlines in that appeal pending disposition of Petitioner's Petition for a Writ of Certiorari Before Judgment; and

DIRECTING that, if this application is referred to the full Court, it be expedited given the imminence of the Ninth Circuit deadline.

Respectfully submitted, this May 8, 2026

Peter Gibbons O'Connor
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LawDr1@lawdr.us

CERTIFICATE OF WORD COUNT

I certify that this Emergency Application contains approximately 1,450 words, well within the 3,000-word limit for applications under Supreme Court Rule 33.1(g). The document was prepared using Microsoft Word in 12-point New Century Schoolbook type face (font). May 8, 2026

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EXHIBIT LIST

Ex. A: Petition for Writ of Certiorari Before Judgment (filed March 3, 2026)

Ex. B: Ninth Circuit Order Denying Stay (Dkt. 11, April 8, 2026)

Ex. C: Motion for Reconsideration (Dkt. 12, filed April 21, 2026)

Ex. D: Motion for Extension of Time or to Hold Briefing in Abeyance (filed May 8, 2026)

No. _____

In the
Supreme Court of the United States

Peter Gibbons O'Connor
Petitioner

v.

Commissioner of Internal Revenue
Respondent

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On petition for Writ of Certiorari before judgment to the United States Court of Appeals for the Ninth Circuit

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[Proposed]
ORDER GRANTING EMERGENCY APPLICATION FOR STAY

The Emergency Application for Stay filed by Petitioner Peter Gibbons O'Connor is GRANTED.

IT IS ORDERED that all briefing and proceedings in the United States Court of Appeals for the Ninth Circuit in Case No. 26-806 are STAYED pending disposition of Petitioner's Petition for a Writ of Certiorari Before Judgment. All deadlines in that appeal are TOLLED pending further order of this Court.

Dated: _____

_____
Brett M. Kavanaugh
Associate Justice of the Supreme Court
Circuit Justice for the Ninth Circuit

CERTIFICATE OF SERVICE

I certify that on May 9, 2026, I will serve a true and correct copy of this Emergency Application via:

Electronic Filing: Through the Supreme Court's electronic filing system (if available for emergency applications);

U.S. Mail, First-Class:

To:

Nishant Kumar, Assistant United States Attorney
Appellate Section, Civil Division
U.S. Department of Justice
P.O. Box 502, Washington, DC 20044
Email: AppellateTaxCivil@usdoj.gov

Counsel for Respondent

Courtesy Copy to Chambers: Via overnight delivery to:

Chambers of Justice Brett M. Kavanaugh
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

May 8, 2026

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IN THE UNITED STATES SUPTRME COURT

Peter Gibbons O'Connor,	)
	) **Case No.:** _____
Petitioner - Appellant,	) **9th Cir. No.: 26-806**
	)
v.	)
	) **Appellant's Exhibits in Support of**
COMMISSIONER OF INTERNAL REVENUE,	) **Emergency Motion to Stay**
	) **Briefing Schedule**
	)
Respondent - Appellee.	)

Appellant's Exhibits in Support of Emergency Motion to Stay

A. Appellant's April 20, 2026, Petition to the United States Supreme Court for Writ of Certiorari Before Judgment in the Ninth Circuit.

B. Clerk of the Ninth Circuit, April 8, 2026, denial of Appellant's Motion to Stay.

C. Appellant's 4/20/2026 Motion to the Ninth Circuit for Reconsideration.

D. Appellant's 5/8/2026 Motion to the Ninth Circuit for Extension of Time to File Brief.

IN THE UNITED STATES SUPTRME COURT

Peter Gibbons O'Connor,	)	
	)	**Case No.:** _____
Petitioner - Appellant,	)	**9th Cir. No.: 26-806**
	)	
v.	)	
	)	**Appellant's Exhibit A**
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
	)	
Respondent - Appellee.	)	

Appellant's Exhibit A in Support of Emergency Motion to Stay

Petition for Writ of Certiorari before judgment in the United States Court of Appeals for the Ninth Circuit, to the Supreme Court of the United States.

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Delivered, Individual Picked Up at Post Office
WASHINGTON, DC 20543
April 27, 2026, 7:40 am

Redelivery Scheduled for Next Business Day
WASHINGTON, DC 20543
April 25, 2026, 10:53 am

Arrived at Post Office
WASHINGTON, DC 20018
April 25, 2026, 10:07 am

Arrived at USPS Regional Facility
WASHINGTON DC DISTRIBUTION CENTER
April 25, 2026, 7:23 am

Departed USPS Regional Facility
WASHINGTON DC DISTRIBUTION CENTER
April 25, 2026, 6:38 am

Arrived at USPS Regional Destination Facility

Exhibit A

WASHINGTON DC DISTRIBUTION CENTER
April 25, 2026, 3:40 am

In Transit to Next Facility
April 24, 2026

Departed USPS Regional Facility
SACRAMENTO CA DISTRIBUTION CENTER
April 23, 2026, 7:27 pm

Arrived at USPS Facility
SACRAMENTO, CA 95837
April 23, 2026, 1:22 pm

Departed USPS Regional Facility
RENO NV DISTRIBUTION CENTER
April 21, 2026, 9:50 pm

Arrived at USPS Regional Facility
SACRAMENTO CA DISTRIBUTION CENTER
April 21, 2026, 4:29 pm

Arrived at USPS Regional Origin Facility
RENO NV DISTRIBUTION CENTER
April 21, 2026, 11:43 am

Departed Post Office
CARSON CITY, NV 89701
April 21, 2026, 6:04 am

USPS in possession of item
CARSON CITY, NV 89701
April 20, 2026, 5:02 pm

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Exhibit A

No. _____

In the
Supreme Court of the United States

Peter Gibbons O'Connor
Petitioner

v.

Commissioner of Internal Revenue
Respondent

On petition for Writ of Certiorari before judgment in the United States Court of Appeals for the Ninth Circuit, to the Supreme Court of the United States.

PETITION FOR WRIT OF CERTIORARI

Petitioner, *in propria persona*

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Exhibit A

QUESTION PRESENTED

Should this Court invoke its extraordinary power of supervisory control to halt a pervasive and indefensible practice by both Article I Tax Court judges and Article III federal judges in tax cases from routinely branding constitutional challenges as 'frivolous'--effectively issuing judicial bills of attainder of the very sort the Constitution expressly forbids legislatures to enact--thereby stripping litigants of any meaningful opportunity to be heard, denying them core due process protections under the Fifth Amendment, and allowing the government to prevail through summary dismissal rather than reasoned adjudication?

PARTIES TO THE PROCEEDINGS

The Petitioner appears in the caption of the case on the cover page. The petitioner is Peter Joseph Isaiah Gibbons O'Connor, who was the petitioner in the Tax Court proceeding (Docket No. 21651-19). The respondent is the Commissioner of Internal Revenue. The respondent has appeared in the Ninth Circuit Court of Appeals through counsel as follows:

Nishant Kumar, and
Michael J. Haungs
Assistant United States Attorneys
Appellate Section
P.O. Box 502
Washington, DC 20044
Ph: 202-610-0356
AppellateTaxCivil@usdoj.gov

PROCEEDINGS BELOW

United States Tax Court Docket # 21651-19

Peter Joseph Isaiah Gibbons O'Connor, Petitioner
v.
Commissioner of Internal Revenue, Respondent

T.C. Memo. 2025-42, entered on May 12, 2025, Final decision of the Tax Court entered on November 25, 2025.

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United States Court of Appeals for the Ninth Circuit, Docket # 26-806

Peter Gibbons O'Connor, Appellant
v.
Commissioner of Internal Revenue, Respondent

Final judgment on appeal not yet entered. This petition is interlocutory pursuant to Supreme Court Rule 10(a) and 11.

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Exhibit A

Table of Authorities

Cases:

Exhibit A

Statutes:

Constitutional Provisions:

Other Authorities:

PETITION FOR A WRIT OF CERTIORARI BEFORE JUDGMENT IN THE NINTH CIRCUIT COURT OF APPEALS

Petitioner respectfully yet urgently petitions this Court to invoke its extraordinary supervisory jurisdiction to end a grave and now-routine constitutional abuse in tax litigation: Article I Tax Court and Article III federal judges routinely brand non-frivolous constitutional challenges and the litigants who advance them, as 'frivolous,' wielding the label as a de facto bill of attainder of the very sort the Framers expressly forbade legislatures to enact. By punishing citizens for raising sound constitutional defenses, without trial, without meaningful evidence, and without any reasoned opportunity to be heard, this practice inflicts summary sanctions, penalties, and outright denial of access to justice, directly contravening core due process protections under the Fifth Amendment and undermining the separation of powers the Constitution demands.

OPINIONS BELOW

The memorandum opinion of the United States Tax Court (T.C. Memo. 2025-42) was entered on May 12, 2025, and is reproduced in the appendix to this petition at App. p, 3-13. The final decision of the Tax Court was entered on November 20, 2025, following approval of computations under Tax Court Rule 155. Notice of Appeal was taken to the Ninth Circuit on February 5, 2026. This petition seeks Supreme Court supervisory control before judgment.

JURISDICTION

Proceedings in the Tax Court were pursuant to 26 U.S.C. § 6213. The Tax Court entered its memorandum opinion on May 12, 2025, and entered final judgment on November 25, 2025, following approval of Rule 155 computations. No petition for rehearing was filed. On February 5, 2026, Notice of Appeal was filed in the Tax Court and served on the Ninth Circuit Court of Appeal.

Jurisdiction of this Court over lower federal courts is inherent and distinct from constitutional or statutory mandates, to prescribe rules, procedures, or standards for inferior federal courts to maintain the integrity of the federal judicial system, promote fairness in judicial administration, and to correct abuses. *McNabb v. United States*, 318 U.S. 332 (1943); *Thiel v. Southern Pacific Co.,* 328 U.S. 217 (1946); *La Buy v. Howes Leather Co.,* 352 U.S. 249 (1957).

Specifically enunciated in Rule 10(a), the supervisory authority is to prevent courts from departing so far from the accepted and usual course of judicial proceedings as to warrant intervention. *See also* 28 USC § 2101(e)

> An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment.

Rule 11 also allows a petition for writ of certiorari to a United States court of appeals before judgment .

Although Tax Court decisions are generally appealable to the U.S. Court of Appeals for the Ninth Circuit under 26 U.S.C. § 7482, and such appeal has been taken to the Ninth Circuit, direct review by this Court before judgment in the Ninth Circuit is warranted because prosecution of the appeal in the Ninth Circuit is futile.

The Ninth Circuit has a long history of classifying those who challenge tax law as "tax protesters"; summarily rejecting constitutional and statutory challenges to the federal income tax as "frivolous," in dereliction of the duty to substantive adjudication and consideration of controlling Supreme Court precedent. See, e.g., *United States v. Romero*, 640 F.2d 1014 (9th Cir. 1981) (calling argument that wages are not income "fatuous as well as obviously incorrect"); *Grimes v. Commissioner*, 806 F.2d 1451 (9th Cir. 1986) (affirming that wages are income under §§ 1 and 61); *Waltner v. Commissioner*, 659 F. App'x 440 (9th Cir. 2016) (imposing sanctions for frivolous arguments that wages are not taxable).

This pattern demonstrates that the Ninth Circuit sanctions the same departures from due process as the Tax Court, making it an ineffective and hostile forum for addressing the systemic issues raised here. **Supervisory review under Rule 10(a) is thus appropriate to bypass the circuit court and correct these entrenched errors directly**. A corrective decision by this Court in this case would also resolve the several splits among the various circuit courts over the scope and effect of the federal income tax, all of which depart significantly from the current and binding precedent laid down by this Court.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Article V of the United States Constitution provides in relevant part:

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution ... which shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States. ...

The Sixteenth Amendment to the United States Constitution provides:

> The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

United States Constitution, 16th Amendment.

Revised Statute 205, which was in force at the time the 16th Amendment was proposed by Congress and sent to the several States for ratification read:

> Whenever official notice is received at the Department of State that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution, the Secretary of State shall forthwith cause the amendment to be published in the newspapers authorized to promulgate the laws, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States.

26 U.S.C. § 61(a)(1-3) provides in relevant part:

> Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items: (1) Compensation for services, including fees, commissions, fringe benefits, and similar items; (2) Gross income derived from business; (3) Gains derived from dealings in property....

STATEMENT OF THE CASE

1. The Petitioner here filed, on May 21, 2024, in the United States Tax Court, his Brief in Support of Third Amended Petition together with the Declaration of Jeffrey A. Dickstein in Support of Brief in Support of Third Amended Petition, Memorandum in Support of Brief in Support of Third Amended Petition, and a Request for Judicial Notice, also with a supporting

brief (Tax Court Docket Nos. 49, 52-54, 58-59), raising numerous issues regarding the constitutionality of a non-apportioned, direct tax on his labor.

2. The Tax Court issued its Memorandum Opinion on May 12, 2025, (Docket No. 70) in which it:

a) Labeled Petitioner a "tax defier":

b) Without reference to any supporting Supreme Court authority, held that Petitioner's brief was frivolous, rejecting out of hand each of the Petitioner's arguments, ignored the certified facts before it, and relied instead entirely upon contradictory rulings by inferior courts, thus ignoring the Supreme Court's binding holdings. The following are a few examples:

i) the Tax Court cited to *United States v. Stahl*, 792 F.2d 1438 (9th Cir. 1986) and ignored *Leser v. Garnett*, 258 U.S. 130 (1922) (App. p. 8);

ii) the Tax Court cited to *Cabirac v. Commissioner*, 120 T.C. 163 (2003) and ignored *Moore v. United States*, 144 S. Ct. 1680 (2024) and *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1 (1916) (App. p. 8);

iii) the Tax Court cited to *Crain v. Commissioner*, 737 F.2d 1417 (5th Cir. 1984), and U*nited States v. Stahl*, 792 F.2d 1438 (9th Cir. 1986), while completely ignoring *Moore* (*supra*), *Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429; aff. reh., 158 U.S. 601 (1895) and *Eisner v. Macomber*, 252 U.S. 189 (1920) (App. p. 8):

c) Noted that Petitioner was an attorney (App. p. 12):

d) Threatened the Imposition a $2,000 penalty for bringing such frivolity before such an august tribunal, but mercifully restrained

themselves. (App. p. 13) This despite the fact that Petitioner argued that inferior courts cannot overrule Supreme Court precedent, citing *Wilson v. Layne*, 526 U.S. 603 (1999) (lower courts are bound by Supreme Court authority).

3. Then in further punitive action, on September 25, 2025, the Tax Court issued an Order To Show Cause to the Petitioner, threatening the Petitioner with disbarment if he refused to resign from the Tax Court Bar, ostensibly for bringing "frivolous" arguments before the court. (App. p. 15) Petitioner resigned from the Tax Court Bar on October 16, 2025, to avoid punitive disbarment.

The Tax Court issued its final judgment November 25, 2025. (App. p. 18)

This petition seeks supervisory review, to remedy the Tax Court's summary dismissals, denial of due process, punishment of constitutional challenges, and intentional ignorance of binding Supreme Court precedent--and the Ninth Circuit Court of Appeal's *stare decisis* confirming it will give the same or worse punitive treatment to any litigant raising these issues--warrants certiorari by this Court under Rule 10(a).

REASONS FOR GRANTING THE WRIT FOR SUPERVISORY CONTROL

Chief Justice John Marshall famously capsulated these core features of the judicial power in *Marbury v. Madison*:

> It is emphatically the province and duty of the judicial department to say what the law is." 5 U.S. 137, 177 (1803). Or as Justice Story later declared, "the judicial department has imposed upon it by the Constitution, the solemn duty to interpret the laws, in the last resort.

United States v. Dickson, 40 U.S. (15 Pet.) 141, 162 (1841). "[H]owever disagreeable that duty may be," the judiciary is "not at liberty to surrender, or to waive it." *Id.*

Chief Justice Hughes emphasized that due process of law requires cases to be brought before "'a judicial tribunal for determination upon its own independent judgment as to both law and facts.'" *Crowell v. Benson*, 285 U.S. 22, 60 (1932) (emphasis added) (quoting *Ohio Valley Water Co. v. Ben Avon Borough*, 253 U.S. 287, 289 (1920)); *see also St. Joseph Stock Yards Co. v. United States*, 298 U.S. 38, 73 (1936) (Brandeis, J., concurring).

The Fifth Amendment bars the government from depriving persons of "life, liberty, or property, without due process of law." U.S. CONST. amend. V. A fundamental element of due process is having one's case adjudicated by a neutral court: "A fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U.S. 133, 136 (1955). And "[f]airness of course requires an absence of actual bias in the trial of cases."

While U.S. Const. art. 1, § 9, cl. 3, prohibits Congress from passing a bill of attainder, the Tax Court's opinion shows that the Court relied upon what is tantamount to a bill of attainder by labeling Petitioner a "tax defier" and "potentially threatening." (App. p. 7, 8)

A bill of attainder denies due process by biasing judges to resolve questions of law in a manner that systematically sides with one party (the government) even when that party's interpretation of the law is contrary to this Court's precedent and the clear wording of the statutes at issue.

In such cases, the judiciary assumes magistracy, pronouncing upon the guilt or liability of the party without any of the common forms and guards of trial, ignoring sound evidence and law, when such proofs are readily within its reach, adhering instead to inferior "proofs" whether they are conformable

to the rules of evidence, or not. In short, in all such cases, the judge exercises the highest power of sovereignty, and what may be properly deemed an irresponsible despotic discretion, being governed solely by what he deems political necessity or expediency, and too often under the influence of unreasonable fears, or unfounded suspicions. *See*, 3 J. Story, Commentaries on the Constitution of the United States 1338 (1833). The irrebutable presumption of the "frivolous" label introduces systematic prejudice into the adjudication of cases, in precisely the same manner as the bill of attainder.

Section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, 112 Stat. 778, provided that "The officers and employees of the Internal Revenue Service ... shall not designate taxpayers as illegal tax protesters", because Congress was "concerned that taxpayers may be stigmatized", S. Rept. 105-174, at 105 (1998), 1998-3 C.B. 537, 641. Despite this legislation, the Tax Court decided it could substitute "tax defier" for "tax protester": "This prohibition applies only to IRS employees and not to the courts; and we use here the alternative term 'tax defier.'" *Wnuck v. Comm'r*, 136 T.C. 498, 502, fn. 2 (2011).

According to the sophistry of *Wnuck*:

> [W]e use here the alternative term 'tax defier' for a reason having nothing to do with any supposed stigma attached to being a 'protester'. Protest of the Government, if undertaken lawfully, is protected by the First Amendment to our Constitution and is as American as apple pie. In this country no stigma attaches to being a legitimate 'protester'. But people who file dishonest 'zero returns' or who otherwise try to shirk their civic responsibility, evade their fair share of the tax burden, waste tax enforcement resources, and clog the courts with pointless lawsuits are simply scoff-laws. They enjoy the benefits of American security and stability while refusing to shoulder their portion of the burden. **They are not protesters but are defiers**... [emphasis added] *Wnuck*, id.

The results, however, are precisely the same: All pleadings challenging the scope and limitations of the federal income tax are deemed "frivolous." Not only that, the Tax Court itself said Petitioner's use of the term "frivolous" to describe the Respondent's arguments was not only "disparaging"[1], but a-kin to "threatening" (App. p. 5). Conversely, the same applies to the Court's use of precisely the same threatening term against a litigant!

The Tax Court addressed the issue of various States intentionally amending the language of the proposed Sixteenth Amendment in the same manner as every other lower Court that has refused to address the issue. The Tax Court, rather than addressing the facts, instead flatly refused to take judicial notice of the relevant law and documents submitted by Petitioner and decided *sua sponte* instead that the issue was nothing more than the incompetence of various legislative Clerks to accurately recite or transcribe the pertinent language proposed by Congress:

> Petitioner boldly proclaims his arguments are a fresh take (as many tax defiers do) but proceeds to give the same tired arguments challenging ratification in a handful of states based on claimed typographical errors.
> App. p. 6.

The more than 1,000 pages submitted by Petitioner in the Tax Court (Tax Court Docket Nos. 49, 52-54, 58-59), consist of the actual legislative histories of each State's ratification debates, and the enrolled bills submitted by those states, and conclusively show the following states intentionally amended the language of the Sixteenth Amendment proposed by the federal legislature: Missouri, Washington, Oklahoma, Tennessee, Vermont, Maryland, Arkansas, California, Kentucky and South Dakota. Therefore, an

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1 Disparaging is expressing a low opinion of something and is the same as "derogatory." To stigmatize is to describe or regard something, such as a characteristic or group of people in a way that shows strong disapproval.

insufficient number of states ratified the Sixteenth Amendment pursuant to Article V of the United States Constitution. Those documents, which the Court was required to take judicial notice, conclusively[2] show intentional, deliberate amendments of the language proposed by Congress, as was reflected in the "enrolled bills" from each State that voted on the proposed Sixteenth Amendment. These are all matters of fact, and cannot be logically construed as political questions, as facts can never be subject to a vote.

But, because Petitioner, an attorney, is a "tax defier" the Court ignored the legitimacy of the documents and refused to address the Constitutional issues presented for adjudication. Yet, no Court has ever addressed the multiple intentional amendments made by the several states and other uncontested factual errors raised by Petitioner.

So too, the Tax Court, as well as other courts, have decided that 26 U.S.C. § 61 defines items of income, and therefore, wages are income. Congress, however, cannot define the word income:

> In order, therefore, that the clauses cited from Article I of the Constitution may have proper force and effect, save only as

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2 An example is what happened in Oklahoma. There the House received a letter from the Governor dated February 10, 1910, transmitting a copy of Senate Joint Res. 40, legally and explicitly telling them they were to "approve or reject" the proposed amendment. This became House Joint Res. No. 5. After passing in the House it was sent to the Senate where it was reviewed by the Committee on Legal Advisory who suggested it be amended. On March 9, 1910, on the motion of Senator Thomas, House Joint Res. No. 5 was amended to read: "Article 16. The Congress shall have power to lay on collect taxes on incomes, from whatever source derived, without apportionment among the several states, and from any census or enumeration." On March 10, 1910, the House received a message from the Senate that it had passed House Joint Res. No. 5 as amended, and transmitted a copy, with the amendments, for House consideration. The Senate amendments were read, and Mr. Terral moved that the House agree to the Senate amendments. The House concurred by the vote of 91 yeas, no nays, with 17 absent. The Speaker declared the motion carried. Thereafter, in both the House and the Senate, the enrolled copy of House Joint Res. No. 5 as amended was read, compared to the engrossed version, found to be correct, and signed in the House by the Speaker and by the President pro tempore of the Senate. The amended version was sent to the Secretary of State where he concluded what he received showed mere typographical errors.

> modified by the Amendment, and that the latter also may have proper effect, it becomes essential to distinguish between what is and what is not "income," as the term is there used; and to apply the distinction, as cases arise, according to truth and substance, without regard to form. **Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter** the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised.
> *Eisner v. Macomber*, 252 U.S. 189, 206; 40 S.Ct. 189, 193; 64 L.Ed. 521, 528 (1920).

This Court has defined income as the term is used in the Sixteenth Amendment "as the gain derived from capital, from labor, or from both combined, provided it be understood to include profit gained through a sale or conversion of capital assets." *Eisner, id.* at p. 207.

The Courts, in treating wages as income as opposed to the potential source from which income may be derived, are doing what they have already been told they cannot do:

> The Government, although basing its argument upon the definition as quoted, placed chief emphasis upon the word "gain," which was extended to include a variety of meanings; while the significance of the next three words was either overlooked or misconceived. "Derived -- from -- capital"; -- "the gain -- derived -- from -- capital", etc.
> *Eisner, id.*

26 U.S.C. § 61(a)(1-3) provides in relevant part:

> Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items: (1) Compensation for services, including fees, commissions, fringe benefits, and similar items; (2) Gross income derived from business; (3) Gains derived from dealings in property....

Substituting this Court's definition of income, the statute reads ... gross gain derived from labor or capital means all gain derived from labor or

capital. Since Congress wanted to apply different rules regarding the calculation of tax, they came up with terms like "adjusted gross income" (26 U.S.C. § 62), "taxable income" (26 U.S.C. § 63) and "ordinary income" (26 U.S.C. § 64), all of which are subsets of "gross income," i.e., all of the income. This Court has explained how that is done: According to this Court:

> The property, which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable.
> *Butchers' Union Co. v. Crescent City Co.*, 111 U.S. 746, 757 (1883) (*concurring opinion of Justice Fields).*

This Court has also held the right to enter into contracts for employment is a personal property right. *Coppage v. Kansas*, 236 U.S. 1, 14 (1914); *Adair v. United States*, 208 U.S. 161, 172 (1908).

In his First Amended Seriatim Reply Brief (Document No. 67, August 9, 2024), Petitioner highlighted This Court's decision in *Moore v. United States*, 144 S. Ct. 1680 (2024), reaffirming the tax as indirect excise:

> "Income" in the Sixteenth Amendment refers only to income realized by the taxpayer. The Amendment resolved a long-running conflict over the scope of the Federal Government's taxing power. It paved the way for a federal income tax by creating **a new constitutional distinction between "income" and the "source" from which that income is "derived."** Drawing that distinction necessitates a realization requirement. [emphasis added]
> *Moore v. United States, id.*

Congress has enacted the statutory procedure to determine if there is a gain from the sale of personal property at 26 U.S.C. §§ 1001(a)-(b), 1011 and 1012. The lower Courts ignore this language, as well as the established precedents of this Court cited above. Instead the IRS, with full cooperation of the courts, directly taxes labor as measured by gross receipts, instead of

taxing the gain, if any, derived from labor, in direct contravention of This Court's many holdings to the contrary.

It is a Court's absolute duty to give effect, where possible, to every word of a statute and not to treat statutory terms as surplus. *Duncan v Walker*, 533 U.S. 167, 121 S. Ct. 2120 (2001); *Montclair v. Ramsdell*, 107 U.S. 147, 152, 2 Sct. 391 (1882).

Petitioner asks the Court to exercise its power of supervisory control to prevent the lower Courts from ignoring the Supreme Law of the Land, supplanting reasoned judicial opinion based on the facts and the law by using bills of attainder to declare the litigant "frivolous." Such conduct denies due process as a matter of law and must be stopped.

Supervisory control is also necessary as Petitioner has no recourse to appeal, as he has been clearly warned he is not entitled to allege that the federal government is violating the Constitution with respect to taxation, without facing sanctions[3]. According to the Ninth Circuit:

> Taxpayers' claim that their wages are not income is frivolous. So too the appeal is frivolous. **Therefore any one using that argument is subject to attorneys fees and double or single cost.** *See United States v. Romero*, 640 F.2d 1014, 1016 (9th Cir. 1981); *United States v. Buras*, 633 F.2d 1356, 1361 (9th Cir. 1980); *Funk v. CIR*, 687 F.2d 264, 265 (8th Cir. 1982)" (and cases cited therein, emphasis added).
> *Gattuso v. Pecorella*, 733 F.2d 709, 710 (9th Cir. 1984).

No reasonable man, much less an attorney, would dare to ask the Ninth Circuit to enforce the Constitution in a tax case. Thus, this Court is the only Court to resolve whether or not Petitioner's allegations are in fact true.

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3 No doubt if Charles Pollock (*Pollock v. Farmers' Loan and Trust Co.*, 157 U.S. 429; aff. Reh. 158 U.S. 601 (1895)) and/or stockholder (*Brushaber v. Union P. R. Co.* 240 U.S. 1, 36 S.Ct. 236, 60 L.Ed. 493 (1916)) filed their challenges to the constitutionality of the income tax today, they would be declared frivolous tax protesters/deniers!

> The law in this area is clear. **This Court has supervisory authority over the federal courts, and we may use that authority to prescribe rules of evidence and procedure that are binding in those tribunals.** *Carlisle v. United States*, 517 U.S. 416. 426, 134 L.Ed.2d 613. 116 S. Ct. 1460 (1996). (emphasis added)
> *Dickerson v. United States*, 530 U.S. 428, 437, 120 S.Ct. 2326, 2332, 147 L.Ed.2d 405, 415 (2000).

CONCLUSION

The Tax Court's and Ninth Circuit Court's entrenched pattern of disregarding binding Supreme Court precedent while imposing prejudicial outcomes, solely on the basis of contradicting inferior court rulings is essentially a rebellion by renegade inferior courts, which demands this Court's direct supervisory intervention. As the Ninth Circuit has made clear in current *stare decisis,* any appeal to the Ninth Circuit of these issues will most definitely result in their summary rejection of the appeal and the imposition of sanctions and penalties against the Petitioner, making direct review by this Court the only possible redress for these patent judicial abuses.

This systematic refusal of the Tax Court and federal circuit courts to apply controlling Supreme Court precedent to the facts and law before them routinely denies due process, in violation of the Fifth Amendment. By refusing to consider unresolved tax-related issues on the merits these courts violate their judicial duty for fair and impartial adjudication. The practice of summary rejection of well-supported constitutional challenges creates a judicial Bill of Attainder. The resulting confusion in the inferior courts is damaging to the economy and thousands of Americans are financially

harmed through what can only be described as institutionalized prejudice against resolution on the merits of important unresolved questions of law.

This case presents an ideal, unclouded vehicle (with fully stipulated facts and straightforward questions of law) for resolving the important issues presented, the ramifications of which will profoundly impact tens of millions of Americans. Absent this Court's decisive action, inferior courts will perpetuate their attainder-like rejections, dismissals, and imposition of sanctions and penalties, eviscerating due process and shattering public faith in the judicial system (*Coleman v. Commissioner*, 791 F.2d 68 (7th Cir. 1986)). Rule 10(a). The ongoing practice of attainder by inferior court judicial fiat, compels Supreme Court correction to restore constitutional fidelity and judicial integrity.

Respectfully submitted,

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No. _____

In the
Supreme Court of the United States

Peter Gibbons O'Connor
Petitioner

v.

Commissioner of Internal Revenue
Respondent

PETITION FOR WRIT OF CERTIORARI

Certification of Word Count

Rules 33.2(b) and 33.1(g)

I certify that this petition contains 4,260 words as counted by Microsoft Word, in compliance with Rule 33.1(g).

Peter Gibbons

Peter Gibbons O'Connor

Exhibit A

No. _____

In the
Supreme Court of the United States

Peter Gibbons O'Connor
Petitioner

v.

Commissioner of Internal Revenue
Respondent

On Petition for Writ of Certiorari Before Judgment in
The United States Court of Appeals for the Ninth Circuit, to
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APPENDIX to
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APPENDIX to
PETITION for WRIT of CERTIORARI

EXHIBIT 1

United States Tax Court
MEMORANDUM OPINION
May 12, 2025
Docket No. 21651-19

Exhibit A

United States Tax Court

T.C. Memo. 2025-42

PETER JOSEPH ISAIAH GIBBONS O'CONNOR,
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. 21651-19. Filed May 12, 2025.

Peter Joseph Isaiah Gibbons O'Connor, pro se.

Wesley J. Wong, for respondent.

MEMORANDUM OPINION

ARBEIT, *Judge*: By joint motion filed March 5, 2024, this case was submitted fully stipulated for decision without trial, pursuant to Rule 122.[1] The parties have stipulated the relevant facts. *See* Rule 122(a).

For the eight taxable years at issue, petitioner, a tax lawyer admitted to practice before this Court, failed to file federal income tax returns and to pay federal income tax. As a result, for the taxable years at issue the Internal Revenue Service (IRS) determined deficiencies and additions to tax. In his defense petitioner makes four main legal arguments contesting the authority of the IRS to assess tax. He concedes that, should those arguments fail, for all taxable years at issue he is

[1] Unless otherwise indicated, statutory references are to the Internal Revenue Code, Title 26 U.S.C. (Code), in effect at all relevant times, regulation references are to the Code of Federal Regulations, Title 26 (Treas. Reg.), in effect at all relevant times, and Rule references are to the Tax Court Rules of Practice and Procedure. We round all dollar amounts to the nearest dollar.

[*2] liable for the deficiencies and additions to tax as stipulated. His only remaining argument, raised for the first time on brief, is that with respect to the additions to tax he had reasonable cause as a matter of law.

Because we find petitioner's four main legal arguments frivolous, we sustain the deficiency determinations as modified by the parties' stipulation. Further, since we find petitioner's argument with respect to reasonable cause similarly frivolous, we sustain the application of the additions to tax. Finally, we find petitioner liable for a penalty under section 6673(a)(1)(B) for advancing frivolous arguments.

Background

When he filed the petition, petitioner resided in Nevada. Absent stipulation to the contrary, appeal of this case would lie to the U.S. Court of Appeals for the Ninth Circuit. *See* § 7482(b)(1)(A), (2).

Petitioner, a tax lawyer licensed in California and admitted to practice before this Court,[2] failed to file federal income tax returns for taxable years 2010 through 2017.

On September 10, 2019, respondent mailed to petitioner a notice of deficiency determining deficiencies and additions to tax as follows:

Year	*Deficiency*	*Additions to Tax*		
		§ 6651(a)(2)	*§ 6651(f)*[3]	*§ 6654*
2010	$89,237	$22,309	$64,696	$1,913
2011	71,536	17,884	51,863	1,416
2012	91,277	22,819	66,175	1,636
2013	153,166	38,291	111,045	2,750
2014	271,246	67,811	196,653	4,870
2015	274,325	54,865	198,885	4,940
2016	73,490	10,288	53,280	1,756
2017	67,656	5,412	49,050	1,619

[2] Court records reflect an admitted lawyer with a name, address, email address, and phone number that petitioner has used at one time or another during this case. We take judicial notice that petitioner is the same Peter J. Gibbons admitted to the Bar of this Court. *See* Rule 143; Fed. R. Evid. 201. He remains in active status.

[3] Respondent has since conceded the additions to tax for fraudulent failure to file under section 6651(f) and instead asserts only additions to tax for failure to timely file under section 6651(a)(1).

[*3] On March 5, 2024, the parties submitted their first stipulation of facts.[4] The stipulation includes the parties' agreements respecting petitioner's unreported gross income and various items necessary to compute petitioner's federal income tax for the taxable years at issue. Petitioner expressly concedes that, should his four main legal arguments fail, he is liable with respect to all taxable years at issue for self-employment tax, net investment income tax, and additional Medicare tax. His final argument, raised for the first time in his opening brief, is that he had reasonable cause as a matter of law with respect to the additions to tax under sections 6651(a)(1) and (2) and 6654, which in the stipulation he otherwise concedes should his four main legal arguments fail.

With his opening brief, filed on May 21, 2024, petitioner filed four separate memoranda in support of the brief, a request for judicial notice of certain public records, a memorandum in support of that request, and a declaration of Jeffrey A. Dickstein describing at length the documents that are the subject of petitioner's request for judicial notice. At the core of petitioner's 136-page opening brief are the contentions that respondent lacks the authority to assess tax, that petitioner is not subject to federal income tax, and that petitioner is under no obligation to file a federal income tax return.

On July 5, 2024, respondent filed his seriatim answering brief refuting the arguments set forth by petitioner.

On August 5, 2024, petitioner filed a seriatim reply brief in response to respondent's seriatim answering brief; on August 7, 2024, petitioner lodged a first amended seriatim reply brief, which he filed August 9, 2024, following the Court's leave. In this brief, another 57 pages, he mostly restates the arguments found in his opening brief. Yet he also acknowledges that courts have long settled many issues he raises, describes respondent's brief as "frivolous" (despite disparaging such labels), and comes rather close to issuing threats.

To date, petitioner has filed more than 1,000 pages that consist of documents such as purported records of state legislative history from the early 20th century, purported summaries of state legislative history, purported records of federal legislative history from the early 20th

[4] More than two years before, on February 16, 2022, the parties filed a stipulation of settled issues specifying that during the taxable years at issue petitioner was not married and, for that reason, had no income derived from community property. The parties' later stipulation incorporates the earlier one.

[*4] century, purported historical background on the Sixteenth Amendment to the U.S. Constitution, and hundreds of primary authorities cited ostensibly in support of his main arguments.

Discussion

I. *Deficiencies Respecting Unreported Income*

A. *Burden of Proof*

In general, the Commissioner's determinations set forth in a notice of deficiency are presumed correct, and the taxpayer bears the burden of proving them erroneous. Rule 142(a)(1); *Welch v. Helvering*, 290 U.S. 111, 115 (1933). In the case of unreported income, however, the Commissioner must first come forward with minimal evidence connecting the taxpayer with income-producing activity or showing actual receipt of unreported income. *Walquist v. Commissioner*, 152 T.C. 61, 67 (2019); *see also Hardy v. Commissioner*, 181 F.3d 1002, 1004 (9th Cir. 1999) (addressing the Commissioner's burden to first put forth some evidence of unreported income before the presumption of correctness applies), *aff'g* T.C. Memo. 1997-97. Once the Commissioner meets this burden of production, the burden is on to the taxpayer to prove by a preponderance of the evidence that the Commissioner's determinations are arbitrary or erroneous. *See Walquist*, 152 T.C. at 67–68. Submission of a case under Rule 122 does not alter the burden of proof. Rule 122(b).

Where, as here, the parties have fully stipulated the unreported income and the taxpayer has agreed to the facts, the Commissioner has necessarily met his burden. *See El v. Commissioner*, 144 T.C. 140, 143 (2015). Petitioner evidently believes that respondent's determinations here are unconstitutional (or otherwise invalid according to convoluted legal arguments). As we will explain, petitioner has failed to show anything of the kind; indeed, respondent has done nothing other than apply the law to the agreed facts.

B. *Frivolity of Petitioner's Arguments*

Petitioner has built his case around four notorious arguments all reaching the same astonishing conclusion: respondent lacks the authority to assess tax. Petitioner contends that (1) the Sixteenth Amendment was not properly ratified and is therefore invalid, (2) section 1 does not plainly and clearly impose a tax on the income of petitioner, (3) the income tax is an excise tax to which his income is not subject, and (4) petitioner is a citizen of Nevada and therefore not

[*5] subject to federal income tax. To the extent he asserts other claims (e.g., a purported cost basis in his personal labor), they fit within these general themes. All are frivolous.

This Court generally does not address frivolous arguments such as those petitioner puts forward. *See Wnuck v. Commissioner*, 136 T.C. 498, 499 (2011). "We perceive no need to refute these arguments with somber reasoning and copious citation of precedent . . . ." *Crain v. Commissioner*, 737 F.2d 1417, 1417 (5th Cir. 1984) (per curiam). As here, frivolous antitax arguments are often used as a time-consuming delay tactic. *See Wnuck*, 136 T.C. at 510–11. Consider the more than 1,000 pages petitioner has filed. Addressing every assertion and citation would waste substantial time and resources; by slowing down the Court, answering frivolous arguments harms litigants with legitimate arguments. *See id.* at 511. We see "little advantage to be gained by addressing frivolous arguments, and there are disadvantages that may accrue from doing so. For that reason, litigants who present frivolous arguments should not expect to see them answered in opinions of this Court." *Id.* at 513.

We address them here (albeit briefly) only because petitioner, a tax lawyer admitted to practice before this Court, is not the typical tax defier. *See id.* at 502 n.2 (explaining our use of the term "tax defier"). Petitioner insists on the correctness of his positions even as he cites contrary precedent. His great efforts to distinguish his arguments fail utterly.[5] In reaching his self-serving conclusions, the sole purpose of

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[5] To give just one example, petitioner argues:

> The case of *Commissioner v. Glenshaw Glass Co.* [348 U.S. 426, 431 (1955)] is cited by the Commissioner to contend that any "*undeniable accessions to wealth, clearly realized, and over which the taxpayers have complete dominion*" is gross income. However, nowhere in his brief does the Commissioner explain what, if any "*undeniable accessions to wealth, clearly realized, and over which the taxpayers have complete dominion*" ever accrued to the Petitioner. On the contrary, there appears to be an irrebuttable presumption that any funds received by the Petitioner are "*undeniable accessions to wealth, clearly realized, and over which the taxpayers have complete dominion*," which is patently false as explained *ad nauseum* in not only the Petitioner's opening brief, but also in the plethora of controlling Supreme Court precedent cited therein. In fact, the decision in *Glenshaw* clearly indicates that remuneration for labor is not income but rather a source from which income may be derived and therefore cannot be "gross income."

Pet'r's First Am. Seriatim Reply Br. ¶14.

[*6] which is the evasion of his civic obligation to pay his fair share of taxes, he leverages his professional training to willfully disregard the caselaw and any legitimate legal analysis.

First, the Sixteenth Amendment was properly ratified and is the law of the land. *See Cook v. Spillman*, 806 F.2d 948, 949 (9th Cir. 1986) (per curiam) (rejecting as frivolous a challenge to the validity of the Sixteenth Amendment); *United States v. Stahl*, 792 F.2d 1438, 1440 (9th Cir. 1986) (rejecting assertions that the Sixteenth Amendment was void because of improper ratification by two states); *see also Leser v. Garnett*, 258 U.S. 130, 137 (1922) (explaining the principle that after adopting resolutions of ratification, a state's "official notice to the Secretary [of State], duly authenticated, . . . [is] conclusive upon him, and, being certified to by his proclamation, is conclusive upon the courts"). Petitioner boldly proclaims his arguments are a fresh take (as many tax defiers do) but proceeds to give the same tired arguments challenging ratification in a handful of states based on claimed typographical errors. We will not risk dignifying his arguments with further discussion—"to do so might suggest that these arguments have some colorable merit." *See Crain v. Commissioner*, 737 F.2d at 1417.

Petitioner's other arguments are similarly frivolous. Section 1 does impose an income tax on individuals. *See Lucas v. Earl*, 281 U.S. 111, 114–15 (1930) (addressing predecessor to section 1); *United States v. Romero*, 640 F.2d 1014, 1016 (9th Cir. 1981) (explaining that an argument that one is "not a 'person' and that the wages . . . [are] not 'income' is fatuous as well as obviously incorrect"); *Bonaccorso v. Commissioner*, T.C. Memo. 2005-278, slip op. at 3–4 (rejecting as frivolous the argument that section 1 does not impose an income tax on individuals). Further, to argue that the income tax is an excise tax with respect to which the taxpayer did not engage in the taxable excise activity is nonsense. *See Cabirac v. Commissioner*, 120 T.C. 163, 167 (2003) (rejecting this argument as frivolous), *aff'd per curiam*, No. 03-3157, 2004 WL 7318960 (3d Cir. Feb. 10, 2004); *Heisey v. Commissioner*, T.C. Memo. 2002-41, slip op. at 3–4 (describing this argument as "tax [defier] rhetoric and legalistic gibberish" and imposing penalties), *aff'd*, 59 F. App'x 233 (9th Cir. 2003). Finally, being a citizen of a state of course does not exempt an individual from federal income tax. *See Upton v. IRS*, 104 F.3d 543, 545 n.1 (2d Cir. 1997) (rejecting this "tax [defier]" argument as "barely worth a footnote"); *United States v. Hilgeford*, 7 F.3d 1340, 1342 (7th Cir. 1993) (describing this as a "shop worn" tax defier argument); *McLaurine v. Commissioner*, T.C. Memo. 2010-236, slip op. at 9–10 (rejecting as frivolous the argument that because an

[*7] individual is a citizen of a state the individual is exempt from federal income tax).

Because we reject petitioner's frivolous arguments, we sustain the deficiency determinations as modified by the parties' stipulation.

II. *Additions to Tax Under Sections 6651 and 6654*

A. *Burden of Production*

Generally, the Commissioner bears the burden of production concerning additions to tax and must introduce evidence that imposing those additions to tax is appropriate. § 7491(c); *Wheeler v. Commissioner*, 127 T.C. 200, 206 (2006), *aff'd*, 521 F.3d 1289 (10th Cir. 2008). Nonetheless, if a taxpayer concedes a penalty at issue, the burden of production is no longer relevant. *See Funk v. Commissioner*, 123 T.C. 213, 218 (2004); *Swain v. Commissioner*, 118 T.C. 358, 363 (2002); *Morales v. Commissioner*, T.C. Memo. 2013-192, at *6 ("[The Commissioner] is not required to establish the validity of a conceded issue."), *aff'd*, 633 F. App'x 884 (9th Cir. 2015); *Carlson v. Commissioner*, T.C. Memo. 2012-76, slip op. at 9 (deeming issues regarding additions to tax and penalties conceded for failure to raise in petition or on brief in favor of frivolous arguments), *aff'd*, 604 F. App'x 628 (9th Cir. 2015). Our rule is that "[a] stipulation will be treated, to the extent of its terms, as a conclusive admission by the parties to the stipulation." Rule 91(e). Once accepted, we "will not permit a party to a stipulation to qualify, change, or contradict a stipulation in whole or in part." *Id.* If enforcing a stipulation is manifestly unjust, however, we will provide relief. *See id.*; *Bail Bonds by Marvin Nelson, Inc. v. Commissioner*, 820 F.2d 1543, 1547 (9th Cir. 1987) (first citing *Vallejos v. C.E. Glass Co.*, 583 F.2d 507, 511 (10th Cir. 1978); and then citing *Jeffries v. United States*, 477 F.2d 52, 55 (9th Cir. 1973)), *aff'g* T.C. Memo. 1986-23.

The stipulation reflects petitioner's concession that should his legal arguments fail he is liable for the additions to tax. Having already determined that his legal arguments fail and seeing no injustice in holding petitioner to the stipulation, we conclude that respondent has no unmet burden. To the extent petitioner raised any contrary arguments in his petition,[6] his briefing shows he abandoned those

[6] While the petition broadly asserts errors respecting managerial approval, certification, and various miscalculations, both the parties' joint motion to submit the case for decision and the stipulation reveal the limited scope of his remaining legal arguments.

[*8] positions, favoring instead the frivolous arguments discussed above. *See* Rule 151(e); *Thiessen v. Commissioner*, 146 T.C. 100, 106 (2016) ("[I]ssues and arguments not advanced on brief are considered to be abandoned."); *Mendes v. Commissioner*, 121 T.C. 308, 312–13 (2003); *Nicklaus v. Commissioner*, 117 T.C. 117, 120 n.4 (2001). Thus, petitioner is liable for the additions to tax under sections 6651(a)(1) and (2) and 6654 unless we agree with him that, as a matter of law, there was reasonable cause for his failure to file (under section 6651(a)(1)) and pay (under section 6651(a)(2)).[7] We turn now to that issue and hold against him.

B. *Petitioner's Reasonable Cause Argument*[8]

As an exception to section 6651, a taxpayer may seek to show that reasonable cause, not willful neglect, was the reason for a failure to file a timely return or pay tax. *See* § 6651(a)(1) and (2); *Higbee v. Commissioner*, 116 T.C. 438, 447 (2001) (explaining that once the Commissioner's burden of production is met, taxpayers bear the burden of proof for application of the reasonable cause exception). A taxpayer must show he was unable to file the required return or pay the tax without undue hardship within the prescribed time despite exercising ordinary business care and prudence. *See United States v. Boyle*, 469 U.S. 241, 246 (1985); Treas. Reg. § 301.6651-1(c). Willful neglect, by contrast, elicits "a conscious, intentional failure or reckless indifference." *Boyle*, 469 U.S. at 245.

Petitioner raises a final argument against the additions to tax under sections 6651(a)(1) and (2) and 6654. Yet, if correct, he proves far more: namely that because of the purported failure of the IRS to comply with a statutory mandate he (and everyone else) is relieved of the obligation to file a federal income tax return. How does he get there? He contends that the IRS is under an obligation to publish every year a regulation in the Federal Register with the applicable income threshold for filing a return (known as the exemption amount). According to petitioner, since 1990 the exemption amount has appeared not in the Code or any regulation but only in "some informal IRS publication" without the "force and effect of law." Thus according to petitioner for the

[7] Section 6654 does not provide for a generally applicable reasonable cause exception. *See Mendes*, 121 T.C. at 323. While there is a narrow exception in section 6654(e)(3)(B), petitioner does not argue the narrow exception applies.

[8] Petitioner raises reasonable cause for the first time in his opening brief. While he is bound by his concessions in the stipulation, we address his additional argument here for completeness and to show it too is frivolous.

[*9] past 35 years apparently there has been no enforceable obligation to file a federal income tax return. This argument is as frivolous as his others. *See Bradley v. United States*, 817 F.2d 1400, 1404 (9th Cir. 1987) ("The test for frivolousness is purely an objective one.").

Petitioner's obligation to file a return is based on section 6012, not on some secondary publication. *See* § 6012 ("Returns with respect to income taxes . . . *shall be made* by . . . [e]very individual having for the taxable year gross income which equals or exceeds the exemption amount . . . ." (Emphasis added.)); *Rader v. Commissioner*, 143 T.C. 376, 390 (2014) (regarding contrary arguments as meritless), *aff'd in part, appeal dismissed in part*, 616 F. App'x 391 (10th Cir. 2015). If petitioner insists on refusing to follow IRS guidance, the Code provides what he needs to figure out the exemption amount himself. *See* §§ 6012(a)(1)(D)(ii), 151(d), 1(f)(3). The irony of course is that the stipulation makes clear that petitioner's gross income for the years at issue far exceeded even a cursory estimation of the relevant exemption amount. Petitioner has failed as a matter of law to show any reasonable cause for his failure to file and pay. Instead we find that his "conscious, intentional failure or reckless indifference" caused his willful refusal to file and pay. *Boyle*, 469 U.S. at 245. The additions to tax under sections 6651(a)(1) and (2) and 6654, as determined and stipulated, are proper.

III. *Penalty Under Section 6673*

Section 6673(a)(1)(B) provides that when a taxpayer advances frivolous or groundless arguments before this Court, we may impose a penalty of up to $25,000. Frivolous positions are those "contrary to established law and unsupported by a reasoned, colorable argument for change in the law. . . . The inquiry is objective." *Nis Fam. Tr. v. Commissioner*, 115 T.C. 523, 544 (2000) (quoting *Coleman v. Commissioner*, 791 F.2d 68, 71 (7th Cir. 1986)); *accord Bradley*, 817 F.2d at 1404; *see also Hansen v. Commissioner*, 820 F.2d 1464, 1470 (9th Cir. 1987) (explaining penalties are permissible when a taxpayer should know the position is frivolous). "The purpose of section 6673 is to compel taxpayers to think and to conform their conduct to settled principles before they file returns and litigate." *Takaba v. Commissioner*, 119 T.C. 285, 295 (2002). With his spurious reasoning petitioner seeks to challenge long-settled principles. We should, and we will, impose a penalty. The facts and circumstances of this case guide our determination as to the appropriate amount.

[*10] Petitioner is a tax lawyer licensed in California and admitted to practice before this Court. Throughout his briefing he acknowledges that he understands the substantial caselaw establishing that his arguments are without support. He knows that his arguments were found frivolous in cases that he cites. *See, e.g.*, *Miller v. United States*, 868 F.2d 236, 238, 241–42 (7th Cir. 1989) (per curiam) (noting prior sanctions and imposing additional sanctions for a frivolous challenge to ratification of the Sixteenth Amendment). Nevertheless, he persists in making his frivolous arguments. Further, he has done so in a way—filing more than 1,000 pages in this case—that could only hinder the work of the Court.

His failure to file federal income tax returns was not an isolated incident of misjudgment but a pattern of misconduct over a period of at least eight taxable years. During that time, petitioner operated businesses generating substantial gross income. His decision not to file allowed him to avoid (for a while) paying any federal income tax. That, in addition to his vexatious briefing, suggests that his goal, at least in significant part, was to delay facing his federal income tax obligations. Our concern is that if we fail to dissuade him now, in the future his noncompliance may continue.

Those with specialized expertise should expect that we may hold them to a higher standard where appropriate. *See Tippin v. Commissioner*, 104 T.C. 518, 534 (1995) (holding attorney specialized in tax to higher standard of care respecting section 6653(a)(1) addition to tax and section 6662(a) penalty); *Leyshon v. Commissioner*, T.C. Memo. 2015-104, at *26–27 (finding a taxpayer's background and education is an important consideration when applying section 6673), *aff'd*, 649 F. App'x 299 (4th Cir. 2016). Petitioner has the knowledge and training that should have made him aware of the possible consequences of his frivolous arguments far in advance of his making them. He should, and his briefing reflects that he does, know better.

Worse still, petitioner has represented a client in a previous matter before this Court that resulted in a penalty for similarly frivolous arguments. *See Avery v. Commissioner*, T.C. Memo. 2007-60, slip op. at 16–17 (discussing frivolous arguments that appear again in this case), *aff'd*, 399 F. App'x 195 (9th Cir. 2010).[9] We do not see petitioner's effort

[9] Having already found that petitioner is the same Peter J. Gibbons admitted to the Bar of this Court, we also take notice of the record in *Avery* in so far as his representation there relates to his conduct here. *See* Rule 143; Fed. R. Evid. 201; *see also Leyshon*, T.C. Memo. 2015-104, at *14.

[*11] here as a good faith attempt at changing the law, as he would have us believe. *See* Rule 202(a)(3); Model Rules of Pro. Conduct r. 3.1 (Am. Bar Ass'n 2023). Instead he puts forward the same baseless arguments this Court and others have long rejected.

As a result, we will impose a penalty of $2,000. *See generally Leyshon*, T.C. Memo. 2015-104, at *24–29 (describing how we decide to impose a penalty). We decline to impose a higher amount for a few reasons. First, because petitioner raised his frivolous arguments only on brief, he did not in this case receive a warning that such arguments could subject him to a penalty (and *Avery* was nearly 20 years ago).[10] *See, e.g.*, *Wheeler*, 127 T.C. at 214 (noting repeated warnings before imposing penalty); *see also Leyshon*, T.C. Memo. 2015-104, at *14 (warning issued in prior case preceded present case by only a few years). Second, respondent has not asked that we impose any penalty. *See, e.g.*, *Takaba*, 119 T.C. at 294. *But see Leyshon*, T.C. Memo. 2015-104, at *15 (noting that the Commissioner requested neither penalties nor judicial notice of prior warning). Finally, and most importantly, petitioner's cooperation with respondent in stipulating "to the fullest extent," *see* Rule 91(a)(1), and agreeing to submit this case fully stipulated under Rule 122 tempers our view of his otherwise flagrant conduct. Our forbearance shows the great weight we attach to our Rules promoting judicial economy and especially to our pretrial procedures. *See Branerton Corp. v. Commissioner*, 61 T.C. 691, 692 (1974).

IV. *Conclusion*

We have considered all the arguments that the parties have made and, to the extent they are not addressed herein, we find them to be moot, irrelevant, or without merit.

To reflect the foregoing and concessions by the parties,

Decision will be entered under Rule 155.

[10] While he may consider the penalty here modest, petitioner would do well to consider this his warning: Should he appear before us in the future, he should not again make frivolous arguments. *See Wheeler v. Commissioner*, T.C. Memo. 2011-278, slip op. at 5–6 (imposing the maximum penalty where prior penalties failed to deter misconduct).

No. _____

In the
Supreme Court of the United States

Peter Gibbons O'Connor
Petitioner

v.

Commissioner of Internal Revenue
Respondent

On Petition for Writ of Certiorari Before Judgment in
The United States Court of Appeals for the Ninth Circuit, to
The Supreme Court of the United States

APPENDIX to
PETITION for WRIT of CERTIORARI

EXHIBIT 2

United States Tax Court
ORDER TO SHOW CAUSE
September 25, 2025
Docket No. 21651-19

Exhibit A

United States Tax Court

Washington, DC 20217

In the Matter of
Peter J. Gibbons
Tax Court Bar No. GP0261

ORDER TO SHOW CAUSE

1. Background

You are a member of the United States Tax Court bar, having been admitted to practice before the Court on August 2, 2005. You are also a pro se petitioner in *Peter Joseph Isaiah Gibbons O'Connor*, Docket No. 21651-19. The Memorandum Opinion issued in the matter on May 12, 2025, details several frivolous arguments you made in that case.

2. Relevant Rules & Standards of Conduct

A member of the Bar of this Court may be disciplined by the Court as a result of conduct with respect to the Court which violates the letter and spirit of the Model Rules of Professional Conduct of the American Bar Association, the Rules of the Court, or orders or other instructions of the Court. Rule 202(a)(3), U.S. Tax Court Rules of Practice and Procedure.

Your conduct in the above-referenced case appears to have violated the Tax Court Rules of Practice and Procedure. It also appears that your conduct in this case violated Rule 3.1 (meritorious claims and contentions) of the Model Rules of Professional Conduct of the American Bar Association.

Upon due consideration of the foregoing, it is

ORDERED that on or before 30 days from the date of this Order, you shall file a response in which you show cause, if any, why you should not be disciplined by this Court. It is further

ORDERED that in your response you shall, among other things, (1) inform the Court whether there is now, or has been in the past, any disciplinary proceeding involving you, other than as described above; (2) other than what has already been provided, explain in detail the circumstances that led to each and every disciplinary proceeding involving you; and (3) other than what has already been provided, provide any material in your possession that is part of the record of each disciplinary proceeding involving you. It is further

ORDERED that if you wish to avail yourself of your right to a hearing, you or your counsel must submit notice in writing on or before 30 days from the date of this Order

Served 09/25/25

Exhibit A

advising the Court of your intention to appear. It is further

ORDERED that if no notice of your intention to appear is received by the Court on or before 30 days from the date of this Order, your right to appear at a hearing before the Court concerning this disciplinary matter shall be deemed waived. It is further

ORDERED that all responses and notices shall be emailed to admissions@ustaxcourt.gov. If you have any questions, you may contact the Admissions Section of the Court at (202) 521-4629. It is further

ORDERED that if you wish to resign from the Bar of the United States Tax Court in lieu of discipline, you must submit your written unconditional resignation on or before 30 days from the date of this Order and file a motion to withdraw in any active cases where you have entered an appearance. It is further

ORDERED that after 30 days from the date of this Order, if you have failed to (1) file a written response to this Order; (2) submit timely written notice of your request to appear at a hearing, in person or by counsel; or (3) submit your resignation from the Bar of the Court, then the Court will take such further action as it deems appropriate.

(Signed) Courtney D. Jones
Judge

Co-Chair, Committee on Admissions, Ethics, and Discipline

(Signed) Joseph W. Nega
Judge

Co-Chair, Committee on Admissions, Ethics, and Discipline

No. _____

In the
Supreme Court of the United States

Peter Gibbons O'Connor
Petitioner

v.

Commissioner of Internal Revenue
Respondent

On Petition for Writ of Certiorari Before Judgment in
The United States Court of Appeals for the Ninth Circuit, to
The Supreme Court of the United States

APPENDIX to
PETITION for WRIT of CERTIORARI

EXHIBIT 3

United States Tax Court
DECISION
November 25, 2025
Docket No. 21651-19

Exhibit A

UNITED STATES TAX COURT

PETER JOSEPH ISAIAH GIBBONS O'CONNOR,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 21651-19
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

DECISION

Pursuant to the opinion of the Court filed May 12, 2025, and incorporating herein the facts recited in Respondent's Computation as the findings of the Court, it is

ORDERED AND DECIDED: That there are deficiencies in income tax due from petitioner for the taxable years 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017 in the amounts of $2,852.00, $9,403.00, $9,644.00, $8,716.00, $19,739.00, $44,176.00, $25,291.00, and $0.00, respectively:

That there are additions to tax due from petitioner for the taxable years 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017, under the provisions of I.R.C. § 6651(a)(2), in the amounts of $713.00, $2,350.75, $2,411.00, $2,179.00, $4,934.75, $11,044.00, $6,322.75, and $0.00, respectively;

That there are additions to tax due from petitioner for the taxable years 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017, under the provisions of I.R.C. § 6651(a)(1), in the amounts of $641.70, $2,115.68, $2,169.90, $1,961.10, $4,441.28, $9,939.60, $5,690.48, and $0.00, respectively;

That there are no additions to tax due from petitioner pursuant to I.R.C. § 6651(f) for taxable years 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017;

That there are additions to tax due from petitioner for the taxable years 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017, under the provisions of I.R.C. §

6654, in the amounts of $0.00, $186.16, $172.90, $156.51, $354.44, $795.61, $604.60, and $0.00, respectively; and

That there is a penalty due from petitioner pursuant to I.R.C. § 6673(a)(1) in the amount of $2,000.00.

(Signed) Jeffrey S. Arbeit
Judge

Judge.

* * * * * *

It is hereby stipulated that the foregoing decision is in accordance with the opinion of the Court's and respondent's computation, and that the Court may enter this decision, without prejudice to the right of either party to contest the correctness of the decision entered herein.

KENNETH J. KIES
Acting Chief Counsel
Internal Revenue Service

Peter Gibbons
PETER JOSEPH ISAIAH
GIBBONS O'CONNOR
Petitioner

Date: November 21

By: _____
WESLEY J. WONG
Associate Area Counsel
(Litigation & Advisory)
Tax Court Bar No. WW0617

Date: November 21, 2025

Exhibit A

IN THE UNITED STATES SUPTRME COURT

Peter Gibbons O'Connor,	)	
	)	**Case No.:** _____
Petitioner - Appellant,	)	**9th Cir. No.: 26-806**
	)	
v.	)	
	)	**Appellant's Exhibit B**
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
	)	
Respondent - Appellee.	)	

Appellant's Exhibit B in Support of Emergency Motion to Stay

Clerk of the Ninth Circuit, April 8, 2026, notice of motion (Docket Entry No. 10) to stay appellate proceedings denied.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PETER GIBBONS,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent - Appellee.

No. 26-806

No. 21651-19
United States Tax Court,
IRS

ORDER

The motion (Docket Entry No. 10) to stay appellate proceedings is denied.

The opening brief is now due May 11, 2026. The answering brief is due June 10, 2026. The optional reply brief is due 21 days after the answering brief is served.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

Exhibit B

IN THE UNITED STATES SUPTRME COURT

Peter Gibbons O'Connor,	)	
	)	**Case No.:** _____
Petitioner - Appellant,	)	**9th Cir. No.: 26-806**
	)	
v.	)	
	)	**Appellant's Exhibit C**
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
	)	
Respondent - Appellee.	)	

Appellant's Exhibit C in Support of Emergency Motion to Stay

Appellant's Motion For Reconsideration of April 8, 2026 Order Denying Stay.

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Peter Gibbons O'Connor,	)	
	)	**Case No.: 26-806**
Petitioner - Appellant,	)	**Tax Ct. No.: 21651-19**
	)	
v.	)	**Appellant's Motion For**
	)	**Reconsideration of April 8, 2026**
COMMISSIONER OF INTERNAL REVENUE,	)	**Order Denying Stay**
	)	
	)	
Respondent - Appellee.	)	

APPELLANT'S MOTION FOR RECONSIDERATION

COMES NOW Appellant, Peter Gibbons O'Connor, appearing pro se, and pursuant to Ninth Circuit Rule 27-10, respectfully moves this Court for reconsideration of the April 8, 2026 Order (Dkt. 11) denying Appellant's Motion to Suspend Briefing Schedule Pending Supreme Court Review (Dkt. 10). In accordance with Circuit Rule 27-10(a)(3), Appellant states with particularity the points of law and fact overlooked by the Court.

I. STATEMENT OF RELEVANT FACTS

1. On February 5, 2026, Appellant filed a Notice of Appeal from the United States Tax Court s final decision entered November 25, 2025.

2. On March 3, 2026, Appellant filed a Petition for a Writ of Certiorari Before Judgment directly with the United States Supreme Court, seeking supervisory review of systemic constitutional and statutory issues central to this appeal. (Dkt. 10.3, Ex. 2)

3. On March 21, 2026, Appellant filed a Motion to Suspend Briefing Schedule, demonstrating that a stay pending Supreme Court disposition would cause zero prejudice to Respondent, preserve the status quo, and conserve judicial resources. (Dkt. 10, 10.1, 10.2)

4. On April 8, 2026, the Court issued a one-line order denying the motion and establishing a briefing schedule, without addressing the stay factors, the pending Supreme Court petition, or the equities favoring abeyance. (Dkt. 11)

5. On April 16, 2026, Appellant inquired of Respondent's counsel via e-mail, regarding this Motion for Reconsideration. As of the date hereof, no response has been received; accordingly, Appellant is unable to state whether Appellee objects to this motion.

II. GROUNDS FOR RECONSIDERATION UNDER CIRCUIT RULE 27-10(a)(3)

A. The Order Overlooked the Material Fact That a Pending Supreme Court Petition Directly Implicates the Issues on Appeal.

6. Appellant's pending petition for a writ of certiorari before judgment raises constitutional and statutory questions regarding the adjudication of tax-related due process claims that directly control or materially affect the scope of this appeal. When a petition pending before the Supreme Court presents issues that could resolve or fundamentally alter the legal framework governing an appeal, staying lower appellate proceedings is both appropriate and commonplace. The April 8 Order set a briefing schedule as though the certiorari petition were irrelevant, overlooking the direct nexus between the pending Supreme Court filing and the questions presented on appeal. A brief stay ensures that if the Supreme Court grants certiorari, the Ninth Circuit s briefing will not be rendered moot or require complete reconfiguration.

B. The Order Overlooked the Significant Judicial Economy Benefits of a Stay.

7. Staying appellate briefing pending the Supreme Court s disposition conserves substantial judicial resources and avoids duplicative or futile work.

Courts routinely grant stays when independent proceedings bear directly on the case to promote efficient use of judicial resources. See *Keating v. Office of Thrift Supervision*, 45 F.3d 322, 324 25 (9th Cir. 1995); *Mediterranean Enters., Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983). If the Supreme Court grants certiorari, the issues may be resolved at the highest level, making extensive Ninth Circuit briefing unnecessary. If certiorari is denied, the Court may proceed with a focused, complete briefing schedule. The April 8 Order did not address this administrative benefit or explain why it is outweighed by other factors.

C. The Order Overlooked the Undisputed Absence of Prejudice to Any Party.

8. Under the traditional stay standard, the balance of equities and public interest weigh decisively in Appellant's favor. *Nken v. Holder*, 556 U.S. 418, 434 (2009); *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). Respondent suffers no prejudice from a brief stay: the Tax Court s judgment remains fully enforceable, statutory interest continues to accrue by operation of law, and the status quo is preserved. See *Mediterranean Enters.*, 708 F.2d at 1465. Because no party is harmed and the public interest favors orderly, non-duplicative adjudication, the equities strongly favor abeyance. The April 8 Order did not acknowledge this undisputed fact.

D. The April 8 Order Was Issued by the Clerk Under Circuit Rule 27-7, Triggering the Referral Pathway of Circuit Rule 27-10(b).

9. The April 8 Order bears the signature of the Clerk of Court. Under FRAP 27(b) and Circuit Rule 27-7, the Clerk is delegated authority to act on certain procedural motions. A motion to stay appellate proceedings pending Supreme Court review, however, requires application of the four-factor equitable test and judicial discretion. Under Circuit Rule 27-10(b), a motion to reconsider an order issued pursuant to Rule 27-7 is initially directed to the individual who issued the order. If that individual is disinclined to grant relief, the motion must be referred to an appellate commissioner, and ultimately to a motions panel, for judicial consideration. Appellant respectfully requests that, should the Clerk's office

decline reconsideration, this motion be referred to the appropriate judicial officer for de novo application of the equitable stay factors.

III. CONCLUSION

10. The April 8, 2026 Order overlooked material facts and equitable considerations explicitly raised in Appellant's stay motion. Under Circuit Rule 27-10, reconsideration is appropriate to correct this oversight and ensure the stay factors are properly applied. Appellant respectfully requests that this Court grant reconsideration, refer the matter to a motions panel pursuant to Circuit Rule 27-10(b) if necessary, and stay all briefing and appellate proceedings pending the United States Supreme Court s disposition of Appellant's Petition for a Writ of Certiorari Before Judgment.

Respectfully submitted, this April 21, 2026

Peter Gibbons O'Connor
Appellant, in pro. per.
963 Topsy Lane, Ste. 306-251
Carson City, NV 89705-8407
775-434-1856 Ph.
775-406-8331Fax
LawDr1@lawdr.us

IN THE UNITED STATES SUPTRME COURT

Peter Gibbons O'Connor,	)	
	)	**Case No.:** _____
Petitioner - Appellant,	)	**9th Cir. No.: 26-806**
	)	
v.	)	
	)	**Appellant's Exhibit D**
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
	)	
Respondent - Appellee.	)	

Appellant's Exhibit D in Support of Emergency Motion to Stay

Appellant's May 8, 2028, Motion to the Ninth Circuit for Extension of Time or to Hold Briefing In Abeyance Pending Disposition of Pending Motion for Reconsideration and Supreme Court Certiorari Petition.

Subject: Gibbons v. Commissioner of Internal Revenue 26-806 - 013 - Motion to Extend Time to File Brief
From: ACMS@ca9.fedcourts.us
Date: 5/8/26, 8:04 PM
To: lawdr1@lawdr.us

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.**

United States Court of Appeals for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 05/08/2026 7:48:56 PM PDT and filed on 05/08/2026

Case Name: Gibbons v. Commissioner of Internal Revenue

Case Number: 26-806

Docket Text:

MOTION to Extend Time to File Brief filed by Appellant Peter Gibbons. [Entered: 05/08/2026 07:59 PM]

Document: Motion
Document: Exhibit
Document: Certificate of Service

Notice will be electronically mailed to:

Mr. Nishant Kumar ; appellate.taxcivil@usdoj.gov, nishant.kumar@usdoj.gov
Peter Gibbons ; lawdr1@lawdr.us

Case participants listed below will not receive this electronic notice:

Exhibit D

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Peter Gibbons O'Connor,	)	
	)	**Case No.: 26-806**
Petitioner - Appellant,	)	**Tax Ct. No.: 21651-19**
	)	
v.	)	
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent - Appellee.	)	

Appellant's Motion for Extension of Time or to Hold Briefing In Abeyance Pending Disposition of Pending Motion for Reconsideration and Supreme Court Certiorari Petition

COMES NOW Appellant Peter Gibbons O'Connor, appearing *pro se*, and respectfully moves this Court, pursuant to FRAP 26(b), FRAP 27(a)(3), and Ninth Circuit Rule 27-4, for an order either: (1) extending the May 11, 2026 deadline to file the Opening Brief; or (2) holding all briefing in this appeal in abeyance pending disposition of Appellant's pending Motion for Reconsideration (Dkt. 12) and/or action by the United States Supreme Court on Appellant's Petition for a Writ of Certiorari Before Judgment. In support, Appellant states:

I. PROCEDURAL BACKGROUND

1. On February 5, 2026, Appellant filed a Notice of Appeal from the United States Tax Court's final decision entered November 25, 2025. (Dkt. 2)

2. The Court issued a schedule notice setting the Opening Brief deadline for March 23, 2026. (Dkt. 3)

3. On March 21, 2026, Appellant filed a Motion to Suspend Briefing Schedule Pending Supreme Court Review. (Dkt. 10)

4. On April 8, 2026, the Clerk issued a one-line order denying the motion and resetting the Opening Brief deadline to May 11, 2026. (Dkt. 11)

5. On April 21, 2026, Appellant filed a Motion for Reconsideration of the April 8 Order, explicitly invoking Ninth Circuit Rule 27-10(a)(3) and requesting referral to a judicial officer or motions panel under Rule 27-10(b) if the Clerk's Office declines to grant relief. (Dkt. 12)

6. Separately, on April 20, 2026, Appellant filed a Petition for a Writ of Certiorari Before Judgment[1] directly with the United States Supreme Court, seeking supervisory review of systemic due process and statutory questions that directly implicate the scope of this appeal.

7. The May 11, 2026 deadline is imminent. Appellant files this motion to preserve his appellate rights, avoid automatic dismissal under Ninth Circuit Rule 42-1, and request guidance that prevents futile or duplicative briefing while pending motions remain unresolved.

II. LEGAL STANDARD

8. Under FRAP 26(b), the court may extend a time deadline for good cause. Under FRAP 27(a)(3) and Ninth Circuit Rule 27-4, a party may seek any relief not specifically provided for by the rules, including an order holding proceedings in abeyance. Courts routinely grant stays or hold briefing in abeyance when independent proceedings bear directly on the appeal, where doing so conserves judicial resources and causes no prejudice to the opposing party. See *Mediterranean Enters., Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983); and *Keating v. Office of Thrift Supervision*, 45 F.3d 322, 324-25 (9th Cir. 1995).

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[1] Originally filed on March 3, 2026, rejected for formatting, resubmitted in booklet format to the Clerk of the U.S. Sup. Ct. on April 20, 2026.

III. ARGUMENT

A. Good Cause Exists Due to the Pending Motion for Reconsideration (Dkt. 12)

9. The April 8 order denying the stay was issued by the Clerk under Ninth Circuit Rule 27-7. Appellant's Motion for Reconsideration (Dkt. 12) expressly requests that, if the Clerk declines to grant relief, the motion be referred to an appellate commissioner or motions panel for *de novo* application of the equitable stay factors under Rule 27-10(b). Until that referral process concludes or the motion is ruled upon, the procedural posture of this appeal remains unresolved. Granting a brief extension or holding briefing in abeyance will prevent Appellant from being forced to file a substantive brief under a schedule that may be imminently modified by judicial review.

B. Judicial Economy Favors Abeyance Pending Supreme Court Action

10. Appellant's pending certiorari petition raises constitutional and supervisory questions that directly control the legal framework of this appeal. If the Supreme Court grants certiorari, the Ninth Circuit's briefing may be rendered moot or require complete reconfiguration. Staying or tolling briefing at this stage avoids duplicative work, preserves judicial resources, and aligns with the Ninth Circuit's recognized interest in "efficient use of judicial resources" when independent proceedings bear upon a case. *Keating*, 45 F.3d at 324-25.

C. Appellee Suffers No Prejudice

11. The Tax Court's judgment remains fully enforceable. Statutory interest continues to accrue by operation of law during any abeyance period, and the status *quo* is preserved. Appellee will not be disadvantaged by a short procedural pause while the Court resolves Dkt. 12 or while the Supreme Court considers whether to exercise supervisory jurisdiction. See: *Mediterranean Enters.*, 708 F.2d at 1465.

D. This Motion Preserves Appellate Rights and Complies with Court Directives

12. Appellant does not seek to evade his briefing obligations. Rather, he seeks a brief tolling or extension to ensure that any brief filed is responsive to the Court's final procedural posture and does not inadvertently waive arguments or trigger sanctions while reconsideration and certiorari remain pending. Should this Court deny this motion, Appellant respectfully requests leave to file a short, procedural "protective" opening brief by May 11 that incorporates the pending certiorari petition by reference and renews the request for abeyance, without re-litigating merit issues.

13. Appellant inquired of Respondent's counsel via email on May 8, 2026, regarding this motion. As of the filing of this motion, no response has been received; accordingly, Appellant is unable to state whether Appellee objects to this motion. Appellant has made reasonable efforts to confer as required by Ninth Circuit Rule 27-4.

IV. CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court grant an extension of the May 11, 2026 opening brief deadline, or alternatively, issue an order holding all briefing in this appeal in abeyance pending disposition of Appellant's Motion for Reconsideration (Dkt. 12) and/or action on the pending Supreme Court certiorari petition. Appellant further requests that the Court toll the May 11 deadline, pending a ruling on this motion to avoid automatic dismissal under Ninth Circuit Rule 42-1.

Certificate Of Compliance

I certify that this motion complies with the type-volume limitation of FRAP 27(d)(2)(A) and Ninth Circuit Rule 27-4. Excluding the permitted items, this document contains approximately 1,050 words, well within the 5,200-word limit. It was prepared using Microsoft Word in 12-point New Century Schoolbook font.

Respectfully submitted, this May 8, 2026

Peter Gibbons O'Connor
Appellant, in pro. per.
963 Topsy Lane, Ste. 306-251
Carson City, NV 89705-8407
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775-406-8331Fax
LawDr1@lawdr.us

Certificate of Service

I certify that on May 8, 2026, I electronically filed this motion with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the CM/ECF system, which will send notification of such filing to the following counsel of record:

Nishant Kumar, Assistant United States Attorney
Appellate Section, Civil Division
U.S. Department of Justice
P.O. Box 502, Washington, DC 20044
Email: AppellateTaxCivil@usdoj.gov

Counsel for Appellee.

I further certify that I served a true and correct copy of this motion via U.S. Mail, first-class postage prepaid, to the above counsel at the address stated.

Dated this May 8, 2026

Peter Gibbons O'Connor
Appellant, *pro. se.*
963 Topsy Lane, Ste. 306-251
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CERTIFICATE OF SERVICE

I certify that on May 9, 2026, I will serve a true and correct copy of this Emergency Application via:

Electronic Filing: Through the Supreme Court's electronic filing system (if available for emergency applications);

U.S. Mail, First-Class:

To:

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Courtesy Copy to Chambers: Via overnight delivery to:

Chambers of Justice Brett M. Kavanaugh
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

May 8, 2026

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