

## Welcome

The following document presents details of a long-running (and still-ongoing) unprecedented violation of the speech, conscience and due-process rights of two Americans who, at the request of their government adversary in a civil dispute, were ordered by a federal judge to swear to facts they believe to be false, and which contradict their previous freely-made testimony. The orders are profound First and Fifth Amendment violations, so much so that when one of the victims of this assault was prosecuted for resisting them, the government requested that her jury be instructed to disregard the unlawfulness of the orders.

You will see that the rights-violations were in no way merely incidental to the performance of any kind of official acts. Rather, the explicit object of the government actors involved was the violation of rights. I will argue, therefore, that the willful, deliberate, criminal acts of those involved places the matter outside the scope of modern "immunity" doctrine, and into a strong position for a virtuous civil-rights lawsuit very much in the public interest and with just cause for a very large award for damages and deterrence. More on that later.

The material is presented in several sections. First, because it is central to the violations, there is a brief discussion of the legal nature of a tax return. Next is some background explaining the initial violations, and the context in which they were committed. This background segues into a memorandum on First Amendment rights and how well-settled law on this subject relates to the case at hand. I also include a presentation on the shameless fraud of a "judicial proceeding" in which the illegal orders were issued. I close with a discussion of some of the harms that have resulted from these crimes.

The sixteen accompanying exhibits of trial testimony, records and other material supporting the narrative that follows are all accessible as .pdf documents via links provided with each exhibit reference in the text.

## **Introduction**

The content of an income tax return is an expressions of the signer's conclusions about what, if anything, he or she did during a certain time period that was relevant to the income tax. If the filer believes he received "gains, profits or income" to which the tax applies, he reports them on the form. If he believes he did little or nothing to which the tax applies, that's what he expresses. The return also or otherwise serves as the legally-specified means by which the filer reclaims property excessively withheld or paid-in against any possible tax liability arising. The return is a sworn statement of what the signer believes to be true about these matters, and the legal instrument by which he stakes out his positions on the possibly controversial question of whether he is liable for a tax or due a refund.

It has always been thus. The very first statutory specification for a return makes this clear, saying, in relevant part:

"Sec. 93. And be it further enacted, ... that any party... shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this act, ... or, if the list or return of any party shall have been increased by the assistant assessor, in manner as aforesaid, he or she may be permitted to declare, as aforesaid, the amount of his or her annual income ... liable to be assessed, as aforesaid, and the same so declared shall be received as the sum upon which duties are to be assessed and collected."

Revenue Act of July 1, 1862, § 93

This fundamental character of IRS Form 1040 as an affidavit (which evolved from one executed before a notary to being self affirmed, as shown [here](#)) and as the legal instrument by which the signer declares and secures his legal interests against the government was well understood at the time income tax withholding was revived in 1943.<sup>1</sup> The following is an exchange between Missouri Democratic Senator Bennett Clark, Connecticut Republican Senator John A. Danaher and testifying witnesses Charles O. Hardy of the Brookings Institution and Milton Friedman of the Treasury

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<sup>1</sup> Withholding had existed from the original 1862 enactment of the tax up until 1916, at which point it was abandoned until the passage of the Current Tax Payment Act Of 1943

Department Division of Tax Research. It occurred during a hearing on the revival of tax withholding before a subcommittee of the committee on finance, United States Senate, during the 77th Congress, Second Session, on August 21 and 22, 1942:

Senator Clark: "Of course, you withhold not only from taxpayers but nontaxpayers."

Mr. Hardy: "Yes."

...  
Senator Danaher: "I have only one other thought on that point. In the event of withholding from the owner of stock and no taxes due ultimately, where does he get his refund?"

Mr. Friedman: "You're thinking of a corporation or an individual?"

Senator Danaher: "I am talking about an individual."

Mr. Friedman: "An individual will file an income tax return, and that income tax return will constitute an automatic claim for refund."

The statutes and regulations concerning claims for refund agree:

26 C.F.R. § 301.6402-3 Special rules applicable to income tax.

(a) In the case of a claim for credit or refund filed after June 30, 1976--

(1) In general, in the case of an overpayment of income taxes, a claim for credit or refund of such overpayment shall be made on the appropriate income tax return.

...  
(5) A properly executed individual, fiduciary, or corporation original income tax return or an amended return (on 1040X or 1120X if applicable) shall constitute a claim for refund or credit within the meaning of section 6402 and section 6511 for the amount of the overpayment disclosed by such return (or amended return).

26 U.S.C. § 6401:

...  
(c) Rule where no tax liability

An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

Plainly, the content of a Form 1040 can never properly be dictated-- or even influenced-- by the government. The content of the return is a personal expression, under oath, of the signer's beliefs concerning what is and isn't subject to the unapportioned income tax under the law as written and whether, as he sees the facts, he has had income-taxable gains. The return is also the signer's legal means of making testimony and claims against the government. Plainly, the content of a tax return is Constitutionally-protected speech of the very first rank.

## **Background**

In 2006, the IRS and DOJ were facing a growing number of American men and women who had learned the limited nature of the income tax by studying the work of legal scholar Peter Hendrickson. Tens of thousands of those folks were reclaiming everything withheld or prepaid in connection with the tax. (The number of these refunds and/or retentions-- which are complete, by the way, Social security and Medicare taxes included-- has now climbed into [the hundreds of thousands, totaling billions of dollars](#). A sampling of more than a thousand of these refunds and retentions can be seen at <http://losthorizons.com/BulletinBoard.htm>.)

For two-and a half years the IRS/DOJ had tried to suppress Hendrickson's revelations of the inner workings and real nature of the tax under the pretense that its dissemination constituted the "promotion of an abusive tax shelter." In the hands of creative and less-than-scrupulous government officials, attorneys and judges, the concept of an "abusive tax shelter" had become very elastic indeed. Ultimately, though, that line of attack was recognized as hopeless by the DOJ, and in 2005 the agency move for dismissals of its own legal actions. (You will see full documentation of these efforts and their conclusions.)

The new suppression effort took a different tack. Now the agencies brought a "civil lawsuit" against Hendrickson and his wife (with whom he had filed joint returns), alleging that the refunds the IRS had made to the couple for 2002 and 2003 were "erroneous", and the government had grounds to sue for their return. As will be seen below, this was a completely false and fraudulent allegation.

The idea was to contrive the pretense of a judicial proceeding in which the Hendricksons' own claims would be declared "false", in the hope that a "loss in the courts" would discourage Peter Hendrickson's students. This contrived civil suit was bad enough, but a necessary aspect of the pretense was getting Hendrickson and his wife to rescind their freely-made tax returns. With the

Hendricksons' properly-sworn returns still standing, the government had no actual basis for any of the rest of the scheme. This is highlighted by the fact that even now, eight years since the pretense of a judicial proceeding under this scheme, the Department of Treasury has yet to assess any tax on the couple other than what they self-assessed on their original returns, as can be seen at <http://losthorizons.com/PostCertsOfAssess.pdf>.

Because they needed the Hendricksons to repudiate the testimony on their original, freely-made but inconvenient return, the DOJ and IRS asked the compliant judge handling the "lawsuit" to *order* them, under penalty of contempt, to replace their freely-made testimony with contrary declarations dictated by the government, which were to be inserted over the Hendricksons' oaths on "amended returns". These contrary, government-dictated expressions would have the Hendricksons declare-- in a legally-binding fashion-- a belief that they are liable to the government for taxes they do not actually believe they owe.

At the same time, the coerced testimony would rescind the Hendricksons previously testimony and claims for refunds, and serve as declarations that their original testimony had been false. All this despite the fact that the IRS had already agreed with everything said and claimed on their original returns, and after nothing less than an intense examination of those returns, as will be shown in detail below..

The IRS and DOJ also asked the judge to enjoin the Hendricksons from making any future declarations in disagreement or rebuttal of any tax-related allegations by the United States (or anyone else).<sup>2</sup>

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<sup>2</sup> This latter effort to control the couples' speech takes a complicated form, enjoining them from filing tax forms "based on" notions ascribed to Peter Hendrickson's first book, 'Cracking the Code- The Fascinating Truth About taxation In America'. However, the ascriptions are false, as will be shown below, and in practice, the contrivance has already been used as a pretext for a criminal contempt charge against Doreen Hendrickson simply for rebutting a payer's characterization of her earnings as taxable.) See [Exhibit 1](#), 'Amended Judgment and Order of Permanent Injunction', ¶ 27.

Without so much as a hearing, much less the trial the Hendricksons demanded, Judge Nancy Edmunds signed a DOJ-written "judgment" commanding the couple to directly and immediately say things they believe untrue, and threatening them with punishment if they make future declarations disfavored by the government of what they *do* believe true concerning the taxable status of their earnings.

As will be shown below, both orders are transparent and irreparably injurious violations of the Hendricksons' rights to freedom of speech and conscience. Both orders violate their rights to the protections of due process of law. It will also be shown that the orders in this case are expressly made to chill or otherwise influence the speech of others. Thus, in addition to being unlawful insofar as they affect the Hendricksons alone, the orders are First Amendment violations of the most egregious and prohibited sort on this additional basis, as well.

Finally, it will be shown that not only are the orders inherently illegal, but the judgment in which they were made, the findings on which that judgment is based, and all proceedings in connection with the foregoing are based upon a series of deliberate frauds and falsehoods.

**A. The orders involved here are transparently unconstitutional and cause irreparable injury.**

In 2011, DC district court judge Richard Leon wrote a cogent and succinct analysis of precisely the same First Amendment issues arising in the orders made to the Hendricksons. Leon's analysis, affirmed in 2012 by the DC Circuit Court (DC Circuit, No. 11-5332 (2012)), definitively demonstrates the illegality of these orders:

"A fundamental tenant [sic] of constitutional jurisprudence is that the First Amendment protects "both the right to speak freely and the right to refrain from speaking at all." *Wooley v. Maynard*, 430 U.S. 705 at 714 (1977). And when speaking, a speaker "has the autonomy to choose the content of his own message." *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Boston, Inc.*, 515 U.S. 557, 573-74 (1995). And, in fact, "the choice to speak includes within it the choice of what not to say." *Pac. Gas & Elec. Co. v. Pub. Utils. Comm'n of Cal.*, 475 U.S. 1, 16 (1986) (plurality opinion). Thus, where a statute "'mandates speech that a speaker would not otherwise make,' that statute 'necessarily alters the content of the speech.'" *Entertainment Software Ass 'n v. Blagojevich*, 469 F.3d 641, 651 (7th Cir.

2006) (quoting *Riley v. Nat'l Fed'n of the Blind of N.C, Inc.*, 487 U.S. 781, 795 (1988)). As the Supreme Court itself has noted, this type of compelled speech is "presumptively unconstitutional." *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 830 (1995)."

*Reynolds, et. al. v. USFDA*, No. 1:11-cv-01482, District of Columbia District Court, (2011)

Clearly, orders of a court dictating the content of speech at the government's request are just as unconstitutional as the statutory commands addressed here by Leon. In fact, orders directed at a natural person and dictating sworn testimonial statements are far more egregiously unconstitutional than the dictation of speech on mere commercial packaging which Leon finds unlawful in his ruling.<sup>3</sup> Leon continues:

"What's more, the harm flowing from a First Amendment violation is per se irreparable. See, e.g., *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.") (citing *N. Y. Times Co. v. United States*, 403 U.S. 713 (1971))"

*Ibid.*

**B. The speech issues involved in these illegal orders are not excepted from the First Amendment's prohibitions-- on the contrary, they fall with unusual propriety into the ambit of its prohibition and its purposes.**

It is the Hendricksons' belief that only activities and earnings meeting certain criteria are subject to the unapportioned income tax. See, for example, [Exhibit 2](#), Affidavit of Doreen Hendrickson, filed with her first Motion to Dismiss the indictment against her in 2013 on a charge of criminal contempt for resisting the orders issued by Nancy Edmunds.<sup>4</sup> Consequently, what appears on Peter or Doreen Hendrickson's tax documents are their opinions and conclusions regarding whether their activities and earnings (or any of them) qualify as "income" within what they understand to be the limited meaning of this term when used in the context of the tax.

Plainly, to command the Hendricksons (or anyone) to use the instruments to make

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<sup>3</sup> There is no case-law specifically addressing orders of this kind, because such orders have never been made before.

<sup>4</sup> Those who didn't find the huge and growing list of federal and state government acknowledgments seen earlier persuasive as to the correctness of this belief can find an in-depth presentation of relevant authorities at <http://losthorizons.com/Documents/The16th.htm>.

expressions in any way other than they would freely make of their own accord is unconstitutional. The same is true of enjoining them from expressing themselves as they see fit by way of these instruments.<sup>5</sup>

A 1040 is also the means by which a filer makes claims on behalf of her property interests, both against allegations of indebtedness to the United States, and for the recovery of amounts withheld from payments owed to her but diverted to the United States against the possibility of future liability. In this guise, too, what is said on or by way of the form is plainly protected speech. Having the character of a defense or demand made against the United States itself, no speech more thoroughly merits protection against interference by the government.

Finally, the First Amendment implications of orders seizing control of the content of someone else's sworn 1040s are undiminished even were it imagined that what is being commanded is simply a declaration of "facts." As the Supreme Court has said, speaking to this point,

"These cases cannot be distinguished simply because they involved compelled statements of opinion, while here we deal with compelled statements of "fact": either form of compulsion burdens protected speech."

*Riley v. Nat'l Fed'n of the Blind of N.C, Inc.*, 487 U.S. 781, 798 (1988).

**C. There can be no "compelling government interest" by which orders such as those made to the Hendricksons can be justified.**

There can be no "compelling government interest" in dictating the testimony of the government's litigation adversaries, or in threatening Americans with punishment for disfavored speech (or silence) generally. Such prior restraint is always unconstitutional. *Near v. Minnesota*, 283 U.S. 697, 51 S. Ct. 625, 75 L. Ed. 1357 (1931).

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<sup>5</sup> To compel the listing of something as "income" on a Form 1040 (or silence in the face of allegations by others that "income" was paid) is to compel agreement that the activity that produced the amount is not one of common right, but a specialized activity properly subject to the unapportioned income tax. Or it is to compel a declaration of belief that the income tax is subject to no limits, and, though unapportioned, can be lawfully applied to any and all economic activity, even that of common right, as if it were a capitation or other direct tax somehow relieved of the apportionment rule.

Further, Congress mandates an express statutory procedure for addressing returns the government purports to find "false", and for producing returns saying what it wishes said: 26 U.S.C. § 6020(b).<sup>6</sup> In fact, § 6020(b) provides the *exclusive* remedy for what the government purports to be its interest in issuing the orders made to the Hendricksons. The Supreme Court has stated that: " 'a precisely drawn, detailed statute pre-empts more general remedies.' " *EC Term of Years Trust v. United States*, 550 U. S. 429 (2007) (slip op., at 4) (quoting *Brown v. GSA*, 425 U. S. 820, 834 (1976)); *see also Hincks v. United States*, 550 U.S. 501 (2007) (directly applying this doctrine to tax law). It was not by casual or inadvertent error that during Doreen Hendrickson's trials both the prosecutor and the judge lied to the jury about the content of 26 U.S.C. § 6020(b) (see [Exhibit 3](#)).

**D. The orders in this case are inherently unconstitutional even apart from their violations of the Hendricksons' rights, being expressly made in order to chill the speech of others.**

The illegal orders in this case are not only expressly sought to coerce the Hendricksons into making government-serving declarations which they believe are untrue and which compromise their ability to defend their interests in legal contests. They are also expressly meant to chill the expressions of others. The explanation given for these orders includes this: "In the absence of an injunction, Plaintiff will continue to suffer irreparable injury as Defendants *and those who imitate them* continue to file false tax returns," (emphasis added; see [Exhibit 1](#), 'Amended Judgment and Order of Permanent Injunction', ¶ 24). Plainly the illegal orders were issued to the Hendricksons in part to chill the free expression of other Americans across the country.

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<sup>6</sup> 26 USC § 6020 - Returns prepared for or executed by Secretary

**(b) Execution of return by Secretary**

**(1) Authority of Secretary to execute return**

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

**(2) Status of returns**

Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

It has already been pointed out above that even were First Amendment and due-process-rights violating orders not prohibited as a "remedy", 26 U.S.C. § 6020(b) furnishes the government a remedy for providing itself with what it might deem "correct tax returns." Such returns are sufficient for all legal purposes in the face of what it chooses to call "false tax returns." The alleged goal of preventing "irreparable injury" is nothing but a bogus pretext for these illegal orders.<sup>7</sup>

None of this is rocket-science, of course. Nor is any of it unrecognized by the corrupt actors involved in these rights violations, as is brightly illuminated by the unprecedented jury instruction given in Doreen Hendrickson's case that the unconstitutionality of the orders she was charged with criminally-resisting was not to be considered a defense to the charge she faced (see [Exhibit 4](#)).

**E. In addition to their inherent unconstitutionality, the orders in this case, the judgment in which they were issued is tainted by fraud, depriving the courts of jurisdiction.**

The jurisdiction of the court which issued the unconstitutional orders to the Hendricksons was predicated on the assertion that 1. the refunds of what had been withheld from them in 2002 and 2003 were erroneous (based on the allegation that the refunded amounts were actually owed as tax); and 2. that those refunds were induced by fraud (at least insofar as the claim concerning what was refunded in 2003 was concerned, which otherwise would have been outside the statute of limitations even for a legitimate suit of this kind).<sup>8</sup>

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<sup>7</sup> The deployment of the term "false" in the language explaining the targeting of others with the implicit threat of these orders is apparently meant to suggest that the violation of speech rights is legal if the speech being chilled is imagined to be "false," as in, "the government can take control of your speech as long as it believes (or at least, alleges) that what you will otherwise say would be untrue." There is no such exception to the First Amendment.

Further, this notion of "falseness" rests on the proposition that the government believes the Hendricksons' returns are false. But the failure of the government to make contrary returns pursuant to the mandate in § 6020(b), and to instead issue the Hendricksons' claimed refunds after an intense amount of attention to their returns, as will be shown in the following section, prove that, in fact, the government does *not* believe the Hendricksons' returns are false (or does not believe them to be "required", which in this case amounts to the same thing).

<sup>8</sup> In its Complaint, aside from 28 U.S.C. §§ 1340 and 1345 which merely provide (relevantly) that district courts have jurisdiction of civil actions arising under any act of congress providing for internal revenue and of civil actions commenced by the United States, the plaintiff invoked 26

However, jurisdiction only arises if the predicate allegations are validly found to be actual facts. Nothing could be further from what occurred in this case-- in fact, the evidence shows that the predicate allegations were not merely unproven, but were proven false, and the attorney representing the United States engaged in a series of frauds and falsehoods in an effort to overcome his lack of support for his predicate allegations.

The evidence also shows that the entire process by which the court purports to have "found" relevant facts was a pretense. In fact, the court abdicated its office to the executive branch plaintiff in a massive violation of the Hendricksons' due process rights, with DOJ attorney Robert Metcalfe not only writing both the Complaint in the civil case in which the unconstitutional orders made to the Hendricksons were asked for and the 'Amended Judgment and Order of Permanent Injunction' in which those orders were issued (see [Exhibit 5](#)), but being the sole arbiter of what appeared as "found facts" in that judgment.

For example, the complaint avers, and the judgment cooperatively "finds", that "Because Defendants reported that they had no income, the IRS, unaware that Defendants' report was false, treated the withheld federal taxes as tax overpayments...." See [Exhibit 1](#), 'Amended Judgment and Order of Permanent Injunction', ¶¶ 9 and 16. The truth is the United States was *intensely* attentive to Peter and Doreen Hendrickson's 2002 and 2003 tax filings, and did nothing in error or ignorance. See [Exhibit 6](#), showing trial testimony of Robert Metcalfe acknowledging that the IRS actually had

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U.S.C. §§ 7402(a) (providing for authority to make injunctions and other ruling "as may be necessary or appropriate for the enforcement of the internal revenue laws") and 7405 (providing that "Any portion of a tax imposed by this title which has been erroneously refunded ... may be recovered by civil action brought in the name of the United States" if brought within two years of the refund, unless the refund was induced by fraud). § 7408 was also listed in the jurisdictional statement of the complaint (providing that "A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced..." with "specified conduct" being "any action, or failure to take action, which is subject to penalty under section 6700, 6701, 6707 or 6708 or in violation of any requirement under regulations issued under section 330 of title 32, United States Code.") but no allegations of any such conduct were made.

complete information regarding the Hendricksons' earnings<sup>9</sup> and the multitude of agency notices detailing extraordinary attention to the Hendricksons' filings prior to their refunds.

In fact, while the Hendricksons' refunds were being processed Peter Hendrickson was targeted with repeated attacks by the IRS and DOJ in an effort to suppress his first book, 'Cracking the Code- The Fascinating Truth About Taxation In America'. It was early 2005 before the DOJ admitted defeat and moved for dismissals of all its pending actions. See [Exhibit 7](#).

The complaint averments that the IRS was "unaware" of anything whatever in regard to these refunds, or that they were made "in error," were false and fraudulent. The same is true of the "findings of fact" to the same effect in the judgment Metcalfe wrote, which was merely signed by Nancy Edmunds without so much as a single hearing of any kind. See [Exhibit 8](#).

Similarly, the United States' complaint, and the judgment signed by Nancy Edmunds, falsely aver, and "find as fact", respectively, that '[Cracking the Code- The Fascinating Truth About Taxation In America](#)' argues that "only federal, state and local government workers are subject to the income tax." See [Exhibit 9](#), trial testimony of Robert Metcalfe on this point, and [Exhibit 1](#), 'Amended Judgment', ¶ 27. Both the averment and the "finding" were known to be untrue when made.

The Hendricksons' own tax returns declare some of their receipts to be income subject to tax, despite neither being government workers. See [Exhibit 10](#), testimony by Robert Metcalfe. Plainly, Mr. Hendrickson's book, which the government agrees informed the Hendricksons' returns, does NOT argue that only federal, state and local government workers receive "income" or are subject to the tax.

Further, Peter Hendrickson, author of the book, categorically denied this false assertion in a sworn affidavit filed immediately upon receipt of the complaint. See [Exhibit 11](#), Defendants' Motion

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<sup>9</sup> In fact, in addition to having received W-2s concerning Peter Hendrickson, the IRS had acquired his pay records by summons, as will be seen.

to Dismiss, etc., and Affidavit.<sup>10</sup>

The "finding" of this argument in the book in the 'Amended Judgment' signed by Nancy Edmunds is even more dramatically proven false by the fact that when presented with a subpoena to testify in Doreen Hendrickson's trial Edmunds admitted to never having read the book. See [Exhibit 12](#). Having held no hearings by which Metcalfe's knowledge and truthfulness could be judged, and with the content a question in controversy, Edmunds' failure to read the book herself made her incapable of legitimately "finding" *anything* about its contents. The "finding" was a fraud, just as the averment in the complaint was false and fraudulent.

Robert Metcalfe's trial testimony reveals that the false assertions about the content of 'Cracking the Code' were knowingly and deliberately made. See [Exhibit 13](#), in which Metcalfe admits to having read the book; is made to read portions which plainly declare that any and every type of worker or person can be subject to the tax and that withholding applies to much more than simply "federal state and local government workers"; and then admits to having contrived his false assertions and "findings" by misrepresentation of a single sentence stripped of its clarifying context.

Metcalfe goes further. Unable to secure an actual IRS Examination Report concluding that Peter and Doreen Hendrickson received sufficient "income" to be liable for any taxes for 2002 and 2003, Metcalfe presents as "evidence" a self-declaredly "informal" (which is to say, utterly meaningless) fake report purportedly produced by a IRS worker using the pseudonym of "Terri Grant". The numbers from that fake report-- most significantly, those purporting to declare "tax liabilities"-- then appear verbatim as "found facts" in Metcalfe's 'Amended Judgment and Order of Permanent Injunction'. See [Exhibit 14](#), showing Robert Metcalfe testifying about this false "report" evidence; the meaningless examination report numbers; and their appearance as "found facts" in the

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<sup>10</sup> This Motion sat pending before the court for 10 months before being denied in its entirety without comment the same day the United States' improperly-intervening Motion for Summary Judgment was granted, all without so much as a single hearing or appearance in court by anyone.

'Amended Judgment'.

Not only is this pretense of an "examination report" *not* evidence supporting the government's case, and its presentation as such fraudulent, but its presentation actually serves as evidence *against* the government's case. When the Hendricksons' data has been looked at sufficiently to produce the fiction of an examination report, but the "examiner" then declines to formally opine that they owe taxes, it indicates a conclusion that they *do not* owe any taxes.

At the very least, the reliance on this pseudo-exam proves that the government had no actual grounds for an honest belief that the refunds issued had been erroneous. Further, the adoption of these meaningless numbers makes clear that Nancy Edmunds had entirely abdicated her judicial office to Robert Metcalfe. Any judicial officer actually conducting her office in a suit like this would toss "Terri Grant's" informal, conclusory and manifestly partisan ruminations<sup>11</sup> and demand, at a minimum, a formal calculation and allegation of liabilities over a signature (not to mention an actual adversarial proceeding) before even considering making "findings" to that effect.

Finally, the reliance on this pseudo-exam also proves that the district court's assumption of jurisdiction-- and therefore the judgment rendered, as well-- are invalid. Jurisdiction of the court is dependent on proof of tax liabilities owed by the Hendricksons for the years in question. Absent that, the refunds issued were not erroneous in any sense of the term and there is nothing for the court to issue orders about; in short, absent proof of the Hendricksons' liability for taxes for 2002 and 2003 contrary to their refund claims, there is no subject matter jurisdiction for the court. An "informal" examination report is proof of nothing except that the government couldn't come up with

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<sup>11</sup> "Grant's" "Declaration" is rife with references to "erroneous refunds" and "false statements" (when speaking of the Hendricksons' returns); the "Declaration" of this supposed "examiner" reads like a pleading. Notably, "Grant" acknowledges (in paragraphs 7 and 11 of her "Declaration"-- see [Exhibit 14](#)) that all of even her merely "informal" assumptions of the Hendricksons having received various amounts of tax-relevant "wages" and "non-employee compensation" are based on nothing but the assertions of "information return" preparers. Because the veracity and accuracy of these assertions are unknown to her, "Grant's" "informal" conclusions are doubly meaningless.

a formal report that said what it wanted, which, in turn, is proof that what it wanted said wasn't true.

All in all, the massive due process violations demonstrated throughout the preceding pages and the manifest lack of valid jurisdiction render the "judgment" signed by Nancy Edmunds void:

"A judgment is void if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process."  
*Margoles v. Johns*, 660 F.2d 291 (7th Cir. 1981) cert. denied, 455 U.S. 909, 102 S.Ct. 1256, 71 L.Ed.2d 447 (1982)

"[A void judgment is one that] has been procured by extrinsic or collateral fraud, or entered by a court that did not have jurisdiction over subject matter or the parties."  
*Rook v. Rook*, 353 S.E. 2d 756 (Va. 1987)

"[A] court must vacate any judgment entered in excess of its jurisdiction."  
*Jordon v. Gilligan*, 500 F.2d 701 (6th CA, 1974)

Nonetheless, after Edmunds issued her bogus "judgment", the same corrupt DOJ responsible for all the foregoing snookered the Sixth Circuit Court of Appeals into participation. When the Hendricksons appealed the outcome of Edmund's fraudulent proceedings, the DOJ engineered the striking from the record of their memorandum on procedural abuses. The appellate panel then naturally took every false "found fact" as established truth, and denied the appeal accordingly (while managing to not mention the Constitution or First Amendment even once).

When the Hendricksons appealed Edmunds' denial of their 2010 Motion to Vacate the judgment, the DOJ misrepresented the orders issued by Edmunds as mere "discovery" orders-- which are simply orders to produce information, not orders telling the target what he or she must say. For whatever reason, the appellate court bought this line. It denied the appeal with a declaration that it had allowed orders like these to stand before-- and then cited to nothing but a simple discovery-order ruling (*United States v. Conces*, 507 F.3d 1028 (6th CA 2007)) as the precedent on which it relied.

I will close with what might be amusing in another context: an example of how the ham-handed government corruption poisoning everything related to the civil action against Peter and

Doreen Hendrickson begun in 2006 continues unabated to this day. As previously noted, among other falsehoods relied upon to bring the United States complaint in that action, Robert Metcalfe averred that Peter Hendrickson's book, '[Cracking the Code-...](#)' argues that "wages are not income", and even repeated that statement in testimony in Doreen Hendrickson's trials. See [Exhibit 15](#). But just 11 months later, Metcalfe's DOJ colleagues made the exact opposite averment, perhaps realizing that the earlier falsehood was no longer viable. In a 'Response' to a motion by Mrs. Hendrickson in the Sixth Circuit Court of Appeals, DOJ attorneys now aver that Hendrickson's book argues that *unless* someone's earnings are "wages", they are not taxable income. See [Exhibit 16](#). Plainly, this corrupt cabal simply makes up and swears to whatever it thinks useful for the purposes of its scheme.

### **The Harm**

The Hendricksons begun suffering the oppression of the illegal orders issued by Nancy Edmunds in May of 2007. That oppression is ongoing.

Additionally, in 2009, Peter Hendrickson faced trial on charges that ten tax-related documents he had filed over the course of the previous several years were "false"-- that is, that he did not believe them true as to some material fact. Four of the charged documents had been the subjects of the civil lawsuit before Nancy Edmunds; all of the others were essentially identical to those four. Over Hendrickson's objection, and in violation of his own pre-trial ruling on Hendrickson's Motion *in limine*, the trial court judge allowed the prosecution to publish to the jury-- without introduction by any witness who could be questioned-- the fraudulent ruling in the civil case discussed above, in which it is declared that a federal district court judge "found" as "facts" that Hendrickson's documents were "false". Based on this misuse of the fraudulent "judgment" ([among other abusive elements of the trial](#)), Peter Hendrickson was convicted and spent two years in prison and another year in "supervised release".

In 2013, Doreen Hendrickson was charged with a single count of criminal contempt of court for her resistance to Judge Edmunds' (Robert Metcalfe's) order to file "amended returns" and for having filed a tax return in 2009 in which she rebutted a payer's allegations that her earnings (all of \$65) were of a taxable legal character. Despite having the well-settled law regarding the First Amendment plainly presented to her, the judge in whose court the action lay, a judge who, like her colleague Nancy Edmunds, had been involved in the efforts to suppress Peter Hendrickson's book in 2004 and 2005, refused to dismiss the charge, and went so far as to instruct the juries in both trials that were held (the first having ended in a hung jury) that the unlawfulness of the orders Doreen was accused of criminally violating was not a defense to the charge ([Exhibit 4](#)). After additional extraordinarily corrupt behavior by prosecutors and judge in the second trial, Doreen was convicted on the bogus charge and sentenced to 18 months in prison, or more if she does not comply with the "amended returns" order upon her release.

Over the years since these illegal orders were issued, the Hendricksons have spent hundreds of thousands of dollars and countless hours defending themselves. The adverse impact of stress on them and on their children and others affected is immeasurable. The damage to the Hendricksons' reputations alone is beyond price.

Further, the offense, and damage, are being suffered by the American people, as well. The genesis of this entire affair is a government effort to suppress Peter Hendrickson's research, even while the federal government and dozens of state governments have steadily affirmed the accuracy of Hendrickson's work on hundreds of thousands of individual occasion for more than 12 years now.

Further still, the bogus "judgment" contrived by Metcalfe and Edmunds (and its various fraudulent "findings"), and the outcome in Peter Hendrickson's trial (which was contrived by the corrupt exploitation of that earlier contrivance), have been misrepresented as actual valid and informative outcomes of legitimate judicial proceedings by a government-serving troll community

throughout the internet, and even in filings by government attorneys in subsequent cases and rulings by judges naive (or lazy) enough to take anything presented by a US attorney at face value.

### **Immunity Doctrine And The Supremacy Clause Do Not Apply**

While normally certain of the malefactors in this affair might be considered covered by immunity ranging from "qualified" to "absolute" this really isn't the case here. Certainly it can't be argued that anyone whose specific purpose is the violation of the Constitution is acting in any kind of official capacity, judicial or otherwise. Immunity might apply when the violation is somehow incidental to an otherwise plausibly-official act, but not here:

"[An] officer may be sued...if he acts in excess of his statutory authority or in violation of the Constitution for then he ceases to represent the Government."

*Brookfield Co. v. Stewart*, 234 F. Supp 94, 99 (U.S.D.C., Wash. D.C. 1964)

"...an officer may be held liable in damages to any person injured in consequence of a breach of any of the duties connected with his office...The liability for nonfeasance, misfeasance, and for malfeasance in office is in his 'individual', not his official capacity..."

70 AmJur2nd Sec. 50, VII Civil Liability.

Moreover, the distinctions of the Supreme Court in *Butz v. Economou*, 438 U.S. 478 (1978) as to what kind of activities/positions qualify for "absolute immunity" don't apply here in a very particularized way. Those distinctions rest on the independence of prosecutor and judge and "an adversarial procedure allow[ing for] cross-examination of witnesses, a challenge to the government's theories, and the sobering requirement of airing these theories in a public forum." These things are all conspicuously absent in the "civil lawsuit proceedings" that began all this, the contrived, bogus "findings" of which-- all being nothing more than the adoption of whatever the government declared-- were then knowingly and corruptly used by all subsequent actors in furtherance of the overall scheme.

In the matter of the crimes against Doreen in her trials, the jury instruction sought by the DOJ prosecutors and delivered by Victoria Roberts about the unlawfulness or unconstitutionality of

the orders Doreen was being tried for resisting makes clear that their actions were in deliberate furtherance of the overall crime's purposes. By that instruction these folks admit to knowing the orders are illegal. But rather than dismiss the charges (and call for the vacating of Edmunds' false and criminal "judgment") these three just come up with a "work-around" by which they hope to complete the crime. There can be no immunity for this. These were not official acts which happened to go astray-- they were deliberate acts with the intended purpose of violating Doreen's rights.

The point needing to be stressed here is that no one is above the law, and neither are any institutions, not even the DOJ or the federal courts. Let it be determined by the jury that these folks acted to violate the Hendricksons' rights and that determination simultaneously establishes that the officials involved were not acting in their actual official capacities and are entitled to no immunity. At risk of redundancy, that determination also establishes that these officials were not acting pursuant to any Constitutional statute, and thus the Supremacy clause does not apply, and there is no basis for moving the case from the Michigan court in which it belongs to a federal court in which it can be dismissed by another corrupt jurist.

Interestingly, the Sixth Circuit itself, members of which would likely be properly named as defendants in the civil rights lawsuit, just held strongly in a June 1, 2015 ruling in *King v. Zamara, et al.*, Nos. 13-1766/1777 (6th CA 2015) that punitive damages are appropriate for civil rights violations by government officials.

### **Conclusion**

If you're reading this document, you are probably a lawyer who has been asked to do so in consideration of a civil lawsuit against the perpetrators of these offenses. Please do give this thoughtful consideration, decide you want to be involved, and then contact me at [newscripper@losthorizons.com](mailto:newscripper@losthorizons.com). There's a lot of good to be done here.

-Pete Hendrickson